
In the Supreme Court of the United States

Roman Catholic Archdiocese of San Juan, Puerto Rico, and the Roman Catholic
Dioceses of Ponce, Arecibo, Caguas, Mayagüez, and Fajardo-Humacao, Puerto Rico,
Petitioners,

v.

Yalí Acevedo Feliciano, Sonia Arroyo Velázquez, Elsie Alvarado Rivera, et al.,
Respondents

**APPENDIX TO APPLICATION
FOR STAY PENDING PETITION FOR CERTIORARI**

**Directed to the Honorable Stephen Breyer,
Justice of the Supreme Court of the United States and
Circuit Justice for the United States Court of Appeals for the First Circuit**

PEDRO A. BUSÓ-GARCÍA
SCHUSTER AGUILÓ LLC
221 Ponce de León Avenue
15th Floor
San Juan, PR 00917
Counsel for Archdiocese of San Juan

GENE C. SCHAERR
Counsel of Record
MICHAEL T. WORLEY
SCHAERR | DUNCAN LLP
1717 K Street NW, Suite 900
Washington, DC 20006
(202) 787-1060
gschaerr@schaerr-duncan.com
Counsel for all Petitioners/Applicants

June 15, 2018

TABLE OF CONTENTS

Court Documents

Opinion of June 11, 2018, Puerto Rico Supreme Court.....	A-1
Order of June 14, 2018 (dated June 13), Puerto Rico Supreme Court.....	B-1
Opinion and Order of May 31, 2018, Puerto Rico Supreme Court.....	C-1
Order of May 25, 2018, Puerto Rico Supreme Court.....	D-1
Order of May 24, 2018, Puerto Rico Supreme Court.....	E-1
Judgment of April 30, 2018, Puerto Rico Court of Appeals.....	F-1
Order of March 27, 2018, Superior Court of San Juan.....	G-1
Order of March 26, 2018, Superior Court of San Juan.....	H-1
Decision of March 16, 2018, Superior Court of San Juan.....	I-1
Judgment of July 18, 2017, Puerto Rico Supreme Court.....	J-1
Affidavit of Archbishop Roberto Octavio González-Nieves, Filed in the Puerto Rico Supreme Court, May 29, 2018.....	K-1
Affidavit of Archbishop Roberto Octavio González-Nieves, Filed in the Puerto Rico Supreme Court, June 1, 2018.....	L-1
Affidavit of Vicar General Alberto Figueroa, Filed in the Puerto Rico Supreme Court, June 8, 2018.....	M-1
Motion in Compliance with Order, June 4, 2018.....	N-1
Opinion of June 11, 2018, Puerto Rico Supreme Court (Spanish)	O-1
Fourth Amended Complaint (Spanish)	P-1
Other Materials	
List of Plaintiffs	Q-1
Secretary of State’s Certification on status of Puerto Rico entities	R-1

APPENDIX A

Certified Translation

IN THE SUPREME COURT OF PUERTO RICO

Yalí Acevedo Feliciano
et al.

Petitioners

Roman Catholic and
Apostolic Church et al

Respondents

CC-2018-0475

Certiorari

Sonia Arroyo Velázquez
et al.

Petitioners

v.

Roman Catholic and
Apostolic Church, et
al.

Respondents

Elsie Alvarado Rivera
et al.

Petitioners

v.

Roman Catholic and
Apostolic Church, et
al.

Associate Justice ESTRELLA MARTINEZ issued the Opinion of the Court

(Rule 50)

San Juan, Puerto Rico, on June 11, 2018.

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Today we have the obligation to address the claim of hundreds of teachers, employees, and ex-employees of various catholic schools and academies (petitioners), which have dedicated a large portion of their lives to the teaching, education, and formation of part of various generations in Puerto Rico. As such, this case demands analyzing and clarifying of various aspects of our law system as well as addressing various new disputes of great public interest. To that end, we must analyze the following: (1) if the Roman Catholic and Apostolic Church in Puerto Rico (Catholic Church) has legal personality; (2) if its divisions and components have their own and separate legal personalities (3) the appropriateness of a garnishment in assurance of judgment and a preliminary injunction without bond; (4) if there is any contractual link that has the effect of participating employers of a retirement plan being supplementary liable for it, and (5) the scope of Art. 9.08 of the General Corporations Act of Puerto Rico, infra.

With that in mind, we proceed to highlight the factual and procedural context in which the present dispute arises.

I.

On June 6, 2016, petitioners, of Academia Perpetuo Socorro filed their initial complaint in which they held they are beneficiaries of the Pension Plan for Employees of Catholic

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Certified Translation

CC-2018-0475

3


Schools (Plan), administered by the Pension Plan for Employees of Catholic Schools Trust (Trust).¹

They also argued that the Trust notified them of the termination of the plan and the elimination of their retirement benefits. In light of such, they argued they have acquired rights over the Plan, which cannot be retroactively eliminated. Also, they requested in the complaint, several provisional remedies, namely, a garnishment in assurance of judgment and a preliminary injunction. Afterwards, analogous complaints were filed by employees of Academia San José and Academia San Ignacio, requesting the same remedies, which were consolidated by the Court of First Instance.²

Having evaluated the request of petitioners, the lower court denied the provisional remedies. That decision was opportunely appealed before the Court of Appeals, which also denied granting the requested remedies. Not satisfied, the petitioners came before us. On that occasion, this Court accepted the petition filed and we issued a Judgment reversing the intermediate appellate court. See, Acevedo Feliciano, et al. v. Roman Catholic and Apostolic Church, et al., r. July 18, 2017, CC-

¹ The Pension Plan for Employees of Catholic Schools (Plan) that is the central axis of this dispute began operating in 1979. The Office of the Superintendent of Catholic Schools (Office of the Superintendent), that same year created the Pension Plan for Employees of Catholic Schools Trust (Trust) for it to operate the Plan and group the forty-two schools and academies that would participate in it.

²The complaints included the Catholic Church, the Archdioceses of San Juan, The Office of the Superintendent, Academia Perpetuo Socorro, Academia San José, Academia San Ignacio and the Trust as defendants.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Certified Translation


CC-2018-0475

4

2016-1053. To that effect, we decided that the preliminary injunction remedy was appropriate. Also, we concluded that from the documents of the Plan, various clauses that address the liability of the participating employers of the Plan with its beneficiaries. Id. Pages 9-10. That is, we provided that between the Trust and the participating employers there is a subsidiary obligational link with the beneficiaries. Through this relationship, if the Trust did not have the necessary funds to meet its obligations, the participating employers would be obligated to pay.

In view of this conclusion, and as there was a dispute as to which defendants in the case had legal personalities, we ordered the lower court to hold a hearing to determine who would be responsible for continuing paying the pensions, pursuant to the preliminary injunction. That is, whether liability fell on the "appropriate Academies or the Church". Acevedo Feliciano, et al. v. Roman Catholic and Apostolic Church, et al., supra, page 12.

Upon the remanding of the case to the Court of First Instance, it held the ordered hearing. In its Order, that court determined that the only defendant with its own legal personality was the Catholic Church. This, given that neither Academia San José nor Academia San Ignacio had been duly incorporated. Also, it determined that the incorporation certificate of Academia Perpetuo Socorro had been revoked on May

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Certified Translation

CC-2018-0475

5

4, 2014. After several procedural actions, the lower court granted the Catholic Church a term of twenty-four hours to deposit the sum of \$4.7 million dollars and advised that if it failed to comply with its order it would order the garnishment of its bank accounts. Not satisfied with that action, on that same day, the Respondents appeared before the Court of Appeals by way of *certiorari and in Aid of Jurisdiction* which effectively ordered the stay of the proceedings before the Court of First Instance.

Therefore, after analyzing the arguments of the parties, the intermediate appellate court issued a Judgment which completely reversed the Order issued by the lower court. First, it determined that the Catholic Church is an inexistent entity in Puerto Rico. To that effect, it provided that the different components of the entities that compose the Catholic Church in Puerto Rico each have their own legal personality separate from one another. In that sense, it concluded that the garnishment Order and the order of preliminary injunction were invalid, as they are addressed to an inexistent entity.

On the other hand, the Court of Appeals determined that it was not appropriate to directly individually transfer to the employers the obligation to pay the pension that the employees received because that was strictly the Trust's responsibility.



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Certified Translation

CC-2018-0475

6

Also, the intermediate appellate court concluded that the garnishment order and preliminary injunction were not appropriate because the petitioners had not paid the bond required by the Rules of Civil Procedure.

Lastly, it held that Academia Perpetuo Socorro had legal personality, given that it managed to renew its certificate of incorporation in 2017, despite the fact that it had been cancelled on April 16, 2014. In this way, it reasoned that it should be recognized legal personality retroactively to the actions taken during that time, as it acted within the term of three years provided in Art. 9.08 of the General Corporations Act of Puerto Rico. 14 L.P.R.A. sec. 3708.3.


Therefore, petitioners come before us assigning the aforementioned legal conclusions as errors. Having the benefit of the appearance of the parties, we dispose of the petition before us.³ Let us see.

II.

A.

In order to adequately resolve the dispute before us, it is important to explain the legal and historical context in which the Catholic Church in Puerto Rico is recognized legal

³ During the proceedings of this case, several intervention requests or to appear as amicus curiae were filed with the Clerk's Office of this Court. The petitioners were the Dioceses of Caguas, Arecibo, Mayaguez, Fajardo-Humacao and Ponce. However, we conclude that the interests of these institutions have been adequately represented by respondent. Therefore, we deny them.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Certified Translation

CC-2018-0475


7

personality. The relationship between Spain, the Catholic Church, and Puerto Rico is *sui generis*, given the particularities of its development and historical context. It is known that for the time during which Puerto Rico was a Spanish colony, the Catholic Church was, *de facto* and *de jure*, part of the State. For that reason, the Catholic Church was very involved in the legal relationships that the State was involved in. Now, after the Hispano-American War, Puerto Rico was ceded to the United States, an act that was formalized with the signing of the Treaty of Paris. In that sense, and as this Court has stated:

Puerto Rico became part of the constitutional order of the United States as the result of the Hispano-American War. Through the Treaty of Paris in 1898, the sovereignty of Puerto Rico was ceded to the United States-Art. II, Treaty of Paris, LPRA, Volume 1, and it was established that the rights of the inhabitants of the Island would be defined by the Congress. *Id.*, Art. IV. Therefore, from the beginning of our relationship with the United States, the way in which the Federal Constitution would apply to Puerto Rico was the object of intense debates. Commonwealth v. Northwestern Selecta, 185 DPR 40, 61 (2012).⁴

Also, in view of the aforesaid Treaty, the legal personality that the Catholic Church had prior to ceding Puerto Rico to the United States was acknowledged. In other words, the Treaty of

⁴ For an update of the different positions in this debate, see G.A. Gelpi, The Constitutional Evolution of Puerto Rico and other U.S. Territories (1898-Present), 1st ed., Colombia, Ed. Nomos S.A., 2017.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Certified Translation


CC-2018-0475

8

Paris, maintained the legal personality of the Church". J.J. Monge Gómez, La permisibilidad de lo "impermissible": La Iglesia sobre el Estado ["The Permissibility of the 'Impermissible': The Church over the State"], 41 Rev. Jur. U. Inter. PR 629, 633-634 (2007). The foregoing is evident from Art. 8 of the Treaty, which states as follows:

It is therefore declared that this relinquishment or cession, as the case may be, referenced in the preceding paragraph, cannot reduce at all the property, or the appropriate rights, pursuant to the laws, to the peaceful possessor of properties of all kinds in the provinces, municipalities, public or private establishments, civil or ecclesiastic corporations or of any other collectivities that have legal personalities to acquire and possess properties in the mentioned relinquished or transferred territories and of individual persons, whatever their nationality. Treaty of Peace between the United States of America and the Spanish Kingdom (Treaty of Paris), art. 8, December 10, 1898, USA-Spain, 30 Stat. 1754 (1898). S.C. 343.

Note, that there is no direct reference to the Catholic Church, but rather allusion is made to ecclesiastic corporations. That said, the Supreme Court of the United States established that the word "ecclesiastic" in the aforementioned article strictly referred to the Catholic Church because it was the only ecclesiastic organization existing in Puerto Rico at the time of the signing the Treaty of Paris. Specifically, in

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Certified Translation

CC-2018-0475

9

its analysis, the federal Supreme Court determined the following:

The Roman Catholic Church has been recognized as possessing legal personality by the treaty of Paris, and its property rights solemnly safeguarded. In so doing, the treaty has merely followed the recognized rule of international law which would have protected the property of the church in Porto [sic] Rico subsequent to the cession. This juristic personality and the church's ownership of property had been recognized in the most formal way by the concordats between Spain and the papacy, and by the Spanish laws from the beginning of the settlements in the Indies. Such recognition has also been accorded the church by all systems of European law from the fourth century of the Christian era. Ponce v. Roman Catholic Apostolic Church, 210 U.S. 296, 323-324 (1908).

Despite this, the intermediate appellate court understood that each division of the Catholic Church in Puerto Rico equals the creation of a different and separate legal entity and did not recognize that legal personality of the Catholic Church. That, based on a substitution of the local law for Canon Law, the scope of which, in the dispute before us, is limited to regulating the relationships and the internal procedures of the Catholic Church. See, Marianne Perciaccante, The Courts and Canon Law, 6 Cornell J.L. & Pub. Pol' y 171 (1996).

Consequently, the Court of Appeals mistakenly analyzed the arguments of the Respondents regarding a constitutional clause

pep

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Certified Translation

CC-2018-0475

10

that establishes the separation of Church and State. This because, according to the Respondents, the internal determinations of the Catholic Church, as to how to administer its institutions must be respected. Given the contractual nature of the dispute before us, they are not correct.

Interpreting the referenced constitutional clause, the Supreme Court of the United States established the following:

The "establishment of religion" clause of the First Amendment means at least this: Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to go to or to remain away from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religions, beliefs or disbeliefs, for church attendance or non-attendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a state nor the Federal Government can, openly or secretly, participate in the affairs of any religions organizations or groups and vice versa. Everson v. Bd. Of Ed. Of Ewing Twp., 330 U.S. 1, 15-16 (1947). Also see, Academia San Jorge v. J.R.T., 110 DPR 193 (1980).

Also, based on that same provision the highest federal court has invalidated state court actions that result in an inappropriate interference on the part of those courts regarding matters of organization or internal disputes (intra-church



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Certified Translation

CC-2018-0475

11

dispute) or "matters of doctrine and faith" of the church. See, Jones v. Wolf, 443 U.S. 595 (1979); Serbian E. Orthodox Diocese for U.S. of Am. & Canada v. Milivojevich, 426 U.S. 696 (1976). Therefore, the federal Supreme Court has approved what was named as the "neutral principles of law approach". Jones v. Wolf, supra, pages 602-603. Under that analysis the courts can resolve certain disputes of the Church, as for example, property law, as long as the adjudications do not take into consideration or inquire about matters of doctrine and faith. Id. Pages 602-603. That, without contravening the constitutional clause of separation of Church and State. As corollary of the foregoing, that court has stated that "[t]he First Amendment therefore commands civil courts to decide church property disputes without resolving underlying controversies over religious doctrine. This principle applies with equal force to church disputes over church polity and church administration". Serbian E. Orthodox Diocese for U.S. of Am. & Canada v. Milivojevich, supra, page 710.

Note that in this case, we find ourselves before civil obligations voluntarily contracted, not imposed by the State. In that sense, as this Court stated in Mercado, Quilichini v. U.C.P.R., 143 DPR 610 (1997):


[I]t must be clear that [,] even though one of the parties in this litigation is an educational institution that demands the

pep

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

non-intervention of the courts as there are claims involved that could lead to resolving matters of a religious nature, we can and must distinguish the different arguments before our consideration. Specifically, in this part of the discussion, we only examine the argument of breach of contract. In that sense, there is no doubt as to the authority that a civil court has to intervene in the interpretation of a contract "freely negotiated and agreed" between two private entities. Díaz v. Colegio Nuestra Sra. Del Pilar, 123 DPR 765 (1989). The intervention of the court attempts to enforce the will of the parties and vindicate their contractual interests. In Díaz v. Colegio Nuestra Sra. Del Pilar, supra, we clarified that the participation of the State through the Courts in contractual disputes is not penetrating and incisive in the operation of a catholic educational institution to the point of being a substantial load on the free exercise of cult nor promote the establishment of any religion, as prohibited by the First Amendment of the Constitution of the United States and Art. II, Sec. 3 of the Constitution of the Commonwealth, L.P.R.A., Volume 1. Therefore, as long as the resolving of the contractual dispute does not require passing judgment on matters of doctrine, faith or internal ecclesiastic organization, the civil courts may exercise jurisdiction.

Pursuant to that set forth, it is imperative to conclude that this Court is in the same position in this case. Note, firstly, that it is clear that in this case there is no dispute with regard to "matters of doctrine and faith" of the Catholic Church. Far from facing an intra-church dispute, certainly the dispute before us is framed in external matters of the Catholic Church in its role as employer versus the petitioner employees

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Certified Translation


CC-2018-0475

13

in a purely contractual dispute. When the courts face secular disputes such as this one, we cannot award complete deference to its internal decisions, as it is not an internal organization dispute or matter of doctrine and faith. Perciaccante, supra, pages, 171-172 and 178. Moreover, when acting that way would itself be a violation to the constitutional clause that establishes the separation of Church and State. Id, page 172; Serbian E. Orthodox Diocese for U.S. of Am. & Canada v. Milivojevich, supra, pages 708-710.

Also there is no space to impute a violation to the guarantee of the First Amendment of the Federal Constitution from which every person has the right to freely exercise their religion without being impeded, restricted or prevented by government, which applies to the states pursuant to the Fourteenth Amendment of the Federal Constitution. Everson v. Board of Education, supra. As explained, we are not facing a regulation or interference of the Government which seeks to impose a substantial load to certain religion. We explain.

First, the civil dispute before us deals with agreements that the respondent made voluntarily with the plaintiff teachers. Secondly, these agreements are upheld in rules of Civil and Corporate Law of general application. Third, the respondent did not show that these laws were a substantial burden in the exercise of its religion. See, Holt v. Hobbs, 135

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Certified Translation

CC-2018-0475

14

S. Ct. 853, 857-859 (2015); Burwell v. Hobby Lobby Stores, Inc., 134 S. Ct. 2751, 2769-2762 (2014). It would be very different for the Government of Puerto Rico to interfere with the internal norms of recruitment of ministries or priests of any or of all churches because as the federal Supreme Court decided that such would constitute an undue interference with the internal norms of the churches See, Hosana-Tabor Evangelical Lutheran Church and School v. EEOC, 565 U.S. 171 (2012). On the contrary, we are before a purely contractual dispute regulated by local law among private parties. That is, the legal personality that we recognize to be the Catholic Church does not affect the aforementioned constitutional guarantee because that determination in no way substantially interfered with its internal organization or any "matter of doctrine and faith." With our decision, we merely clarify the legal personality of the Catholic Church of Puerto Rico with its civil responsibilities in relation to persons outside of it.

Secondly, the dispute in this case, contrary to how it was perceived by the Court of Appeals, does not require that we evaluate or qualify the internal decisions or "internal ecclesiastic organization" of the Catholic Church as correct or incorrect, regardless how it may choose to do so, but rather whether such organization is capable of granting or denying, by



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Certified Translation

CC-2018-0475

15

itself, independent legal personality to one or various of the internal structures. Let us see.

Contrary to what was concluded by the intermediate appellate court, it is undeniable **that each entity created that operates separately and with a certain degree of autonomy from the Catholic Church is in reality a fragment of only one entity that possesses legal personality.** J. Gelpi Barrios, Personalidad Jurídica de la Iglesia en Puerto Rico ["Legal Personality of the Church in Puerto Rico"], 95 Rev. Esp. Der Canónico 395, 403 and 410 (1977); A. Colon Rosado, Relation Between Church and State in Puerto Rico, 46 Rev. Jur. Col .Ab. 51, 54-57 (1985). In other words, the entities created as a result of any internal configuration of the Catholic Church are not automatically equivalent to the formation of entities with different and separate legal personalities in the field of Civil Law. That because they are merely indivisible fragments of the legal personality that the Catholic Church has.

The contention that the Catholic Church is authorized to forego the local Corporate Law and can establish entities with legal personality by decree or papal bull from Rome, is--for all practical effects--the recognition of an official or privileged religion in Puerto Rico. That is prohibited by the First Amendment of the Constitution of the United States and Art. II,



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Certified Translation

CC-2018-0475

16


Sec. 3 of the Constitution of Puerto Rico. See, Everson v. Board of Education, supra; Academia San Jorge v. J.R.T., supra.

In view of the foregoing, it is unquestionable that the Catholic Church has and enjoys its own legal personality in Puerto Rico. Therefore, different from other religious institutions, it is not required to carry out a formal act of incorporation to have legal personality. As a matter of fact, that reality is stated in the Registry of Corporations of the State Department of Puerto Rico.⁵ Therefore, inasmuch as the entities created by the Catholic Church serve as alter egos or its entities *doing business as*, without independently submitting to an ordinary incorporation process (as Academia Perpetuo Socorro did at a time) they are mere indivisible fragmentations of the Catholic Church with no legal personality of their own. In view of these facts, the Court of Appeals erred in substituting the current law stated with non-binding rules.

B.

As it is known, one of the medullar characteristics of the corporations is that they have their own legal personality, separate and different from that of their incorporators and shareholders. See, C.E. Díaz Olivo, Corporaciones: Tratado Sobre Derecho Corporativo ["Corporations: Treatise on Corporate Law"], Colombia, [S. Ed], 2016, pages 2 and 45; M. Muñoz Rivera, Ley de

⁵ Certificate of the State Department, Appendix of Certiorari, pages 787-789.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.


Certified Translation

CC-2018-0475

17

Corporaciones de Puerto Rico: Análisis y Comentarios ["Puerto Rico Corporations Act: Analysis and Commentaries"], 1st ed., San Juan, Ed. Situm, 2015, page 7. That legal personality is lasting until the corporation is dissolved or expires. Miramar Marine, et al., v. Citi Walk et al., 198 DPR 684, 691 (2017). Relevant to the dispute before us, Art. 9.08 of the General Corporations Act of Puerto Rico, *supra*, provides certain instances in which, despite the dissolution or extinction of a corporation, it will have legal personality for certain purposes.

The article cited above adopts in Puerto Rico what is known as the survival statutes. Miramar Marine et al, v. Citi Walk, et al, *supra*, page 693. It has the purpose of adequately and completely finishing the process of liquidation of a corporation. *Id.* Therefore, as the text of the referenced article provides, legal personality is provided to terminated corporations with the purpose of them being able to continue with their pending litigations and address those judicial claims filed within the three years that follow their dissolution or extinction. However, the same article clarifies that "[t]he legal personality may not continue with the purpose of continuing the business for which such corporation was created." General Corporations Act of Puerto Rico, *supra*. See, also, 16A Fletcher Cyc. Corp., secs. 8112.3 and 8117 (2012). That is, the legal personality of a liquidated or terminated corporation is

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Certified Translation

CC-2018-0475

18

limited, because it will not be recognized to continue with its business as if it had never been liquidated or terminated. However, the foregoing is not equivalent to being able to file suit against a liquidated or terminated corporation within the three years following its termination for actions carried out within that same term. An interpretation of that article shows that the cause of action exercised had to have appeared during the existence of the corporation that is intended to be sued. In this way, the referenced article provides a term for an affected party to file suit against the corporation despite it having ceased to exist.

In view of the foregoing, we decide that the intermediate appellate court erred in recognizing the legal personality of Academia Perpetuo Socorro. As stated, Art. 9.08 of the General Corporations Act of Puerto Rico, supra, provides a term of three (3) years after the extinction of a corporation to exercise causes of action and rights that appeared during its effectiveness. In light of the stated facts, it is evident that the cause of action in question appeared in 2016, with the announcement by the Trust with regard to the end of the Plan and the lack of payment of the pensions. Therefore, it was not appropriate to recognize the legal personality of Academia Perpetuo Socorro, as the actions that are claimed occurred after the reversal of its certificate of incorporation.


I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

III.

As stated, the petitioners state that the appealed judgment erroneously determined that there was no obligational source between them and their employer regarding the payment of the pensions. That, as the only obligational link present in the dispute was strictly between the pensioners and the Trust. That conclusion is contrary to our mandate in Acevedo Feliciano, et al v. Roman Catholic and Apostolic Church, et al, supra. In that occasion we established with clarity the obligational relationship between the parties and its legal effect. Therefore, the action of the Court of Appeals is erroneous, as it is incongruent with our previous mandate. See, Colon, et al. v. Frito Lays, 186 DPR 135, 151 (2012).

On that occasion, this Court determined that in the Plan there were several clauses that held the employers liable for the obligations of the Trust. *Id.*, pages 9-10. Therefore, we ordered the Court of First Instance to hold a hearing, to determine which employers had independent legal personality and would be liable to pay. In that sense, we stated the following:

At the same time, and regardless of the legality of the termination of the plan, from the Pension Plan there are several clauses that deal with the responsibility of the participating employers with the beneficiaries, namely: 1) Article 2(B), where the employers **guarantee** their contribution of the necessary funds for the operation of the plan, 2) Articles 4 (B) and

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

8 (B.1) where a guarantee of payment is emphasized for at least sixty (60) months, 3) Article 7(E) where it is established that the employers that end their participation in the Plan are liable for amortizing the non-financed liability accrued, and 4) Article 15 (b), where it is emphasized that the employer that retires from the Plan is responsible of the **acquired benefits** of its employees while it participate. All this requires examining the responsibility to which the employers had when agreeing the Pensions Plan, and if it extends beyond the figure of the trust that they established. Acevedo Feliciano, et al. v. Roman Catholic and Apostolic Church, et al., supra, pages 9-11 (scholium omitted.)

For that reason, and on the grounds stated in our previous Judgment, which became firm and final, we conclude that the intermediate appellate court erred when acting against our order. That is because in that occasion this Court had concluded that the obligational link between the parties was existent as it was evident from various parts of the Plan. For that reason, the lower court acted correctly when abiding by what was provided by this Court in Acevedo Feliciano, et al. v. Roman Catholic and Apostolic Church, et al., supra, by holding a hearing to determine which party had legal personality in order to comply with the obligation that this court already deemed existent.

IV.

A.



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Certified Translation

CC-2018-0475

21

The garnishment remedy in assurance of judgment seeks to ensure the effectiveness of a judgment that is entered in due time. Ramos, et al. v. Colon, et al., 153 DPR 534 (2001). Therefore, the Rules of Civil Procedure, compel the courts to demand the payment of a bond to grant that remedy. 32 LPRA Ap. V, R. 56.4. However, there are various exceptions to the payment of that bond. In relevant part to this dispute, one of the exceptions provides that “[a] provisional remedy without payment of the bond may be granted in any of the following cases: (a) if it is in public or private documents, as defined by law and signed before a person authorized to administer oath, that the obligation is legally binding...” 32 LPRA AP. V, R. 56.3. The definition of what constitutes a public or private document must be interpreted broadly and expansively. J.A. Cuevas Segarra, Tratado de Derecho Procesal Civil [“Treatise on Civil Procedural Law”], 2nd ed., San Juan, Pubs. JTS, 2011 T. V, page 1607. For that reason, the range of admissible documents to excuse a party from having to pay bond is vastly broad. To that effect, in the case file there is abundant documental evidence that shows that the obligation in question was payable, namely: Informative Manual for Participating Employees, Appendix to Certiorari, pages 564-566; Informative Manual for Employees, id., pages, 567-569; Deed of Trust, id. Pages 545-563; Pension Plan of the Catholic Schools of the Archdioceses of San Juan, id., pages 1, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Certified Translation


CC-2018-0475

22

516-538; Minutes of the Meeting of the Trust on April 26, 2010, Id page 680, and Minutes of the Meeting of the Trust on September 13, 2010, id. Page 690.

B.

On the other hand, the preliminary injunction has the objective of "maintaining the status quo while the case is being resolved". Mun. Fajardo v. Sec. Justice, 187 DPR 245, 255 (2012). To grant that remedy the petitioner must, in addition to complying with the criteria established in Rule 57.3 of the Rules of Civil Procedure, 32 LPRA Ap. V, R. 57.3, pay a bond, as a general rule. According to Doctor Cuevas Segarra, "the imposition of a previous bond constitutes an essential requirement that must not yield to anything, **except extraordinary circumstances where requiring such payment would lead to a failure of justice**". (Emphasis provided). Cuevas Segarra, op. cit., page 1726. Professor Echevarría Vargas thinks the same, J.A. Echevarría Vargas, Procedimiento Civil Puertorriqueño ["Puerto Rican Civil Procedure"], San Juan [Author ed], 2012, page 393. In view of the foregoing, we find ourselves facing exceptional circumstances which make it necessary to recognize such an exception in our legal system. Therefore, we cannot ratify the reasoning of the Court of Appeals, which would result in the granting of an injunction remedy not being available for a petitioner to avoid a failure

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Certified Translation

CC-2018-0475

23

of justice if he/she does not have the force of money. That logic would weaken the effectiveness of the Law in a democratic society and would close the courts' doors for purely financial reasons to those who precisely need an urgent financial remedy.

To that effect, it is clear that demanding the payment of a bond in this case would entail a failure of justice. Let us explain ourselves. Here petitioner demands the payment of a pension that is not disputed that has stopped being paid. As a consequence of this breach, the petitioners suffer a damage, in view of the lack of flow of income and the clear and palpable harms that threaten their health, safety, and wellbeing in a retirement stage. We recognized and stated such in the Judgment of Acevedo Feliciano et al v. Roman Catholic and Apostolic Church et al, supra, pages, 8-9. In view of the reality that the petitioners stated concrete and particular situations of how the non-payment of the pension has had a significant impact in their lives, it would be a contradiction to demand the payment of a significant bond for defendants to continue the payment of the pension that petitioners demand.

V.

Based on the foregoing grounds, the certiorari petition is issued and the judgment of the Court of Appeals is reversed with regard to the matters stated in this Opinion. Consequently, we hold and maintain in complete effect the decision in the Order



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Certified Translation

CC-2018-0475

24

issued by the Court of First Instance on March 16, 2018, and all the measures adopted by the lower court and therefore the case is remanded to that court for subsequent procedures to resume, in accordance with what is stated in this Opinion.

[signature]

Luis F. Estrella Martínez
Associate Justice



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Certified Translation

IN THE SUPREME COURT OF PUERTO RICO

Yalí Acevedo Feliciano
et al.

Petitioners

Roman Catholic and
Apostolic Church et al

Respondents

CC-2018-0475

Certiorari

Sonia Arroyo Velázquez
et al.

Petitioners

v.

Roman Catholic and
Apostolic Church, et
al.

Respondents

Elsie Alvarado Rivera
et al.

Petitioners

v.

Roman Catholic and
Apostolic Church, et
al.

JUDGMENT
(Rule 50)

San Juan, Puerto Rico, on June 11, 2018.



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Certified Translation

CC-2018-0475

2

Based on the foregoing grounds, the certiorari petition is issued and the judgment of the Court of Appeals is reversed with regard to the matters stated in this Opinion. Consequently, we hold and maintain in complete effect the decision in the Order issued by the Court of First Instance on March 16, 2018, and all the measures adopted by the lower court and therefore the case is remanded to that court for subsequent procedures to resume, in accordance with what is stated in this Opinion.

Notify **immediately** by telephone and by e-mail.

So pronounced and ordered by the Court and certified by the Clerk of the Supreme Court. The Interim Chief Justice Rodríguez Rodríguez and Associate Justice Colón Pérez dissent with written opinions. Chief Justice Oronoz Rodríguez did not intervene.

[signature]

Juan Ernesto Dávila Rivera
Clerk of the Supreme Court

[seal:] *COMMONWEALTH OF PUERTO RICO; GENERAL COURT OF JUSTICE; SUPREME COURT*



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

IN THE SUPREME COURT OF PUERTO RICO

Yalí Acevedo Feliciano
et al.

Petitioners

Roman Catholic and
Apostolic Church et al

Respondents

No. CC-2018-0475

Sonia Arroyo Velázquez
et al.

Petitioners

v.

Roman Catholic and
Apostolic Church, et
al.

Respondents

Elsie Alvarado Rivera
et al.

Petitioners

v.

Roman Catholic and
Apostolic Church, et
al.

Dissenting opinion issued by Associate Justice Rodriguez
Rodriguez.

In San Juan, Puerto Rico, on June 11, 2018.

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.


Once again, "it's the church,
Sancho."¹

Due to understanding that the course of action adopted by a majority of the members of this Court violates the Constitutional Principle on Separation of Church and State, embodied in both the Constitution of the Commonwealth of Puerto Rico and the Constitution of the United States of America, by *de facto* and *de jure* reconfiguring the internal and hierarchical ecclesiastical organization of the Roman Catholic and Apostolic Church, I **forcefully dissent**.

I.

The core dispute before our consideration had its origin after a *Judgment* issued by this Court, on July 18, 2017. See *Acevedo Feliciano, et al. v. Roman Catholic and Apostolic Church, et al.*, R. July 18, 2017, CC-2016-1053. The Judgment that we issued at that time reviewed a *Decision and Order* of the Court of First Instance that, in turn, denied plaintiffs' request for a preliminary injunction to secure the judgment. The primary court had concluded, as a matter of law, that the damages alleged in the lawsuit were financial and therefore reparable, so the


¹ *Diocese of Arecibo v. Sec. Justice*, 191 D.P.R. 292, 329 (2014) (Rodriguez Rodriguez, J., Dissenting Op.) (citing M. de Cervantes Saavedra, *Don Quixote de la Mancha*, (Ed. IV Centenario) Madrid, Ed. Alfaguara, 2004, at p. 60.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

requested injunction was denied. The intermediate appellate court refused to review said decision.

When that dispute was brought to our consideration, we issued the writ of certiorari and revoked. We concluded that the beneficiaries of a Pension Plan had suffered irreparable damage when they were "deprived of their needed source of income." In view of such, the request for preliminary injunction filed by Yali Acevedo Feliciano and the other plaintiff teachers (collectively, petitioners) was granted. By virtue of said decision, this Court ordered the continuation of the payments of the pensions claimed by the plaintiffs. Likewise, the primary court was ordered to hold an evidentiary hearing to determine if the defendant entities had legal personality and, consequently, were liable for the payment of the pensions in question while the merits of the case were solved. *See Acevedo Feliciano, et al. v. Roman Catholic and Apostolic Church, et al.*, R. July 18, 2017, CC-2016-1053, at p. 13.


In compliance with the order of this Court, the Court of First Instance held the corresponding hearing and, after considering the evidence presented, the writings submitted by the parties and the current law, ruled that "the churches-schools sued, as well as the Archdiocese of San Juan and the Office of the Superintendent of Catholic Schools of San Juan, do not have their own legal personality because they are part of

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

the Roman Catholic and Apostolic Church, an entity with its own legal personality, recognized by our current state of law." *Decision of the Court of First Instance* (Civil No. SJ-2016-CV-0131), March 16, 2018, at p. 8. To arrive at this conclusion, the primary court analyzed, in essence, Article 8, paragraph 2 of the Treaty of Paris of December 10, 1898 and the statements of the Supreme Court of the United States in *Municipality of Ponce v. Catholic Church in Porto Rico*, 210 U.S. 296 (1908).

According to the interpretation of the primary court - affirmed today by a majority of this Court - the Supreme Court of the United States ruled that said article of the Treaty allegedly recognized the Roman Catholic and Apostolic Church (Catholic Church) in Puerto Rico its own and independent legal personality. For the reasons explained later in this dissent, this interpretation of the decision issued by the federal Supreme Court lacks legal and historical basis and is completely incompatible with the modern constitutional doctrine about separation of Church and State and the Code of Canon Law.

In light of said analysis regarding the legal personality of the Catholic Church, the Court of First Instance ordered the continuation of the "payments to the plaintiffs pursuant to the Pension Plan, while this action is resolved." *Decision of the Court of First Instance* (Civil No. SJ-2016-CV-0131). Upon the Catholic Church's non-compliance, on March 27, 2018, the primary

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

court ordered it to deposit, in twenty-four (24) hours, the amount of \$ 4,700,000 as a measure to ensure payment of the plaintiffs' pensions. Similarly, the primary court warned that the Catholic Church's non-compliance would result in a seizure of its bank accounts.

Dissatisfied, that same day, the Catholic Church filed a petition for a writ of *certiorari* and a motion in aid of jurisdiction before the Court of Appeals. In response to the latter, the intermediate appellate court preventively ordered the stay of the proceedings before the primary court. After receiving the respective arguments of the parties, on April 30, 2018, the Court of Appeals issued a judgment in which it fully revoked the Court of First Instance's decision.

Regarding the dispute over the legal personality of the Catholic Church, said court reasoned that, according to Canon Law and the current rule of law on principles of separation of Church and State, "there is no structure on the Island that groups together all the dioceses, under a single authority, to which their bishops are subordinate." *Judgment of the Court of Appeals*, KLCE-2018-00413, April 30, 2018, at p. 29. In interpreting sections 368 and 369 of the Code of Canon Law, the intermediate appellate court emphasized that a diocese is a portion of the people of God, whose care is entrusted to the Bishop and which, with the cooperation of the presbytery,

pep

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

"constitutes a Particular church, in which the Church of Christ is truly present and acts as a holy, catholic and apostolic one." *Id.* at p. 30. That is, in accordance with the canon law, "the hierarchical structure of the Catholic religion has no other authority with the capacity to represent the entire Catholic Church in Puerto Rico, other than the Bishop of Rome himself, as the universal head of the Roman Catholic and Apostolic Church". *Id.* at p. 31.

Consistent with this pronouncement, the Court of Appeals held that the decision of the Supreme Court of the United States in *Municipality of Ponce* should be interpreted taking into consideration the reality and the historical context of the time when this case was decided. For the intermediate appellate court, at the time when the opinion in question was issued, in Puerto Rico there was only "one diocese (the Diocese of Puerto Rico), so, in practice, the same identity or conceptualization existed between the Catholic Church and the diocese." *Id.* at p. 36. Lastly, the Court of Appeals ruled that the federal Supreme Court did no more than recognize the law in force prior to the cession of the territory of Puerto Rico to the United States and, in no way, this should be interpreted as the recognition of a Catholic Church's own legal personality in Puerto Rico; otherwise, it would be a way of "intervening in the internal




I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

structure of the Church [and] in its operation and organization." *Id.* at p. 37.

Thus, the Court of Appeals concluded that the seizure order and preliminary injunction were improper, since they were addressed to a non-existent entity. On the other hand, the intermediate appellate court ruled that: (1) the employers participating in the retirement plan were not obligated to pay individually the pension received by their employees; (2) the attachment order and the preliminary injunction did not proceed since the petitioner had not provided the corresponding bond, and (3) Academia Perpetuo Socorro had its own legal personality due to having renewed its incorporation certificate in 2017 and, therefore, it should be recognized retroactively.²

Dissatisfied, on May 14, 2018, the Catholic Church filed before this Court a *Motion in Aid of Jurisdiction and/or Expedited Transmittal* and a request for *certiorari* through which, in summary, it requested to stay the proceedings and the reversal of the judgment issued by the Court of Appeals. Even without having these resources available, on May 21, 2018, the legal representation of the Catholic Schools Employee Pension Plan Trust (Trust) filed an *Informative Motion* before this Court


² I must mention that Justice Rivera Colón issued a dissenting vote in which he expressed his agreement with the determination of the majority of the members of the Panel that the Catholic Church had no independent legal personality. However, he dissented from the opinion because he understood, correctly under my perspective, that the majority judgment improperly entertained matters regarding the merits of the present case that were not before their consideration and, therefore, exceeded its revisory power.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

informing that Academia Perpetuo Socorro, on May 18, 2018, had opportunely filed a motion for reconsideration before the intermediate appellate court. Thus, a majority of the members of this Court ordered all the parties in this lawsuit to set forth their position regarding said informative motion; particularly, regarding whether the request before our consideration was premature. In the afternoon of May 24, 2018, in compliance with our order, the parties appeared and presented their arguments.

On the same day, and late at night, a majority of the members of this Court considered the briefs presented and ruled that the petitioner was not notified of the filing of the motion for reconsideration before the Court of Appeals pursuant to law. In this way, without further ado, this Court denied the motions to dismiss filed and, afterwards, the proceedings before the lower courts were stayed. This had the effect of ordering the Catholic Church to continue issuing the payments in accordance with the Pension Plan and comply with the provisions of the Decisions and orders of the court of first instance, issued on March 16 and 26, 2018, respectively. Finally, a short period of ten (10) days was granted to the Catholic Church and other respondents to show cause as to why the judgment of the intermediate appellate court should not be revoked.

On June 1, 2018, the petitioners filed an *Urgent Motion of Contempt and Other Matters* through which they requested that the


 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Catholic Church be found in contempt, that its allegations be eliminated and to authorize the execution of court of first instance's seizure order. Even without a ruling on said motion, on June 4, 2018, the respondents filed their respective motions in compliance with the order.

Thus, today a majority of the members of this Court issues an opinion, under the expedited procedure of Rule 50 of our Rules through which it unexpectedly reorganizes the internal structure of the Catholic Church in Puerto Rico. In doing so, it overturns the constitutional protections of the absolute separation of Church and State contained in the Constitution of the Commonwealth of Puerto Rico and in the Constitution of the United States, as established in its interpretative jurisprudence, respectively. Given that this Court took jurisdiction to address the present case, I have an inescapable duty to express myself regarding the merits of the main dispute raised and how wrong the opinion issued today is.

II.

As a threshold matter, I must make it very clear that my position in this Dissenting Opinion does not in any way imply that I am passing judgment, or compromising my judgment, on the merits of the present case and the validity of the claim of the teachers of Catholic schools regarding the legality of the termination of the Retirement Plan. At all times, the

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

determinations of this Court and the lower courts have arisen in the exclusive context of an action of preliminary injunction and seizure to secure judgment. I have no doubt, as a majority of the members of this Court held in the *Judgment from July 18, 2017*, that at this **early stage** of the proceedings "the balance of interests is tilted towards the petitioners." *Acevedo Feliciano, et al. v. Roman Catholic and Apostolic Church, et al.*, Res. July 18, 2017, CC-2016-1053, at p. 12. Certainly, as this Court has already resolved and we pointed out earlier, during the course of this action, the teachers "stripped of their much-needed source of income [] have suffered irreparable damage." *Id.* at pages. 11-12. Now, the dispute that is before the consideration of this Court, and that arises from our previous decision, is **whom** it is against and **who** will be liable for the millions in monetary claims that the petitioners request. In the answer to this question lies, precisely, my **irreconcilable difference** with the Majority.

Taking this as a spearhead, I will proceed to delineate the reasons why I believe that the majority opinion inappropriately interferes with the operation of the Catholic Church by imposing on it a legal personality that it does not hold in the field of private law. Likewise, I believe that the decision issued by a majority today, in practice, could lead to the unenforceability



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

of the judgment which, in due time, could end the petitioners' claim; a claim that today is subjected to a deplorable suspense.

A.

Section 3 of Article II of the Constitution of the Commonwealth of Puerto Rico, L.P.R.A., Volume 1, *11 establishes that, "no law shall be approved relating to the establishment of any religion, nor shall the free exercise of religious worship be prohibited. There shall be complete separation of the church and the state." On the other hand, the Constitution of the United States clearly states that, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise of the consequences, or abridging the freedom of speech, or of the press, or the right of the people peacefully to assemble, and to petition the Government for a redress of grievances." U.S. Const. Amend I.

From the outset, it is necessary to emphasize that our constitutional clause - as opposed to its federal counterpart - expressly orders "complete separation of Church and State." At the federal level, this separation--which aspiration and inspiration of the religious clauses--has been formulated through a recognition of the existence of two separate spheres of action that go back to the secular thought of Thomas




I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Jefferson and James Madison.³ The other two clauses related to the recognition of the freedom of religion and the prohibition to the establishment of a religion contained in both constitutions, prevent State actions that may tend to: (1) promote a particular religion or (2) limit its exercise. Hence, in the past this Court has recognized that, both at the federal level and at the state level, there is a tension between both clauses that has resulted in a broad jurisprudence that seeks to harmonize them. *See Mercado, Quilichini v. U.C.P.R.*, 143 D.P.R. 610, 635 (1997); *Diocese of Arecibo v. Srio. Justice*, 191 D.P.R. 292, 308 (2014) (judgment) (citing *School Dist. Of Abington Tp., Pa. V. Schempp*, 374 U.S. 203 (1963)).

As to the clause on separation of Church and State of our Constitution, we have affirmed that it requires recognition of a jurisdiction for the Church distinct and separate from that of the State. This, in order for the actions of both entities to not interfere with one another. *See Mercado, Quilichini*, 143 D.P.R. at p. 634. Consistent with this, we have determined that the constitutional mandate of separation of Church and State prevents civil courts from rendering judgment "on matters of doctrine, discipline, faith or internal ecclesiastical

³ See Laurence Tribe, *American Constitutional Law*, at p. 819 (Foundation Press 1979). See also, John Ragosta, "Federal Control: Jefferson's Vision in Our Times," in *Religious Freedom: Jefferson's Legacy, America's Creed* (Charlottesville: University of Virginia Press, 2013), at pgs. 185-86,188; *Watson v. Jones*, 80 U.S. 679 (1871).


 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

organization." *Amador v. Conc. Igl. Univ. De Jesus Christ*, 150 D.P.R. 571, 579-80 (2000) (emphasis supplied).

Over the years, the so-called "religious clauses," both in the federal sphere and in the Puerto Rican legal system, have formed the basis for the development of rules and adjudicative standards that, in turn, have served as a guide to face issues revolving around the interrelation between the State, religion, and the church. In this case, it is clear that the dispute does not entail a possible violation of the freedom of worship, nor does it suppose the favoring of a religion on the part of the State. Rather, this Court's ruling directly affects the principles that inform the organization, function, hierarchy, and structure of the Catholic Church in Puerto Rico.

The majority opinion, in addressing this issue, focuses on the nature of plaintiffs' claim, warning that "we find ourselves before civil obligations voluntarily contracted and not imposed by the State."⁴ *Opinion*, at p. 10. Thus, it indicates that the ruling in *Mercado, Quilichini* is dispositive, as to the authority of the civil courts to elucidate contractual disputes

⁴ It is appropriate to distinguish, then, between the substantive nature of the dispute before our consideration and the effects of the opinion that today is signed by a majority to resolve it. While it is true that we are before a claim of contractual nature, the determination as to who is answerable for said claim, which for the majority would be the Catholic Church, results in a clear violation of the separation clause of Church and State. In other words, we are not dealing with a case in which the dispute requires evaluating whether a state action violates any of the religious clauses. Interestingly, in this case the state action, concretely, occurred **in the stage of the resolution of the dispute** by this Court by attributing - by judicial means - legal personality to the Catholic Church in the field of Private Law. This, in contravention of the different provisions of the Code of Canon Law that govern the structure and the organization of that universal religious entity.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

that "do not require rendering judgment on matters of doctrine of faith or of internal ecclesiastical organization." *Id.* (Citing *Mercado, Quilichini v. U.C.P.R.*, 143 D.P.R. at page 635 (1997)). After indicating that this Court is in the same position as in *Mercado, Quilichini* and by means of a clearly disconnected analysis, the Majority concludes that the other entities sued in the present case are in fact a fragmentation of a single entity with legal personality: the Catholic Church. *Opinion*, at pages. 10-11.

In the particular context of the constitutional prohibition of the establishment of a religion, in the case of *Lemon v. Kurtzman*, 403 U.S. 602 (1977), the federal Supreme Court established a tripartite scheme of analysis to determine whether a state law or practice constitutes an improper establishment of religion. That scheme - commonly known as the *Lemon Test* - requires the courts to examine: (1) whether the legislation or action pursues a secular purpose, (2) if in some way it promotes or inhibits religion, or (3) if it constitutes an excessive interference by the State in religious matters. *Lemon v. Kurtzman*, 403 U.S. 602, 612-13 (1971); *Asoc. Academies and Col. Cristianos v. E.L.A.*, 135 D.P.R. 150 (1994) (adopting and applying the scheme); see also *Dioceses of Arecibo v. Sec. Justice*, 191 D.P.R. 292, 310 (2014) (judgment).

pep

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Professor Efren Rivera Ramos, in discussing this scheme and its adoption and application by this Court, echoes the expressions of former federal Supreme Court justice Sandra Day O'Connor and explains that, "the principle is that the Government action must not endorse Religion, neither in its purpose nor in its effect." Efren Rivera Ramos, *Estado, Religión y Derecho: Marco Juridico* ["State, Religion, and Law: Legal Framework"], 84 Rev. Jur. *15 U.P.R. 537, 541 (2015). For practical purposes, it concludes that the general principle set forth in *Lemon* and its progeny includes the following requirements:

(1) That the State should not favor any religion, nor should it privilege Religion in general; (2) **that the State should not interfere in the internal affairs of the Religion**, and (3) that the State should not allow Religion to interfere in the affairs of government, or entrust government matters to any religion. *Id.* (Emphasis supplied).

The second requirement has its origin in decisions of the Federal Supreme Court through which it recognized a modality of the violation to the constitutional prohibition to the establishment of a religion through **improper actions** on the part of the civil courts of justice. This has been called in American federal and state jurisprudence the "church autonomy doctrine"




I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

which is, for all effects, a corollary of the separation of Church and State embodied in the First Federal Amendment.⁵

As it was advanced, although in the past we have acknowledged elements of this doctrine when interpreting the religious clauses of our Constitution, particularly the mandate to separate Church and State, we have been cautious in its application and have avoided adopting it bluntly. See *Amador v. Conc. Igl. Univ. Of *16 Jesus Christ*, 150 D.P.R. 571, 579-80 (2000); *Mercado, Quilichini v. U.C.P.R.*, 143 D.P.R. 610, 635 (1997); *Diaz v. Colegio Nuestra Sra. Del Pilar*, 123 D.P.R. 765 (1989); *Agostini Pascual v. Catholic Church*, 109 D.P.R. 172 (1979).

However, the Supreme Court of the United States decided a series of cases in the fifties, sixties, and seventies that delimit the contours of the "church autonomy doctrine" and, to a certain extent, have served as a guide for this Court when resolving disputes in which there is an undue interference by the State in matters of church. See *Jones v. Wolf*, 443 U.S. 595 (1979); *Serbian E. Orthodox Diocese for U.S. of Am. & Canada v. Milivojevich*, 426 U.S. 696, 708 (1976) ("The fatal fallacy to the judgment of the [state supreme court] is that it rests upon

⁵ For a detailed examination of this doctrine, see *Construction and Application of Church Autonomy Doctrine*, 123 A.L.R. 5th 385 (2004). See also Michael A. Helfand, *Religion's Footnote Four: Church Autonomy As Arbitration*, 97 Minn. L. Rev. 1891 (2013), for a discussion on said doctrine, its evolution and its relationship with the other adjudication standards for the so-called "religious clauses."

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

an impermissible rejection of the decisions of the highest ecclesiastical tribunals of this hierarchical church upon the issues in dispute, and impermissibly substitutes its own inquiry into church polity and Decisions based thereon those disputes."); *Maryland & Virginia Eldership of the Churches of God v. Church of God of Sharpsburg, Inc.*, 396 US 367.369 (1970) (Brennan, J., Concurrent Op.) ("To permit civil courts to probe deeply enough into the allocation of power within a church so as to decide where religious law, places control over the use of church property would violate the First Amendment in much the same manner as civil determination of religious doctrine."); *Presbyterian Church in U.S. v. Mary Elizabeth Blue Hull Mem'l Presbyterian Church*, *17 393 U.S. 440 (1969); *Kedroff v. St. Nicholas Cathedral of Russian Orthodox Church in N. Am.*, 344 U.S. 94, 116 (1952) ("[A] spirit of freedom for religious organizations, an independence from secular control or manipulation, in short, power to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine.")


From the range of federal jurisprudence mentioned above it is important to emphasize the decision of *Presbyterian Church in U.S.*, by which it was resolved that:

First Amendment values are **plainly jeopardized** when church property litigation is made to turn on the
pep I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Decision by civil courts of controversies over religious doctrine and practice. If civil courts undertake to resolve such controversies in order to adjudicate the property dispute, **the hazards are ever present of inhibiting the free development of religious doctrine and of implicating secular interests in matters of purely ecclesiastical concern.** Because of these hazards, the First Amendment enjoins the employment of organs of government for religious purposes, the amendment then commands civil courts to decide church property disputes **without resolving underlying controversies over religious doctrine.** Hence, States, religious organizations, and individuals must structure relationships involving church property **so as not to require the civil courts to resolve ecclesiastical questions.** *Presbyterian Church in U.S. v. Mary Elizabeth Blue Hull Mem'l Presbyterian Church*, 393 U.S. 440, 449 (1969) (citations omitted) (emphasis supplied).⁶

In addition to the decisions of the Federal Supreme Court, the "church autonomy doctrine" has been endorsed and applied by the various federal and state courts. See, e.g. *Se. Pennsylvania Synod of the Evangelical Lutheran Church in Am. v. Meena*, 19 A.3d 1191, 1196 (Pa. Commw. Ct. 2011) ("If the civil courts are to inquire into all these matters, the whole subject of the doctrinal theology, the usages and customs, the written laws, and fundamental organization of every religious denomination

⁶ Although this decision, and the others cited above, arise in the particular context of the ability of a religious institution to acquire private property, the methodology adopted by the Federal Supreme Court informs what we understand should dispose of the dispute in this case. And the fact of the matter is that, in the decision that the Majority takes today, it is determined who the Church is regardless of what the Church itself maintains. In fact, and as discussed below, the practical effect of what is decided by the majority opinion creates an undue interference, not only in the organization of the Church, but also in the purchasing power and ownership over real property of different entities that have been stripped of their own legal personality by this Court and that appear as co-defendants in this lawsuit.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

may, and must, be examined into minuteness and care, for they would become, in almost every case, the criteria by which the validity of the ecclesiastical decree would be determined in the civil court."); *McKelvey v. Pierce*, 173 N.J. 26, 800 A.2d 840 (2002); *Bryce v. Episcopal Church in the Diocese of Colorado*, 289 F.3d 648 (10th Cir., 2002).

I consider that according to the discussion above, it is mandatory to conclude that the opinion of the majority violates the principle of separation of Church and State by interfering in the very definition of who the Catholic Church is in order to determine its legal personality. The Majority replaces the Church's criterion on this matter, with its own. This, in my opinion, is in clear contravention of the mandate of our Constitution and that of the United States.

Rather, and in order to supplement the very meager and disconnected analysis contained in the Majority Opinion on the separation of Church and State clause, I consider it prudent and intellectually sound to address the aspects of the internal and hierarchical ecclesiastical organization of the Catholic Church that are adversely affected by the majority's decision. For this, it is essential to examine those precepts of the Code of Canon Law, the Treaty of Paris, and the Concordats of 1851 and 1859 that explain the hierarchy and *modus operandi* of the Catholic Church and, moreover, reveal the historical and legal

pep

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.


background of that religious institution in Puerto Rico. Let us see.

III.

A.

Canon Law is conceived as the legal structure of the Catholic Church and constitutes the system of legal relations that unite the faithful and place them within the social body of the Catholic Church. See in general Daniel Cenalmor and Jorge Miras, *El Derecho de la Iglesia: Curso básico de Derecho canónico* ["Church Law: Basic Course in Canon Law"] (1st ed., Pamplona, Ed. Eunasa, 2004). In this sense, as the Court of Appeals correctly pointed out, its immediate purpose is "to establish and guarantee the just social order in the Church, ordering and leading its subjects, through said order, to the attainment of the common good." *Judgment of the Court of Appeals*, KLCE-2018-00413, April 30, 2018, at p. 15 (citing A. *20 Bernández Cantón et al., *Derecho Canónico* ["Canon Law"]. 2d ed. Pamplona, Ed. Eunasa, 1975, at pags. 75-79.)

For purposes of this case, it is imperative to point out that, according to the Code of Canon Law (CCL), "[t]he Catholic Church and the Apostolic See are moral persons by the same divine ordination." CCL 113, sec. 1. Pursuant to this, in the canonical order "besides physical persons, there are also

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

juridic persons, that is, subjects in canon law of obligations and rights which correspond to their nature." *Id.* at sec. 2. This responds to the practical fact that "the corporations and foundations constituted by competent ecclesiastical authority . . . within the limits that are indicated to them, fulfill in the name of the Church . . ." CCL 116, sec. 1.

These general rules make more sense when we analyze the provisions contained in Book II of the People of God regarding particular churches and their gatherings. Note that "the concept of a particular Church **is not canonical but theological.**" Javier Hervada, *Elementos de Derecho Constitucional Canónico* ["Elements of Constitutional Canon Law"] (Madrid 2014) at p. 274. This section of the CCL states that the particular churches "in which, and from which the one and only Catholic Church exists, are first of all dioceses." CCL 368. In attention to this, as the Court of Appeals correctly pointed out, this legal scheme provides that:

A diocese is a portion of the people of God which is entrusted to a bishop for him to shepherd with the cooperation of the presbyterium, so that, adhering to its pastor and gathered by him in the Holy Spirit through the gospel and the Eucharist, it constitutes a particular church in which the **one, holy, catholic, and apostolic** Church of Christ is truly present and operative. CCL 369 (emphasis added).


pep

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

This principle is carried out in its most practical sense because that portion of the people of God that "constitutes a diocese or another particular Church must be circumscribed within a given territory, so that it includes all the faithful who inhabit it." CCL 373 [sic]. Thus, the erection of particular churches "corresponds only to the supreme authority . . . [and] **those legitimately erected possess juridic personality by the law itself.**" CCL 373. Dioceses are the organs of local government whose jurisdiction is defined by virtue of their territorial demarcation. Fernando Della Rocca, *Canon Law*, section 88, on page 198. See also CCL 515 sec.3

("The parish legitimately erected has legal personality under the law itself".); Jorge de Otaduy, *The civil personality of the organizational entities of the Church* (Particular reference to the parish), *IUS CANONICUM*, XXIX, n. 58 (1989) at pages. 503-526.

Experts in matters of Canon Law explain the organization of the Catholic Church and its particular churches, affirming that the latter, "in themselves are Churches, because, even though they are particular in them, **the Universal Church is present** with all its essential elements." Cenalmor and Miras, *supra*, at p. 271 (emphasis supplied). This mysterious reciprocal implication between both is illustrated in the following statement: "the whole is nothing but the sum of the parts, **nor**

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

the parts a partial unit, simple result of the division of the whole, but the **whole is at once, operates and exists in each of the parts**" *Id.* (Citations omitted) (emphasis supplied).

This analysis becomes relevant if it is understood that the Catholic Church has the capacity to acquire, retain, administer and dispose of temporal goods. The academics comment that: "[t]here is no single ecclesiastical patrimony under the direct ownership of the Universal Church, but a multitude of patrimonies with different titles and purposes." *Id.* at page 503. However, for its administration "general principles govern that tend to unify in a certain way, all the ecclesiastical goods, ordering them to serve the same purposes, **under the supreme authority of the Roman Pontiff** and with a common legal regime." *Id.* (Emphasis added).

For purposes of the dispute before our consideration, this means that the Catholic Church, as a juridical entity in itself, does not properly exist under the protection of the Canonical Law, except only under the understanding of the Universal Church, which is the People of God, whose supreme authority on earth is the Bishop of Rome. When we talk of the Catholic Church in Puerto Rico, it is not more than a colloquial way of referring to the Universal Church that exists in each of the other jurisdictions of the world. At the same time, the Archdiocese of San Juan and the other dioceses and parochial

pp I, [Name], certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

churches in Puerto Rico are not "the sum of the parties, nor the parties a partial unit" but they are everything that "at the same time, operates and exists in each of the parts." Cenalmor and Miras, *supra*, at p. 271. The definition of what the Church **is and what it is not** is the responsibility in purity of said institution, and not of the civil courts. It cannot be any other way; the opposite would be to render judgment on the internal ecclesiastical organization and the hierarchy of the Catholic Church, in clear contravention of the total separation between Church and State. See *Presbyterian Church in U.S. v. Mary Elizabeth Blue Hull Mem'l Presbyterian Church*, 393 U.S. 440, 449 (1969). Unfortunately, the Majority Opinion obviates or ignores these issues.

This conclusion is even more forceful when it is considered under the magnitude of the so-called "special situation" of juridical personality of the Catholic Church in Puerto Rico, under the Treaty of Paris, the Concordats of 1851 and 1859, the federal case of *Municipality of Ponce* and the studies of the academics who have approached the subject related to the personality of the Church. Let us see.

B.

The historical and legal background of the Catholic Church on the Island goes back to the times of the rule of the Spanish




I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Empire.⁷ For the purposes of this dispute, the agreement that illustrates the relationship between the Catholic Church, Spain, and Puerto Rico at the time of the invasion and eventual transfer of Puerto Rican territory to the United States is the Concordat of 1851 (Concordat) between Queen Isabella II and the Holy See, represented by the Supreme Pontiff, Pius IX.

In 1851, after arduous negotiations, the Kingdom of Spain and the Holy See signed the Concordat to systematize their relations, as well as to regulate the administrative organization of the Catholic Church throughout the Kingdom of Spain. This was necessary in light of the deterioration suffered between the relationship of the Catholic Church and the Spanish State during the first decades of the nineteenth century and the frank administrative disorganization of the Church. During that first part of the century, the Spanish State had deprived the Catholic Church, "in the person of its secular clergy and its religious communities of men and women, of all ecclesiastical property," either to convert them into national goods or to enter the amount of the sale of these to the vault of the Spanish government. Juan R. Gelpí Barrios, *Personalidad jurídica*

⁷ As historical data, through the *Bull Romanus Pontifex* of 1511, promulgated by Pope Julius II, the first three dioceses were erected in the New World. These were: Santo Domingo, Concepcion de la Vega, both in Hispaniola, and San Juan Bautista, which later became the Diocese of Puerto Rico. It was not until 1924 when the second one was erected, the Diocese of Ponce. In the second part of the 20th century, three dioceses were erected: Arecibo in 1960, Caguas in 1964 and Mayaguez in 1976. The last was erected in 2008, the Diocese of Humacao. See, Samuel Silva Gotay, *La Iglesia Católica de Puerto Rico, en el Proceso Político de Americanización, 1898-1930* (Publicaciones Gaviota 2012); Gerardo Alberto Hernández-Aponte, *La Iglesia Católica en Puerto Rico ante la invasión de Estados Unidos de América. Lucha, sobrevivencia y estabilización: (1898-1921)* (Rio Piedras 2013).

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

*de la Iglesia en Puerto Rico: Vigencia del Concordato español de 1851 a través del tratado *25 de París* ["Legal Personality of the Church in Puerto Rico: Validity of the Spanish Concordat of 1851 through the Treaty of Paris"], 95 Rev. Esp. Der. Canónico 395, 408 (1977); Federico Suárez, *Genesis del Concordato de 1851* ["Genesis of the Concordat of 1851"], <http://dadun.unav.edu/handle/10171/13928>. See also, Francisco Tomas y Valiente, *Manual de Historia del Derecho Español* ["Manual of the History of Spanish Law"], (Madrid 2012) at pages 411-414, 613-619. This reality generated innumerable litigation and claims that tried to reverse the actions of the State. The Concordat sought to settle this situation.

Of the aforementioned Concordat, and as it pertains to the dispute before our consideration, articles 40 and 41 are of particular relevance. In the first of these articles, it is recognized that the goods and income alienated from the Church, and enumerated in previous articles, "belong in property to the Church, and in their name shall be enjoyed and administered by the clergy." See <http://www.uv.es/correa/troncal/concordato1851> This article states "conclusively the legal personality of the Church that empowers it to claim all the property that was in dispute at the time of the agreement, since the State recognizes them as their owner, clarifying that all usufruct and

pep

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

administration must be understood on behalf of the Church.”
Gelpi, supra, on p. 409.

On the other hand, Article 41 stated the following:

In addition, the Church shall have the right to acquire for any legitimate title, and her property in all that she now possesses or acquires shall be solemnly respected. Therefore, as for the old and new ecclesiastical foundations, no suppression or union could be made without the intervention of the authority of the Holy See, except the powers that belong to the bishops, according to the Holy Council of Trent.


See <https://www.uv.es/correa/troncal/concordato1851>

Professor Gelpi Barrios, analyzing this article, rightly indicates that this was very important given that the Catholic Church had “in an independent manner in all Spanish domains, a civilian personality recognized and guaranteed by the State itself, to acquire, for any legitimate title and to possess at all times, all kinds of temporal goods.” Gelpi, supra.

In fact, in accordance with the provisions of the aforementioned article, article 38 of the Spanish Civil Code of 1889, in force in Puerto Rico, was drafted up to the date of sovereignty in 1898. That article provided that:

Legal persons can acquire and possess goods of all kinds, as well as contract obligations and exercise civil or criminal actions, according to the laws and rules of their constitution.

The church will be governed at this point by the agreement between both powers; and the educational and

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.


charitable establishments according to the special laws. *Id.* (Emphasis supplied.)

By incorporating in the Civil Code the principle of legal personality of the Church recognized in the Concordat, the Spanish State “converted the Concordats between the Church and the Crown of Spain, in civil law, for the purposes of acquiring and possessing property of all kinds, contract obligations and exercise civil and criminal actions”. *Id.*⁸

After the Concordat of 1851, the national Courts approved the Law of November 4, 1859 through which the Crown was sanctioned, authorizing the Government to conclude an agreement with the Holy See. This resulted in the Concordat of 1859 that, along with the 1851 Concordat, resulted in that “the Church’s legal entity be totally consolidated with its property right over the assets that it acquired or that were restituted.” Gelpí Berrios, *supra* at page 410.

The legal framework detailed in the preceding paragraphs was in effect at the time of the Spanish American War that ended with the Paris Treaty of December 10, 1898 (“Treaty”) and the cession of Puerto Rico to the United States. In other words,


⁸ I must mention, as a curious fact, that the explanatory memorandum accompanying the Concordat of 1851 said that the reorganization of the ecclesiastical entities that are part of the Concordat text does not include “the Churches of America, either because the disorganization introduced in the Churches of The Peninsula has barely reached there, and also because everything that affects [those] distant countries **must be treated in a special way.**” Juan Perez Alhama, *La Iglesia y el Estado español: Estudio histórico-jurídico a través del Concordato de 1851*, (Instituto de Estudios Políticos, Madrid 1967), Appendix, at p. 526 (emphasis added).

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

both the Concordats of 1851 and 1859 and the amendments to the Spanish Civil Code were in effect during the remaining period of Spanish sovereignty on the Island. That said, the Treaty incorporated and recognized certain aspects of Spanish Law in effect at the time of the change in sovereignty. As relevant to the dispute before us, the Treaty declared that:

Nevertheless, it is declared that this renouncement or cession, as the case may be, referred to in the previous paragraph, in no way lessens the property or rights which belong by custom or law to the peaceful possessor of goods of all kinds in the provinces and cities, public or private establishments, **civil or ecclesiastical corporations or whatever bodies have judicial personality to acquire and possess goods in the above-mentioned, renounced or ceded territories, and those of private individuals, whatever be their nationality.** Peace Treaty between the United States of American and the Queen of Spain, Art. 8, December 10, 1989, USA-Spain, 30 Stat.. 1754 (1989), T.S. 343 (emphasis added).

As mentioned, the United States Supreme Court interpreted this article of the Treaty in *Municipality of Ponce v. Catholic Church in Porto Rico*, 210 U.S. 296 (1908). Given the importance of this decision, I deem it necessary to reproduce in its totality certain sections of said opinion to proceed with a complete analysis of the reach. Just after citing article 8 of the Treaty, the federal court reasoned that:

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

This clause is manifestly intended to guard the property of the church against interference with, or spoliation by, the new master, either directly or through his local governmental agents. There can be **no question that the ecclesiastical body referred to, so far as Porto Rico was concerned, could only be the Roman Catholic Church in that island, for no other ecclesiastical body there existed.** *Id.* at page 311.

Similarly, the United States Supreme Court Interpreted the 1851 and 1859 Concordats and the "corporate recognition" by the United States Government of the Catholic Church, including its Supreme Pontiff,⁹ and ruled that:

The Roman Catholic Church has been recognized as possessing legal personality by the treaty of Paris, and its property rights solemnly safeguarded. In so doing the treaty has **merely followed** the recognized **rule of international law** which would have protected the property of the church in Porto Rico subsequent to the cession. **This juristic personality** and the church's ownership of property **had been recognized** in the most formal way by the concordats between Spain and the papacy, and **by the Spanish laws** from the beginning of settlements in the Indies. Such recognition has also been accorded the church **by all systems of European law** from the fourth century of the Christian era. *Id.* at pages 323-24

To begin with, we cannot lose perspective that all of the federal court's analysis occurs in the context of International Public Law. Its expressions making reference to the "corporate existence" of the Catholic Church come up specifically in relation to the recognition of the Supreme Pontiff and the Holy See. In other words, these expressions cannot be interpreted as

⁹ "The **corporate existence** of the Roman Catholic Church, as well as the position occupied by the **papacy**, have always been recognized by the government of the United States... The **Holy See still occupies a recognized position in international law**, of which the courts must take judicial notice." *Id.* on pg. 312 (emphasis provided).

pep I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

"special recognition" of legal personality in itself because it is the Catholic Church in Puerto Rico, but rather as recognition of its peculiarity and how it was not an a properly incorporated entity pursuant to the laws of Corporate Law in effect in the United States at that time.

The explicit mention of International Public Law, the laws of the Spanish Monarchy and all other legal systems in Europe to validate the "juridical personality" of recognized by the government of the United States The **Holy See still occupies a recognized position in international law**, of which the courts must take judicial notice." *Id.* a page. 318 (emphasis added).

"Catholic Church" reasonably can only imply that this refers to one single religious entity at the global level: the Universal Church of God's people. Precisely, Professor José Julián Álvarez in his legal constitutional treatise points out that one of the consequences of the federal Supreme Court's Opinion is that "the Catholic Church never has the need to incorporate itself, as other religious entities had to." José Julián Álvarez González, *Puerto Rican Constitutional Law* (2009) at page 1192.

The investigations carried out by Gelpí Barrios, which have been cited extensively, support this explanation and are distant from the **accommodating interpretation** made in the majority

pep


I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Opinion that **does not even directly cite** this work, which, curiously, served as the principal foundation for its erroneous conclusion regarding such an important dispute. After analyzing the historical, legal, and social background that led to the Concordats of 1851 and 1859 and the Paris Treaty, professor Gelpí Barrios explains that:

At the time of the cession, there was in Puerto Rico **only one diocese. At present, there are five:** the San Juan diocese and the dioceses of Ponce, Arecibo, Caguas and Mayaguez. Each diocese is a fragmentation of one only possessing entity of juridical personality. Each one of them enjoys of the **same legal status corresponding to the original diocese of Puerto Rico**, in other words, the Roman Catholic Church of Puerto Rico.

None of the them has been born thanks to the act of incorporation just as it is required by the Law of Puerto Rico, but rather, **by the action of the Holy See**, that has legal civil effects from the moment in which the erection document of the new territorial jurisdiction is executed by the competent authority. Gelpí Barrios, *supra*, on p. 410 (emphasis supplied).

It is worth recognizing that these expressions of the Professor are a translation into Spanish of an article published by the late Bishop of Ponce, Fremiot Torres Oliver, on May 28, 1976, entitled *Juridical Personality of the Roman Catholic Church in Puerto Rico*, 15 Rev.Der. P.R. 307 (1975) ("Each diocese is a fragmentation of the entity possessing juristic personality, and each enjoys the same legal status as the original Diocese of Puerto Rico, referred to in the opinion

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

quoted opinion as "The Roman Catholic Church in Puerto Rico")
See also Aníbal Colón Rosado, *Relations Between Church and State in Puerto Rico*, 23 Rev. Der. P.R. 53 (1983). If anything can be concluded from these statements, which are more than a non-binding interpretation of an academic and Bishop on the *Municipality of Ponce* case and the history of our old Spanish colonial past, it is that the internal and hierarchical organization of the Catholic Church has changed in Puerto Rico since this Caribbean island came to belong to the United States. Also, it is worth noting that in 1903 "the Diocese of Puerto Rico [separated] from the Ecclesiastical Province of Santiago de Cuba, and [became] a diocese directly subject to the Holy See, which gave Puerto Rico, within the ecclesiastical law, full ecclesiastical independence, like any other Latin American country." Samuel Silva Gotay, *The Catholic Church of Puerto Rico, in the Political Process of Americanization, 1898-1930*, (Publicaciones Gaviota 2012) pgs. 184-185. This placed the Puerto Rican Catholic Church "on an equal footing with the churches of North, Central, and South America." *Id.* at p. 185.

The so-called "fragmentation" of the Diocese of Puerto Rico cannot be interpreted as a breach of the legal personality of the Universal Church of the people of God, as the Majority seems to hold. More than anything, what is involved is the founding of new dioceses as a vehicle that makes "more efficient pastoral

pep

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

work" possible. *Id.* at p. 282. That is, to carry out the work of evangelization. Again, the contrary conclusion of the majority opinion is clearly erroneous.

The Catholic Church "operates and exists" in the Archdiocese of San Juan and the remaining five (5) dioceses. Cenalmor and Miras, *supra*, at p. 271. Whereupon, each of these entities are by themselves the Catholic Church and not the parts of a partial unit that form a single entity as the majority concludes. Each diocesan community has attributed the "mystery wealth" of the Catholic Church. *Id.* The Decision as proposed by the Majority, once again, would violate the separation between Church and State because this Court would interfere in the definition and conceptualization of said religion. Most of us are deciding "who" the Apostolic and Roman Catholic Church is, a determination that, as we have seen, only concerns the Catholic Church itself and not the State through this Court. See, *Maryland & Virginia from Eldership of the Churches of God*, *supra*, at p. 369. The truth is that the institutions within the Catholic Church in Puerto Rico that have legal personality are the Archdiocese of San Juan and the five (5) dioceses. In addition, as regards the claim in the present lawsuit, one cannot lose sight of the fact that some of the defendant employers, such as Academia del Perpetuo Socorro, have their own and independent legal personality under Private Law as they have

pep

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.


been incorporated according to the requirements of Corporate Law and the Department of State.¹⁰

IV.

Despite understanding that the foregoing analysis is sufficient to clear up any doubt regarding the error of the majority opinion, I consider it necessary to briefly examine the practical implications of the determination of the majority and the consequences of imposing on a religious entity a legal personality that it does not hold and that, for purposes of its internal organization, is non-existent.

In the first place, it is worth drawing attention to the fact that the majority opinion tacitly revokes years of jurisprudence established by this Court, through which the Archdiocese of San Juan and five (5) other dioceses have appeared as parties in different litigation. If we consider one of the first decisions of this Court in which the Diocese of Puerto Rico was a part, it follows that, until today, the personality and legal status of that institution has been recognized by this Court. In *Roman Catholic Apostolic Church v.*


¹⁰The opinion of the majority does not address this issue, by merely indicating that the certificate of incorporation of that institution had been revoked in 2014. Confusingly, later in the Opinion, -making specific reference to Academia del Perpetuo Socorro- the possibility that some entities submit to an ordinary process of incorporation is contemplated. In this regard, it is important to note that the Department of State reinstated the incorporation of Academia del Perpetuo Socorro and, consequently, its legal personality was rolled back to the date of its original incorporation. See *Carlos Díaz Olivo, Corporaciones* (Publicaciones Puertorriqueñas, 1999) at p. 43. In addition to this oversight by the majority, some of the educational institutions mentioned in the Opinion are not even listed as part of this complaint. Specifically, throughout the Opinion alludes to the "Colegio San Ignacio", when defendant is the "Academia San Ignacio", a completely different educational institution.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

The People, 11 D.P.R. 485 (1906), this Court heard a request in which the Catholic Church requested that the Government of the Island return property of the Religious Communities of Dominicans and Franciscans that had been suppressed and seized in 1838. In the lawsuit, the Government of Puerto Rico questioned the power of the Catholic Church to acquire property. In this context, this Court addressed the issue of the legal personality of the Bishop to initiate the claim in question and, its relevant part, stated that:


The same is to be said about [the] personality of the Catholic Bishop of Puerto Rico to carry the representation of the Catholic Church in the present litigation. **The bishops carry the representation of the church in their respective dioceses according to the canons of the Catholic Church** and this representation was [especially] recognized by the concordats in everything that referred [to] the delivery of the goods [to] the Bishops and [to] their permutation in the manner agreed between both powers. *Roman Catholic Apostolic Church*, 11 D.P.R. at p. (emphasis supplied).

Certainly, these expressions are consistent with the interpretation of the case *Municipality of Ponce* and the analysis set forth in sections II and III of this opinion. After this decision, on several occasions, this Court has entertained disputes through which it has recognized the juridical personality of the Archdiocese of San Juan and the five (5) other Dioceses. This, demonstrating an understanding about the

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

internal and hierarchical ecclesiastical organization of the Universal Church of the People of Christ. See *Diocese of Arecibo and. Sec. Of Justice*, 191 D.P.R. 292 (2014); *Diocese of Mayagüez and. Planning Board*, 147 D.P.R. 471 (1999); *Diaz and. School Nuestra Sra. Del Pilar*, 123 D.P.R. 765 (1989); *San Jorge Academy v. Labor Relations Board*, 110 D.P.R. 193 (1980); *Agostini Pascual v. Catholic Church, Diocese of Ponce*, 109 D.P.R. 172 (1979); *Vélez Colón v. Roman Catholic Apostolic Church, Diocese of Arecibo*, 105 D.P.R. 123 (1976); *Camacho v. Roman Catholic Apostolic Church, Diocese of San Juan v. Registrar*, 95 D.P.R. 511 (1968); *Roman Catholic Apostolic Church, Diocese of Ponce*, 72 D.P.R. 353 (1951). As anticipated, endorsement of the majority opinion leads one to consider these decisions as if they were never written.

Furthermore, the practical effects of the decision issued by a majority today show the lightness and simplicity of the analysis used and are seen as an additional obstacle in the final Decision of the present case and, consequently, to the collection of the amounts claimed by plaintiffs. In essence, the opinion subscribed, by improperly assigning legal personality to the Catholic Church, strips the other defendant entities of independent legal personality and, consequently, relieves them of compliance with the obligations assumed towards the plaintiffs that are the object of this case. For these purposes,

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

note that the order of attachment decreed, as contained in the Decision that today a majority "maintains and maintains in all vigor" provides the following:

Accordingly, the sheriff of this Court is ordered to proceed to seize assets and moneys of the Holy Apostolic and Roman Catholic Church in an amount of \$ 4,700,000 to respond for the payment of the plaintiffs' pensions, including bonds, securities, motor vehicles, works of art, equipment, furniture, accounts, real estate and any other property belonging to the Holy Apostolic and Roman Catholic Church, and any of its dependencies, which is located in Puerto Rico.

It is untenable to conceive that said order is, in fact, enforceable. How should the assets to be seized be identified? Does its ownership matter? Is there any order of priority among so much generality? What happens with the other defendant entities? Do they lack legal personality despite being incorporated? Does the dismissal of the causes of action brought against them proceed? What will happen to the assets of the dioceses that have requested intervention in this case and as of today are not part of the case? Will they be stripped of these without due process of law? Are all the assets of other religious entities seized, such as aged care centers and other educational institutions?

The questions are many and the lack of answers shows that the opinion signed by a majority of the members of this Court



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

lacks the depth, seriousness and intellectual rigor that a dispute of such high public interest deserves. For all of which, I would render the attachment decreed without effect because it is unenforceable and directed to an entity that lacks its own legal personality and, for all purposes, does not exist in law.

[signature]

Anabelle Rodríguez Rodríguez
Interim Chief Justice

pep

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Certified Translation

IN THE SUPREME COURT OF PUERTO RICO

Yalí Acevedo Feliciano
et al.

Petitioners

Roman Catholic and
Apostolic Church et al

Respondents

CC-2018-0475

Certiorari

Sonia Arroyo Velázquez
et al.

Petitioners

v.

Roman Catholic and
Apostolic Church, et
al.

Respondents

Elsie Alvarado Rivera
et al.

Petitioners

v.

Roman Catholic and
Apostolic Church, et
al.

Dissenting opinion issued by Associate Justice COLÓN PÉREZ.

In San Juan, Puerto Rico, on June 11, 2018.




I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Omnes viae Roman ducunt.


There are some who say that "*all roads lead to Rome*"; an historical expression attributable to the efficient system of Roman roads that existed at the time of the emperors and that guaranteed, to the one who followed its route, access to the capital of one of the greatest empires the world has ever known: Rome. And it is precisely there, in Rome, the seat of the *Roman Catholic and Apostolic Church*, where a majority of this Court -- **through an opinion that, at a minimum, will be very difficult to execute** -- has sent a group of teachers from various Catholic schools of this country to claim their right to a dignified retirement, of which they appear to be worthy. Because I do not agree with this regrettable manner of proceeding, which validates a misguided litigation, and that --at the end of the day-- will leave the class of teachers that knock on our door today without any remedy, we forcefully dissent.

In that direction, we will not validate with our vote an extremely superficial opinion, lacking an in-depth analysis of the various dimensions of the disputes before our consideration, in which a majority of this Court, leaving aside all the legal precedents that address similar issues to the one that concerns us today, chooses to recognize legal personality to an abstract concept of universal character as is the term *Roman Catholic and Apostolic Church*. In doing so, our fellow Justices who are part

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

of the majority obviate in their analysis that the *Roman Catholic and Apostolic Church*, due to its function, purpose, and idiosyncrasy requires being present in all corners of the globe. Its mission, like that of every church, is to expand in all the places in the world that allow it. From there stems the complexity that results from attempting to determine who, in controversies like those that occupy us today, and that occur in our jurisdiction, are the ones called to respond.


Therefore, in the present case -- before issuing any type of a determination -- it was necessary to study in detail the organizational structure of the Catholic Church, in such a way that it could be determined, with particular precision, which of its entities truly have legal personality and, consequently, who are those parties truly called to respond to the group of teachers who initiated the captioned case. Given that a majority of this Court did not perform the aforementioned study -- **and was much as we are facing a litigation that has all the necessary elements to be reviewed by the Court Supreme Court of the United States** -- through this Dissenting Opinion, we proceed to do so. It is now up to the Federal Judicial High Court, if requested by the parties herein affected, to rectify the error committed by this Court, inasmuch as it is a matter of particular importance regarding the separation of Church and State. Let us see.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

I.

The core events are not in dispute. On June 6, 2016, sixty-six (66) teachers from Academia Perpetuo Socorro (hereinafter, "plaintiff teachers") filed a preliminary and permanent injunction, for declaratory judgment, breach of contract, and torts against the *Roman Catholic and Apostolic Church* of Puerto Rico, the Archdiocese of San Juan, the Office of the Superintendent of Catholic Schools of San Juan, Academia Perpetuo Socorro, and the Trust for the Pension Plan for Employees of Catholic Schools of San Juan (hereinafter, "Trust"). This, because the aforementioned Trust announced the cessation of the pension plan of which they have benefited for years.


Later, another group of teachers from Academia San José and Academia San Ignacio de Loyola presented similar complaints. Along with the complaint, the mentioned employees also requested a preliminary injunction and a seizure to secure the judgment. In particular, they claimed that the stoppage of payments caused them irreparable damage to their acquired rights and requested that the Court to order the continuation of the provision of the pension and the seizure of assets of the *Roman Catholic and Apostolic Church* up to the sum of \$4,444,419.95, in order to secure the judgment that, in due time, could be issued by the primary court. As per its *Decision* on July 15, 2016, the Court

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

of First Instance consolidated this case with the one originally filed by Academia Perpetuo Socorro.

Thus, having examined the parties' positions, the Court of First Instance denied the preliminary injunction requested. This determination was confirmed by the Court of Appeals, which motivated that the aforementioned dispute comes now before our consideration. On that occasion, by way of a Judgment of July 18, 2017, this Court ruled that the request for preliminary injunction filed by the requesting teachers should be granted. Thus, we ordered the Court of First Instance to hold a hearing to determine who was obligated to continue paying the pensions that are the subject of this litigation. For this, the primary court should clarify who from the defendants had legal personality.

Under the order issued by this Court, the parties submitted several briefs before the Court of First Instance. The plaintiff-teachers claimed that Academia Perpetuo Socorro, Academia San José, and Academia San Ignacio de Loyola lacked legal personality because they were dependencies of the Archdiocese of San Juan, which also lacked legal personality. The latter is because the Archdiocese of San Juan is a subdivision of the *Roman Catholic and Apostolic Church*, which is the only institution with legal personality.


For its part, Academia Perpetuo Socorro stated that it had
 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

legal personality because it was registered as a non-profit corporation.¹ The Trust, the Archdiocese of San Juan and the Office of the Superintendent of Catholic Schools of San Juan, although they filed several documents with the Court, at that stage of the proceedings, did not express any position concerning legal personality.

In its motion, the Trust informed that it had filed a petition for bankruptcy before the Bankruptcy Court for the District of Puerto Rico. The Archdiocese of San Juan and the Superintendent of Catholic Schools of San Juan, on the other hand, informed the primary court on the filing of a notice of removal to the United States District Court for the District of Puerto Rico. This, for considering that the claim subject of the present litigation was related to the bankruptcy petition presented by the Trust.

Thus, having examined the documents filed by the parties, the Court of First Instance issued a *Partial Judgment*. In it, in view of the bankruptcy petition filed before the Bankruptcy Court for the District of Puerto Rico, it ordered the stay of the proceedings in this case and the administrative closure of the case without prejudice. However, the Bankruptcy Court for the District of Puerto Rico later dismissed the petition for

¹ In addition, it stated that the Department of State had revoked its certificate of incorporation on May 4, 2014. However, it reinstated its incorporation and reinstated its legal capacity to its original incorporation date, February 2, 1968.


 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

bankruptcy.

Having learned of this, on March 16, 2018, the Archdiocese of San Juan and the Office of the Superintendent of Catholic Schools of San Juan presented before the District Court of the United States for the District of Puerto Rico a notice of withdrawal of its request for removal and, consequently, they requested that the case be remanded to the state court. This document was notified to all parties in the lawsuit.


Then, on March 19, 2018, the plaintiff-teachers filed an informative motion with the Court of First Instance in which they notified said court that the Archdiocese of San Juan and the Office of the Superintendent of Catholic Schools of San Juan had filed before the aforementioned federal entity a notice of withdrawal of the notice of removal. On the same day, the Court of First Instance issued an Order through the which it lifted the stay of the lawsuit because of the bankruptcy petition.

Subsequently, in compliance with the order issued by this Court, the Court of First Instance held an evidentiary hearing to determine if the *Roman Catholic and Apostolic Church*, the Archdiocese of San Juan, the Office of the Superintendent of Catholic Schools of San Juan, Academia Perpetuo Socorro, Academia San José, and Academia San Ignacio de Loyola had legal personality. Once the aforementioned evidentiary hearing was held, the primary court issued a *Decision* by way of which it

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

determined that the Archdiocese of San Juan, the Office of the Superintendent of Catholic Schools of San Juan and the aforementioned Schools lacked legal personality. This, given that they are dependencies of the *Roman Catholic and Apostolic Church*, which has legal personality under the Treaty of Paris. Therefore, it ordered the *Roman Catholic and Apostolic Church* to pay the pension to the plaintiff-employees, according to the Pension Plan, while the present litigation is decided.


Unsatisfied with the aforementioned determination, the Archdiocese of San Juan and the Office of the Superintendent of Catholic Schools of San Juan presented, before the primary court, a *Motion regarding Nullity of the Decision and requesting adjudication of motion of dismissal for lack of jurisdiction*. In the same, it argued that the aforesaid *Decision* was issued without jurisdiction, since the United States District Court for the District of Puerto Rico had not issued an order remanding the case to the Court of First Instance. The primary court denied the referenced motion for dismissal.

Still unsatisfied, the Archdiocese of San Juan and the Office of the Superintendent of Catholic Schools of San Juan filed a motion for reconsideration and a motion to set the bond in accordance with the provisions of the Rule 56.3 of Civil Procedure, 32 LPRA App. V. R. 56.3. In opposition, plaintiff-teachers alleged that, by their actions, and by submitting a  I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

dispositive motion on February 13, 2018, the *Roman Catholic and Apostolic Church* voluntarily waived its notice of removal. They also requested that the *Roman Catholic and Apostolic Church*, Academia Perpetuo Socorro, Academia San José, and Academia San Ignacio de Loyola be prohibited from appearing separately by virtue of their being dependencies of the *Roman Catholic and Apostolic Church*. Finally, they requested the deposit of the Trust's remaining funds.


In view of the aforementioned documents, the Court of First Instance issued a Decision in which it ordered the *Roman Catholic and Apostolic Church* to deposit with the Court, in a term of twenty-four (24) hours, the sum of \$ 4,700,000. In addition, it warned the *Roman Catholic and Apostolic Church* that if it failed to comply with the aforementioned order, it would proceed to seize its bank accounts.

In a timely manner, and in disagreement with the aforementioned Decisions issued by the primary court, the Archdiocese of San Juan appeared before the Court of Appeals through a *Motion aid of jurisdiction and Petition for Certiorari Review*. In its writ, the Archdiocese of San Juan alleged that the Court of First Instance erred: (1) in issuing a *Decision* when it lacked the jurisdiction to do so because, at that time, a notice of removal was pending to the United States District Court for the District of Puerto Rico; (2) by not dismissing the

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

claim under the *Foreign Sovereign Immunities Act* for lack of jurisdiction over the matter; (3) by not dismissing the claim for lack of jurisdiction over the person of the *Roman Catholic and Apostolic Church*; (4) having issued a preliminary injunction without imposing a bond pursuant to Rule 57.4 of Civil Procedure, 32 LPRA App. V, R. 57.4; (5) when adjudicating that the Archdiocese of San Juan had no legal personality independently from the *Roman Catholic and Apostolic Church*; (6) by determining that Academia Perpetuo Socorro had legal personality; and, (7) in ordering the deposit of 4.7 million dollars, which amounts to a permanent injunction, without the holding of a hearing and/or the presentation of evidence of such amounts.

Having studied the briefs from all of the parties, the Court of Appeals issued a Judgment. In so doing, it ruled, firstly, that although a motion for removal to the United States District Court for the District of Puerto Rico, which was subsequently dismissed, at the time when the Court of First Instance issued the Decision under review, the conduct deployed by the Archdiocese of San Juan and the Office of the Superintendent of the Catholic Schools of San Juan, who had requested the removal, reflect that they waived the remedy of removal to the federal court. Therefore, in the judgment of the Court of Appeal, the primary court did not lack the jurisdiction

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

to issue the Decision in dispute.

Regarding the claim of lack of subject matter jurisdiction, the intermediate appellate court determined that it was not applicable, since it was evident that the claim filed by the plaintiff-teachers was addressed to the *Roman Catholic and Apostolic Church* for actions allegedly incurred by it in Puerto Rico.

In view of the above, under the Treaty of Paris and the Code of Canon Law, the Court of Appeals determined that the *Roman Catholic Apostolic Church* lacked legal personality. However, said court held that within the organizational structure of the Church, dioceses, parishes, religious orders, among other organizations, did have legal personality. The Court of Appeals ruled that this, in part, was due to the fact that in Puerto Rico there was no greater structure grouping all the dioceses under a single authority. Each diocese represented, autonomously, the *Roman Catholic Apostolic Church* in their respective circumscription.

Furthermore, the Court of Appeals decided that the Archdiocese of San Juan, like all dioceses in Puerto Rico, had legal personality. This, because the level of authority of an Archdiocese is the same as that of any diocese. The difference lies, as the intermediate appellate court illustrates, that an



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Archdiocese is denominated in such way for being a diocese of greater size and population.

As for Academia del Perpetuo Socorro, the Court of Appeals reasoned that it was a [parochial] school attached to the Parish of Nuestra Señora del Perpetuo Socorro; thus, it was covered by the legal personality of the Parish. This was so, notwithstanding the fact that Academia del Perpetuo Socorro was registered as a non-profit corporation, under Art. 9.08 of the Corporations Act, 14 LPRA sec. 3708.

Likewise, the intermediate appellate court ruled that Academia San José, being a parochial school, was attached to the San José Parish, for which reason it was covered under the legal personality of the aforementioned Parish.


Now, in regard to Academia San Ignacio de Loyola, the Court of Appeals determined that it was a school attached to the Orden de la Compañía de Jesús en Puerto Rico, Inc. [Society of Jesus Order in Puerto Rico, Inc.], better known as the Jesuit Order. The latter had legal personality in accordance with the provisions of the Treaty of Paris, thus, in the judgment of the Court of Appeals, the aforementioned school was covered by the legal personality of the Orden de la Compañía de Jesús en Puerto Rico, Inc.



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Furthermore, with regard to the remedy granted under Rule 57.4 of Civil Procedure, *supra*, the preliminary injunction and the law on obligations and contracts, the intermediate appellate court reasoned that the obligation of employers - meaning the Archdiocese of San Juan, the Office of the Superintendent of Catholic Schools of San Juan, Academia del Perpetuo Socorro, Academia San José, and Academia San Ignacio de Loyola - was implemented under the figure of the Trust. This being so, pension payment directly to the plaintiffs cannot be ascribed to them through the provisional remedy of the preliminary injunction. The remedy was only appropriate against those to whom the law assigned that obligation. Thus, the Court of Appeals determined that what was required was to order the participating employers to continue making the contributions to which they were committed by virtue of the Pension Plan agreement. In the opinion of the intermediate appellate court, said sums of money must be deposited in the court due to the state of insolvency of the Trust. From this fund, plaintiff teachers could continue to receive their retirement pension payments.²

² In the particular instance of Academia San Ignacio de Loyola and Academia San José, as they do not have individual legal personality, but through their parishes, they cannot be forced to comply with the provisional remedy. Said obligation would lie on the San José Parish and the Orden de la Compañía de Jesús en Puerto Rico, Inc., but these have not been brought to litigation. These are indispensable parties without which a remedy cannot be issued for claimants.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Lastly, with regard to the imposition of a bond in accordance with the provisions of Rule 56.3 of Civil Procedure, *supra*, the Court of Appeals determined that the Court of First Instance incorrectly applied the aforementioned Rule. The intermediate appellate court reasoned that the exception provided by subsection (c) of Rule 56.3 of Civil Procedure, *supra*, is applicable when granting a remedy to secure judgment, not when granting a preliminary injunction, and it only proceeded once a final judgment was issued. As the aforementioned Decision is considered an interlocutory decision, in words of the intermediate appellate court, the authorization of the extraordinary remedy without bond was incorrect.

Unsatisfied with the determination of the Court of Appeals, on May 14, 2018 the plaintiff teachers, beneficiaries of the Pension Plan, appealed to us by way of a *Motion in aid of jurisdiction and/or petition to expedite proceedings and petition for writ of certiorari*. In those briefs, in essence, they argued that the intermediate appellate court erred in revoking the decision of the Court of First Instance. In particular, they argued that the Court of Appeals erred by ruling that the *Roman Catholic Apostolic Church* had no legal personality; by modifying the provisional remedy in assurance of

pep

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

judgment; and by setting aside the granting of the remedy without posting a bond.

However, on May 22, 2018 the Trust appeared before us through an informative motion in which it indicated that Academia del Perpetuo Socorro had opportunely submitted a motion for reconsideration before the Court of Appeals on May 18, 2018, read as four (4) days after the filing of the *Motion in aid of jurisdiction and / or petition to expedite procedure* before this Court, which deprived this Court of jurisdiction to hear the above-captioned case. Having examined said brief, this Court granted all parties in litigation one (1) day to express themselves on the aforementioned informative motion, specifically on whether or not to dismiss the appeal before our consideration because it was premature.

Having received the appearances of all parties, a majority of this Court determined that the notification of the aforementioned motion of reconsideration to the beneficiaries of the Pension Plan was incorrect because it had been sent to an email address of the plaintiff teachers' attorneys, different from the one provided in the Attorney Registry of the Supreme Court, for which reason it was deemed as not submitted. Thus, *the Motion in aid of jurisdiction and / or petition to expedite proceedings and petition for writ of certiorari was granted*, and



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

respondents were granted a term of ten (10) days to show cause for which this Court should not revoke the judgment issued by the Court of Appeals.³

Complying with what was ordered, all parties appeared before us. With the benefit of the aforementioned appearances, a majority of this Court -- in an erroneous and hasty manner-- reversed the judgment issued by the intermediate appellate court and rules that the *Roman Catholic Apostolic Church* has legal personality and, therefore, is the one liable to the teachers that today come before us. From that regrettable proceeding, as we mentioned earlier, we dissent. We will explain.

II.

A. Jurisdiction

As is well known, jurisdiction is the authority that a court has to adjudicate cases and disputes before its consideration.

³ We dissent from this course of action and consign the following expressions:


Associate Justice Colón Pérez dissents from the course of action followed by a majority of this Court in this case, and reiterates that, as a matter of law, the above-captioned case should be dismissed without further ado. This, given that he is of the opinion that, analogously to the decision of this Court in Municipality of *Rincón v. Velázquez Muñiz*, 192 DPR 989 (2015), we must afford deference to the intermediate appellate court to examine and rule on the motion for reconsideration that it currently has before its consideration, which was opportunely filed by Academia Perpetuo Socorro Inc., one of the parties in the lawsuit. **This includes, among other things, determining whether the aforementioned motion for reconsideration was submitted and notified appropriately to all parties involved in the present case.**

In his opinion, the mere filing of a motion in aid of jurisdiction before this Court, **which has not been addressed**, does not deprive the Court of Appeals of jurisdiction to address a motion for reconsideration that has been opportunely filed, and, consequently, to render judgment on the correctness of such, as well as its previous opinion. As a matter of fact, on May 22, 2018 the intermediate appellate court -- meaning on the motion for reconsideration in question -- ordered the parties to express themselves about it.

pep I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

See, Rule 3.1 of Civil Procedure, 32 LPRA Ap. V., R. 3.1. It is a repeated standard that the courts must be zealous guardians of the exercise of our jurisdiction and that, in order to validly exercise this, we must have jurisdiction over the subject matter and over the persons involved in the litigation. *Office of Monopolistic Affairs of the Department of Justice v. Jiménez Galarza*, 2017 TSPR 194, DPR (2017); *Medina Garay v. Medina Garay*, 161 DPR 806, 817 (2004); *Shuler v. Schuler*, 157 DPR 707, 718 (2002). **A ruling without jurisdiction over the person or the subject matter is null and void.** *Constructora Estelar, S.E. v. Pub. Bldg. Auth.*, 183 DPR 1, 22-23 (2011); *Vázquez v. López*, 160 DPR 714 (2003); *Bco. Santander PR v. Fajardo Farms Corp.*, 141 DPR 237, 244 (1996); *Vázquez v. ARPE*, 128 DPR 513, 537 (1991).

Thus, when its jurisdiction is questioned, it is the duty of every court to examine and rigorously evaluate the statement, since it directly affects the power to adjudicate a dispute. With regard to such, it should be remembered here that courts have no discretion to assume jurisdiction where there is none. See *Virella v. Proc. Esp. Rel. Fam.*, 154 DPR 742, 759 (2001); *Maldonado v. Pichardo*, 104 DPR 778, 782 (1976); *Martínez v. Planning Board*, 109 DPR 839, 842 (1980).

In this regard, we have repeatedly stated that, as a general rule, a court has jurisdiction over any person who is domiciled within the geographical limits of Puerto Rico. 32 LPRA App. V,  I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

R. 3.1 However, we have recognized, as an exception to the aforementioned rule, that courts may have jurisdiction over persons absent within territorial limits if they voluntarily submit to their jurisdiction through a substantial act that integrates them into the litigation or if they have minimal contacts with the court. *Shuler v. Schuler*, supra, p. 719; *Qume Caribe, Inc. v. Sec. of Treasury*, 153 DPR 700, 711 (2001); *Márquez v. Barreto*, 143 DPR 137, 143 (1997).

As is known, the mechanism to acquire jurisdiction over the defendant is the summons. This mechanism, provided by Rule 4 of Civil Procedure, 32 LPR Ap. V, R. 4, is the procedural means through which the Court acquires jurisdiction over the person, because through it the defendant is notified of the intention to start a legal action against them. *Torres Zayas v. Montano Gómez*, 2017 TSPR 202, ___ DPR ___, (2017); *Rivera Báez v. Jaume*, 157 DPR 562, 575 (2002); *Medina Garay v. Medina Garay*, supra, p. 818. Failure to complete the service process, in accordance with the provisions of Rule 4 of Civil Procedure, supra, - either personally or by edict - deprives the Court of jurisdiction over the defendant. *Rivera Hernández v. Comtec. Comm.*, 171 DPR 695, 714 (2007); *Medina Garay v. Medina Garay*, supra, p. 818. p. 818. Hence the need to strictly comply with all the requirements for the summons provided by the aforementioned Rule, because it is in this manner, and only in

pep

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

this manner, that the Court may acquire jurisdiction over the parties in the lawsuit. *Quiñones Román v. CIA ABC*, 152 DPR 367, 374 (2000); *Chase Manhattan Bank v. Polanco Martínez*, 131 DPR 530, 535 (1992); *Medina Garay v. Medina Garay*, *supra*, p. 819.

B. The parties

As we have stated on previous occasions, the concept of party is linked to jurisdiction over the person. Consistent with this, we have ruled that the plaintiff submits voluntarily to the jurisdiction of the court with the filing of the complaint and the defendant is brought to the court by a proper summons. *Sánchez Rivera v. Malavé Rivera*, 192 DPR 854, 872-873 (2015); *Acosta v. ABC, Inc.*, 142 DPR 927 (1997); *Rivera v. Jaume*, *supra*, p. 575.

Now, in addition to the foregoing, in order for a lawsuit to be properly processed, both the plaintiff and the defendant must have legal personality. This concept includes the capacity to act and legal personality. See, R. Hernández Colón, *Práctica Jurídica de Puerto Rico: Derecho Procesal Civil*, 6ta ed., San Juan, LexisNexis de Puerto Rico, 2007, sec. 1101, p. 144.

The capacity to act is the power of a person to govern their own rights and obligations. *Alvareztorre Muñiz v. Sorani Jiménez*, 175 DPR 398, 418 (2009); *Asoc. de Res. Est. Cidra v. Future Dev.*, 152 DPR 54, 67 (2000); *Laureano Pérez v. Soto*, 141

pep

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

DPR 77, 89 (1996). Thus, a person who lacks the capacity to act does not have the capacity to appear in a trial. *Id.*

Furthermore, legal personality is the capacity of being a subject of rights and obligations. *Alvareztorre Muñiz v. Sorani Jiménez, supra*, p. 418; *Asoc. de Res. Est. Cidra v. Future Dev., supra*, p. 66; *Laureano Pérez v. Soto, supra*, p. 89. In this regard, in the past we have ruled that the capacity to be part of a lawsuit is a manifestation of legal personality. *Alvareztorre Muñiz v. Sorani Jiménez, supra*, p. 418; *Asoc. de Res. Est. Cidra v. Future Dev., supra*, p. 66; *Laureano Pérez v. Soto, supra*, p. 89.

In the case of corporations established in our country, it should be remembered here that our legal system recognizes legal personality under the provisions of the General Corporations Act of Puerto Rico, 14 LPRC sec. 3501 *et seq.* In this regard, Article 29 of the Civil Code establishes that "the civil capacity of corporations, companies and associations shall be regulated by the laws that have recognized or created them." 31 LPRC, sec. 103. This recognition of legal personality allows these entities to "acquire and possess assets of all kinds, as well as contract obligations and exercise civil or criminal actions, in accordance with the laws and rules of their constitution." 31 LPRC sec. 104.




I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Finally, and in relation to corporations or non-profit organizations, it should be noted that once they are recognized as such, by issuing a certificate of incorporation, they also enjoy legal personality and, among other things, they can sue and be sued. 14 LPRA sec. 3505. Once the non-profit organization is incorporated, the partners or shareholders do not respond in their personal capacity for its actions.

C. Indispensable Parties


Having established the above, it is necessary to add to our analysis the expressions of this Court that, by virtue of the constitutional protection that prevents any person from being deprived of their property or their freedom without due process of law, it is required of any plaintiff, when filing any judicial claim, to include in it all the parties that could be affected by the holding that, eventually, could be issued by the judicial court. *Bonilla Ramos v. Dávila Medina*, 185 DPR 667 (2012); *Sánchez v. Sánchez*, 154 DPR 645 (2001); *Cepeda Torres v. García Ortiz*, 132 DPR 698 (1993).

Related to the foregoing, Rule 16.1 of Civil Procedure requires that "persons that have a common interest without whose presence the dispute may not be adjudicated, are [made] parties and are [joined] as plaintiffs or defendants, as it corresponds. When a person that should be joined as a plaintiff refuses to do so, it may be joined as a defendant." 32 LPRA Ap. V., R. 16.1.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

In this sense, as we have indicated, a party is considered indispensable whenever it cannot be left out, because the adjudication without its presence entails that the issues in litigation cannot be decided correctly, as its rights would be affected. *López García v. López García*, 2018 TSPR 57, ___ DPR ___ (2018); *Deliz et als. v. Igartúa et als.*, 158 DPR 403, 432 (2003); *Cepeda Torres v. García Ortiz*, 132 DPR 698, 704 (1993). That is, "the absent third party [has] an interest in the case that converts its presence into an indispensable requirement to impart complete justice or of such order that it prevents the making of a decree without affecting it." *Hernández Colón, op. cit.*, p. 166. This interest is not any interest in the case, but it has to be one that is real and immediate, of such a nature that, without its presence, it prevents the design of an adequate remedy. *López García v. López García, supra; Romero v. S.L.G.*, 164 DPR 721, 733 (2005); *Pérez v. Morales Rosado* 172 DPR 216, 223 (2007); *See also*, J.A. Cuevas Segarra, *Tratado de Derecho Procesal Civil* ["Treatise on Civil Procedural Law"], San Juan, J.T.S. Pubs., 2001, T. II, p. 691; *Hernández Colón, op. cit.*, p. 166.

Notwithstanding, the determination of whether the joining of an indispensable party is proper depends on the particular circumstances that are presented in each case. *Romero v. S.L.G., supra*, pg. 732. Therefore, the court must perform a

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

careful analysis of several factors such as the time, place, manner, the allegations, evidence, type of rights, interests in dispute, result, and formality. Cuevas Segarra, *op. cit.*, p. 695.

Finally, it should be noted that, the lack of an indispensable party constitutes a renounceable defense that may be presented at any time during the process. Even the appellate fora may and should raise *motu proprio*, the lack of an indispensable party in a case since this affects the jurisdiction of the court. *García Colón v. Sucn. González*, 178 DPR 527 (2010); *López García v. López García, supra*; *Romero v. S.L.G., supra*. For this reason, the judgment that is issued in absence of an indispensable party is null and void. *López García v. López García, supra*; *García Colón v. Sucn. González, supra*; *Unisys Puerto Rico, Inc. V. Ramallo Bros. Printing, Inc.*, 128 DPR 842, 859 (1991).

Having said this, we must examine whether the *Roman Catholic and Apostolic Church* is a legal entity and, therefore, if it is a party in this case or not. We proceed to do so.

D. The Roman Catholic and Apostolic Church

1.

As it is known, the *Roman Catholic and Apostolic Church* is catholic because it is universal, it extends throughout the




I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

world and it is apostolic because it is missionary, "announces the Gospel to all men and all women." See Pope Francis, General Assembly of Wednesday, September 17, 2014.⁴ "The Church does not close, it is sent to the whole world, to all humanity." *Id.* By virtue of its universality, it has been spread to all corners of the globe, including Puerto Rico.

In our case, the *Roman Catholic and Apostolic Church*, Puerto Rico Diocese, was created back in 1511, through the *Romanus Pontifex* Bull, in which the founding of three dioceses were authorized for the Spanish colonies at the time, including Puerto Rico. E.D. Dussel, *General History of the Church in Latin America*, CEHILA Ed., 1995, T. IV., p. 43. According to history, and as a consequence of the population increase at the end of the century, by the XVIII Century the Diocese of Puerto Rico had undergone several changes. José Manuel García Leduc, *¡La Pesada Carga! Iglesia, Clero y Sociedad en Puerto Rico (S. XIX) Aspectos de su Historia* ["The Heavy Burden! Church, Clergy, and Society in Puerto Rico (19th C.) Aspects of their History"], Ed. Puerto, 2009. These changes had significant effects over the configuration of the Church, but they did not require a new diocese to be erected. The changes were limited to the creation of new parishes. *Id.*, p. 28.

⁴ Pope Francis, General Assembly of September 17, 2014, https://w2.vatican.va/content/francesco/es/audiencias/2014/documents/papa-francesco_20140917_udienza-generale.html (last visit, June 6, 2018).

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Years later, as a result of the Spanish-American War, the treatment of the *Roman Catholic and Apostolic Church* substantially changed. This, then, with the transfer of Puerto Rico to the United States, the United States constitutional doctrines of separation of Church and State and religious liberty were instituted, which had the effect that, since that time, the Diocese of Puerto Rico did not have the protection of the civil authorities as it had under the Spanish crown. See Aníbal Colón Rosado, *Relations Between Church and Puerto Rico*, 42 Rev. C. Abo. PR 51, 51-52 (1985); J. Gelpí Barrios, *Personalidad Jurídica de la Iglesia Católica en Puerto Rico*, 95 Rev. Esp. Der. Canónico 395, 411 (1977).

The above caused, eventually, a dispute to be presented to the United States Supreme Court regarding the capacity of the Diocese of Puerto Rico to possess property. Upon evaluating the dispute, in *Municipality of Ponce v. Roman Catholic Apostolic Church in Porto Rico*, 210 US 296 (1908), the High Federal Judicial Court, under the Treaty of Paris of December 10, 1898, recognized legal personality to the *Roman Catholic and Apostolic Church*, Diocese of Puerto Rico, to perform certain actions. In order to support its decision, the United States Supreme Court made reference to Art. 8 of the Treaty of Paris which, in essence, provides the following:

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

[I]t is hereby declared that the relinquishment or cession, as the case may be, to which the preceding paragraph refers, cannot in any respect impair the properly of all kinds, of provinces, municipalities, public or private establishments, **ecclesiastical or civic bodies, or any other associations having legal personality to acquire and possess property in the aforesaid territories renounced or ceded,** or of private individuals, of whatever nationality such individuals may be. Treaty of Paris, Art. 8, par. 2 (1898).

Thus, the High Federal Judicial Court interpreted that the ecclesiastical body to which the Treaty of Paris referred could only be the *Roman Catholic and Apostolic Church*, that is, the Diocese of Puerto Rico.⁵ *Id.* P. 31; José Johel Monge Gómez, *La*


⁵ Similarly, in that case the High Court of the United States recognized that what the Treaty of Paris did was to follow the rule regarding the recognition of legal capacity to the *Roman Catholic and Apostolic Church* in International Law, by virtue of the Concordat of March 16, 1851. In this regard, the United States Supreme Court indicated that:

The Roman Catholic Church has been recognized as possessing legal personality by the treaty of Paris, and its property rights solemnly safeguarded. **In so doing the treaty has merely followed the recognized rule of international law which would have protected the property of the church in Porto Rico subsequent to the cession.** This juristic personality and the church's ownership of property had been recognized in the most formal way by the *concordats* between Spain and the papacy, and by the Spanish laws from the beginning of settlements in the Indies. Such recognition has also been accorded the church by all systems of European law from the fourth century of the Christian era. *Ponce v. Roman Catholic Apostolic Church, supra*, 323-24.

Notwithstanding, regarding the legal personality of the *Roman Catholic and Apostolic Church*, the Concordat of 1851 established that:

[T]he Church would have the right to acquire, through any legitimate title, and its property in all that it possesses now or acquires in the future, to be solemnly respected. Therefore, regarding the old and new ecclesiastical foundations, there shall be no suppression or union without the intervention of the Holy See, except for the faculties that are reserved for the bishops, as set forth in the holy council of Trent. Concordat of March 16, 1851, Art. 41.

In addition, Art. 43 of the Concordat of 1851 established that “[e]verything else that belongs to ecclesiastical people or things, over which the articles above provide, will be directed and administered according to the Church’s discipline that is canonically in effect,” that is, the Canon Law Code.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.


Permisibilidad de los " Impermisible"; La Iglesia Sobre El Estado, 41 Rev. Jur. U.I.P.R. 629, 633-43 (2007).

Notwithstanding, the truth is that, since then, the organizational structure of the *Roman Catholic and Apostolic Church* in the Country has changed. The Diocese of Puerto Rico, from being only one, converted into six (6) Dioceses, namely: the Archdiocese of San Juan, the Diocese of Arecibo, the Diocese of Ponce, the Diocese of Mayagüez, the Diocese of Fajardo-Humacao and the Diocese of Caguas. In this respect, the Bishop of Ponce in 1973, Fremiot Torres Oliver, explained:

At the time of the cession only one diocese existed in Puerto Rico. At present there are five: the archdiocese of San Juan and the dioceses of Ponce, Arecibo, Caguas and Mayaguez. Each diocese is a fragmentation of some entity possessing juristic personality and each enjoys the same legal status as the original Diocese of Puerto Rico, referred to in [Municipality of Ponce v. Catholic Church in Puerto Rico] opinion as (The Roman Catholic Church in Puerto Rico)). Rev. F. Torres Oliver, *Juridical Personality of the Church in Puerto Rico*, 15 Rev. Der. P.R. 307, 308 (1975).⁶

Stated another way, the Diocese of Puerto Rico - - which in *Municipality of Ponce v. Catholic Church of Puerto Rico, supra*, is referred to as the *Roman Catholic and Apostolic Church* and, as such, was recognized legal personality - - has ceased to exist. It has been divided into one archdiocese and five (5)

⁶ At the time that the cited article was drafted for the Law Review, the Diocese of Fajardo-Humacao which we include in our analysis did not yet exist.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

different dioceses, for a total of six (6), and to each corresponds a part of what was the original Diocese of Puerto Rico. Therefore, each Diocese and the Archdiocese have their own legal personality, as was recognized to the original Diocese.⁷

2.

In accordance with this interpretation, the Code of Canon Law -- which establishes the internal structure of the Roman Catholic and Apostolic Church -- provides that each Separate Church, that is, the archdioceses, the dioceses, and the parishes, are the entities that, within the organizational scheme of the Church, truly have legal personality.

Thus, the Code of Canon Law states that, "The Catholic Church and the Apostolic See have the character of a moral person by divine ordinance itself." Code of Canon Law, Canon 113 sec. 1. However, although the Church **is a moral entity**, that is abstract and intangible, in said Code it clearly states that "[i]n the Church, besides physical persons, there are also juridic persons, that is, subjects in canon law of obligations and rights which correspond to their nature." Code of Canon Law,

⁷ This is clearly stated in the article *Personalidad Jurídica de la Iglesia Católica en Puerto Rico*, by Juan Gelpí Barrios. Specifically, Mr. Gelpí Barrios expresses in his article as follows:

Each diocese is a fragment of one entity which possesses legal personality. Each one of them enjoys the same legal status corresponding to the original diocese of Puerto Rico, that is, the Roman Catholic Church of Puerto Rico. Gelpí Barrios, *supra*, p. 410.

This last fact is omitted in the Opinion issued today by the Court.

pep

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Canon 113 sec. 2. *That is, the Roman Catholic Apostolic Church, as a whole, is not a legal person, but within it there exist legal personalities.*

On this subject, Canon 116 of the Code of Canon Law, in its section 1, establishes that:

Public juridic persons are aggregates of persons or of things which are constituted by competent ecclesiastical authority so that, within the purposes set out for them, they fulfill in the name of the Church, according to the norm of the prescripts of the law, the proper function entrusted to them in view of the public good; other juridic persons are private. Code of Canon Law, Canon 116, sec. 1.

In this sense, it is through the Particular Churches that are mainly dioceses and parishes that the Catholic Church exists. Code of Canon Law, Canon 368. "A diocese is a portion of the people of God which is entrusted to a bishop for him to shepherd with the cooperation of the presbyterium, so that, adhering to its pastor and gathered by him in the Holy Spirit through the gospel and the Eucharist, it constitutes a particular church ... ". *Id.* Canon 369. That "portion of the people of God" which constitutes a dioceses is circumscribed within a specific territory. *id.* Canon 369. The Diocesan Bishop is the one who governs the Particular Church and is the one who represents the diocese in all its legal business. Code of Canon Law, Canon 393. The foregoing also includes the Archdiocese,

pep

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

which is so called because it is the diocese with the largest population within certain geographic limits.

That said, the archdioceses do not have a higher rank than the other dioceses. As we already mentioned, an archdiocese is a diocese circumscribed to a territory with a larger population. Thus, the Archbishop is the Bishop of the Archdiocese. He has no greater authority than a Diocesan Bishop. See, Code of Canon Law, Canon 435-438.

On the other hand, it is worth mentioning here that, **if necessary, "...particular churches distinguished by the rite of the faithful or some other similar reason can be erected in the same territory."** Code of Canon Law, Canon 372. " It is only for the supreme authority to erect particular churches; those legitimately erected possess juridic personality by the law itself." Canon 373. **That is, within the territory of the dioceses they can set up other Particular Churches, that is, parishes, and these will also enjoy legal personality.** Canon 513 [sic] of the Code of Canon Law so expressly states: "the parish legitimately erected has legal personality under the law itself."


In turn, religious orders may also be erected **and other organizations**, which the Code of Canon Law names as religious institutes. "Institutes, provinces and houses, as juridical persons that in their own right, have the capacity to **acquire**,

pep

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

possess, administer and dispose of temporal goods, unless this capacity is excluded or limited by their constitutions". Code of Canon Law, Canon 634 sec. 1. Among these Religious institutes are those whose purpose is education, that is, Catholic schools.
"is understood as one which a competent ecclesiastical authority or a public ecclesiastical juridic person directs . . . ". Code of Canon Law, Canon 803 sec. 1.


On the other hand, it is necessary to clarify that, as a general rule, in Europe, as in the United States, there is legislation that facilitates the freedom of worship and that simultaneously recognizes legal personality to religious entities according to their internal structure. See Facilitating Freedom of Religion or Belief: A Deskbook (T. Lindholm et al., Ed.), New York, 2004. In particular, regarding the Catholic, Apostolic and Roman Church, as a general proposition, one can adopt one of two postures: (1) recognize the legal personality by virtue of Civil Law through legislation or (2) recognize civil effectiveness to the ecclesiastical juridical persons under the auspices of canonical legislation. Lourdes Ruano Espina, The legal juridical personality of the canonical foundations in Spain, 15 Ius Canonicum 155, 157 (2015). As to the latter, the recognition of civil effectiveness of juridic persons formulated by the Roman Catholic Apostolic Church is, in our opinion, more in accordance with and respectful of the

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

freedom of worship. *Id.* That is why we understand that, when speaking of legal personality, one must follow the guidelines set forth in the Code of Canon Law. To interpret otherwise, is an undue intervention into how the Roman Catholic Apostolic Church is structured, and on how it is organized for decision making.


E. The Establishment Clause and the Freedom of Worship

Recall that the First Amendment of the Constitution of the United States prohibits the establishment of religion by the State and guarantees freedom of worship. Am. I. USA Const., LPRA, Volume 1. Likewise, the Constitution of the Commonwealth of Puerto Rico establishes that "no law shall be passed relative to the establishment of any religion, nor shall the free exercise of the worship be prohibited, there shall be complete separation of Church and State." Art. II, Sec. 3, Const. ELA., LPRA, Volume 1. In accordance with the above, in our jurisdiction, the State is prohibited from engaging in activities that constitute the patronage of a religion, including providing financial support to a religious entity or intervening in its religious activities. *Díaz v. Colegio Nuestra Señora del Pilar*, 123 DPR 765, 780 (1989); *Board of Educ. Of Kiryas Joel v. Tax Comm'n of City of New York* 397 US 664, 673 (1970). For an intervention with the establishment clause to be considered valid, it must pass the following scrutiny: (1) that

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.


the challenged conduct or law have a secular purpose; (2) that its primary effect is not to promote or inhibit religion; (3) that does not entail the possibility of provoking excessive government interference in religious affairs. *Colegio Nuestra Sra. Del Pilar, supra; Lemon v. Kurtzman*, 403 US 602 (1971). See also *Diocese of Arecibo v. Sec. Justice*, 191 DPR 292, 311 (2014).

Now, the right to freedom of worship is not an absolute right. Religious freedom is limited by the power of the State to protect the peace, morality, and public order. *Market, Quilichini v. UCPR*, 143 DPR 610, 636, (1997); *Suen de Victoria v. Pentecostal Church*, 102 DPR 20, 22 (1974). See also *Diocese of Arecibo v. Sec. Justice, supra*, p. 365. In those cases, in which the State, with its conduct, tends to limit the freedom of worship, the party that challenges the State's action has the obligation to demonstrate that it imposes a substantial burden on the exercise of the freedom of worship. *Christian Sch. And Acad. Assoc. v. Commonwealth*, 135 DPR 150, 161 (1994); *Díaz v. Colegio Nuestra Señora del Pilar, supra*, p. 779. See also *Diocese of Arecibo v. Sec. Justice, supra*, p. 309. This implies, among other things, demonstrating that the Government action is not general, because it is directed solely to the religious entity and its internal affairs. See *Díaz v. Colegio Nuestra Sra. Del Pilar, supra; Christian Sch. And Acad. Assoc. V.*

 I, Juan E. Legaria, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Commonwealth, supra; Market, Quilichini v. U.C.P.R., supra. Once the party challenging the State's action proves that the conduct is not neutral, the court must examine whether it exceeds strict scrutiny. In that sense, the Court must determine whether (1) the State has an urgent interest; (2) the action of the State is aimed at that interest, and (3) there are no less onerous alternatives to achieve said interest. *Market, Quilichini v. U.C.P.R., supra. See also, Lozada Tirado v. Jehovah's Witnesses, 177 DPR 893 (2010) Diocese of Arecibo v. Sec. Justice, supra, p. 310.*

Consistent with the foregoing, in *Díaz v. Colegio Nuestra Señora del Pilar, supra*, we interpret that the courts cannot exercise their jurisdiction to resolve disputes over property rights related to a church when, in order to do so, they have to render judgment on matters of doctrine, of discipline, faith, or internal church organization. This, because it requires the interference by the State, through the courts, in matters relating to the nucleus of religion itself. That is, matters totally outside the jurisdiction of the courts. *Díaz v. Colegio Nuestra Sra. del Pilar, supra; Amador v. Conc. Igl. Unvi. De Jesucristo, 150 DPR 571, 579-80 (2000). See also, Agostini Pascual v. Catholic Church, 109 DPR 172 (1979); Jones v. Wolf, 443 US 595, 604 (1979).*

Therefore, in the exercise of our adjudicating faculty, and  I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

at the time of rendering judgment on matters such as the ones that today occupy us, "we must be particularly cautious [...] to avoid spoiling the delicate equilibrium between the two conflicting absolute mandates: the one not to establish any one religion and the one of not prohibit the free exercise of the religious cult." *Díaz v. Colegio Nuestra Sra. del Pilar, supra, p. 776. See also Mercado, Quilichini v. U.C.P.R., supra, p. 638.*

It is, then, in light of the aforementioned norm, that we proceed to dispose of the disputes brought before our consideration.

III.

As we mentioned earlier, in the present case, a group of teachers of the Catholic schools of the country presented a preliminary and permanent injunction, declaratory judgment, breach of contract, tort action against the *Roman Catholic and Apostolic Church*, the Archdiocese of San Juan, the Office of the Superintendent of Catholic Schools of San Juan, Academia Perpetuo Socorro, Academia San José, and Academia San Ignacio de Loyola.

After several procedural steps, which at the beginning of this writing were narrated in detail, this Court determined that the preliminary injunction proceeded in favor of the plaintiff-teachers. However, the primary court should clarify who, of the defendants, had legal personality to respond to them.


pep

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

In accordance with the order, the Court of First Instance ruled that the Archdiocese of San Juan, the dioceses, the schools, and the Office of the Superintendent of Catholic Schools of San Juan lacked legal personality to be part of the present litigation. This, since they were dependencies of the *Roman Catholic and Apostolic Church*, which, in its opinion, and by virtue of the Treaty of Paris, was the one that had legal personality to be sued. Thus, the primary court ordered that the *Roman Catholic and Apostolic Church*, make the pension payments to the plaintiffs, according to the Pension Plan, while the lawsuit remained pending.

Dissatisfied with the ruling of the Court of First Instance, the Archdiocese of San Juan and the Office of the Superintendent of Catholic Schools of San Juan filed a writ of certiorari before the Court of Appeals. Said court, in our opinion, correctly revoked the Court of First Instance and determined that, under the Treaty of Paris and the Code of Canon Law, the *Roman Catholic and Apostolic Church* lack legal personality. However, the Court of Appeal ruled that under the organizational structure of the Church the dioceses, parishes, and religious ordinances, among other organizations, did have legal personality.

With regard to the Archdiocese of San Juan, the intermediate appellate court clarified that it also had legal personality as


 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

did all dioceses in Puerto Rico. As for Academia Perpetuo Socorro, it concluded that it also had a legal personality, since it is incorporated pursuant to the provisions of the Corporations Act, *supra*.

Now, with regard to the referenced Academia San José and Academia San Ignacio de Loyola, it maintained that they lacked legal personality. However, said court ruled that the first was covered by the legal personality of the San José Parish - who is not a party to this lawsuit, nor has it been brought to it - as a parochial school and the second was attached to the "Compañía de Jesús en Puerto Rico, Inc.," - who is not part of this lawsuit and it has not been brought to it either, so it was covered by the legal personality of this religious institution.

Lastly, about the provisional remedy requested by the plaintiffs-teachers, the Court of Appeals reasoned that only the Trust was called to respond directly to the beneficiaries of the Pension Plan with the assets that remained. However, the Archdiocese of San Juan, the Dioceses, parishes, and Catholic schools, which were employers, were only required to contribute to the Plan.

Regarding the imposition of the remedy without filing of a bond, as mentioned above, the intermediate appellate court ruled that it was contrary to what is required by Rule 56.3 of Civil Procedure, *supra*, so it left it without effect.


 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Dissatisfied with this determination, plaintiffs-employees appeared before us by means of a *Motion for aid of jurisdiction and/or Request for expedited processing*, and *Petition of Certiorari Review*. As such, after evaluating all of the parties' positions, a majority of this Court revokes the judgment issued by the intermediate appellate court and rules that the *Roman Catholic and Apostolic Church* has legal personality and, therefore, is the one called to respond to the group of teachers of the Catholic schools who presented the lawsuit that concerns us today. As we have already said, we strongly disagree with that course of action.

And the fact of the matter is that, as we advance in the introduction of this Dissenting Opinion, we will not validate with our vote a superficial opinion, lacking an in-depth analysis of the various dimensions of the controversies before our consideration, in which a majority of this Court, contrary to the aforementioned standard, chooses to recognize the legal personality of an abstract concept of universal character as is the term *Roman Catholic and Apostolic Church*.⁸


As has been clearly demonstrated, the *Roman Catholic and*

⁸ It is necessary to point out that, to this Court, it is necessary to decide that the Archdiocese of San Juan, the Office of the Superintendent of Catholic Schools of San Juan, Academia Perpetuo Socorro, Academia San José, through the San José Parish, and Academia San Ignacio de Loyola (through the "Orden de la Compañía de Jesus, Inc.", better known as the Jesuit Order) lack legal personality in the present lawsuit, - and determine that only the *Roman Catholic and Apostolic Church* has such a personality --, **has left the captioned case without any party**, due to the fact that the *Roman Catholic and Apostolic Religious Church* really subsists through the archdiocese, the dioceses, the parishes erected within each of the dioceses and the orders.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Apostolic Church has no legal personality. The legal personality that today a majority of this Court erroneously grants to the Roman Catholic and Apostolic Church in our jurisdiction, truly is at the archdiocese and the five (5) dioceses established herein, namely: the Archdiocese of San Juan, the Diocese of Arecibo, the Diocese of Ponce, the Diocese of Fajardo-Humacao, the Diocese of Mayaguez, and the Diocese of Caguas. Similarly, the parishes erected within each of the dioceses and religious orders have legal personality.

This has been recognized by this Court on numerous occasions in which, in different lawsuits that have been presented before our consideration, we have recognized the legal personality of the dioceses of the *Roman Catholic and Apostolic Church* and their parishes. *See, Diocese of Arecibo v. Scty. of Justice, supra; Diocese of Mayaguez v. Planning Board*, 147 DPR 471 (1999); *Díaz v. Nuestra Señora del Pilar*, 123 DPR 765 (1989); *Academia San Jorge v. Labor Relations Board*, 110 DPR 193 (1980); *Agostini Pascual v. Catholic Church, Diocese of Ponce*, 109 DPR 172 (1979); *Vélez Colón v. Roman Catholic and Apostolic Church, Diocese of Arecibo*, 105 DPR 123 (1976); *Camacho v. Roman Catholic and Apostolic Church, Diocese of Ponce*, 72 DPR 353 (1951). However, the Majority of this Court seems to forget this.

There is no doubt that, in the present case, the
 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Archdiocese of San Juan, the Trust, and the Office of the Superintendent of Catholic Schools of San Juan were sued, who are parties to the lawsuit and have legal personality. In the same way, Academia Perpetuo Socorro, who as such, has legal personality, was correctly sued, and is part of this lawsuit.

Thus, to the extent that the Archdiocese and the aforementioned religious institutes or organizations that would be affected by the rulings issued by the Court of First Instance were correctly brought to the present lawsuit, they should have been considered parties to such, and, even more importantly, they should have had the opportunity, at this stage of the proceedings, to express themselves on the claim that plaintiffs-teachers make herein; as well as on the nature of the provisional remedy that is imposed until this complaint is finally decided. To the extent that this was not done --to the extent that the Archdiocese and the aforementioned institutes or religious organizations are parties in the captioned case express themselves, are heard and participate in the proceedings--, the **Decisions** and **Orders** issued by the Court of First Instance, which are subject to review in this case, **and which will clearly have an effect on the entities with legal personality mentioned above**, are null in their entirety. This is so, because they were issued in violation of the due process of law that assists the parties that could not be dispensed from

pep


I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

the present litigation, as indispensable parties. The above, on its own, and without a doubt, would be sufficient reason to have disposed of the captioned case.

However, it should also be pointed out that, with regard to Academia San José and Academia San Ignacio de Loyola, who were included by the plaintiffs-teachers in this case, as has been clearly demonstrated, they lack legal personality. Notwithstanding, in accordance with the above standard, Academia San José is covered by the legal personality of the San José Parish and Academia San Ignacio de Loyola is covered by the legal personality of the religious order, "Orden de la Compañía de Jesus en Puerto Rico, Inc." **Neither the San José Parish, nor the "Orden de la Compañía de Jesus en Puerto Rico, Inc.", have been brought to this lawsuit, nor are they part of it.**

That is, the present case also suffers from the absence of indispensable parties that allow adequately deciding the disputes before our consideration. Thus, the San José Parish, the "Orden de la Compañía de Jesus en Puerto Rico, Inc.", and all the dioceses that could today be called upon to answer for the payment of the pension, for retirement, that are today demanded by the plaintiffs-teachers. The foregoing was not done either.

Finally, in light of the clear and gross violations of the due process of law in the present lawsuit, as well as in the

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

absence of indispensable parties for the correct adjudication of the same, it was not, nor is it, necessary -- as the Court of Appeals did-- to render judgment on the other assignments of error. What should have occurred, without delay, was to determine the Decisions and Orders issued by the Court of First Instance null in their entirety, which are subject to review in the captioned case, and, consequently, remand the case to said court so that -- having already determined those who truly have legal personality in the present case - it could hold a new hearing, in accordance with that previously ordered by this Court, to establish who is obligated to continue paying the pensions covered by this lawsuit while such is finally decided.

IV.

To conclude, it is necessary to remember that, at the time of issuing a judgment, the courts must ensure that the remedy that, in due time, is issued is effective and capable of being complied with by the obligated party. Therefore, the legal interpretations and provisional remedies provided under such should be able to be complied with. The ruling issued by this Court presents many related questions, namely: How are we going to enforce the judgment? Who are we going to demand compliance from, one or all of the dioceses? From now on, how are we going to acquire jurisdiction over the *Roman Catholic and Apostolic Church*? Will it be sufficient to serve process upon one of the

pep

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

dioceses to have jurisdiction over the *Roman Catholic and Apostolic Church*, or must service of process be on all dioceses within our jurisdiction? Does this opinion extend to churches of other denominations, such as the Methodist Church, Baptist Church, Adventist Church, Episcopal Church, Pentecostal Church, Lutheran Church, among others? These are some of the problems presented by the opinion that is issued today.

V.

This being so, we dissent with the course of action followed by a Majority of this Court today. Consequently, we would have modified the Judgment of the Court of Appeals, and so modified, we would confirm the same.

[signature]

Ángel Colón Pérez
Associate Justice

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

APPENDIX B

CERTIFIED TRANSLATION

IN THE SUPREME COURT OF PUERTO RICO

Yalí Acevedo Feliciano et al.

Petitioners

Iglesia Católica Apostólica y
Romana et al

Appellees

Sonia Arroyo Velázquez et al.

CC-2018-0475

Certiorari

Petitioners

v.

Iglesia Católica, Apostólica y
Romana, et al.

Appellees

Elsie Alvarado Rivera et al.

Petitioners

v.


Iglesia Católica, Apostólica y
Romana, et al.

Appellees

ORDER

In San Juan, Puerto Rico, on June 13, 2018.

Having examined the *Motion for authorization to join the legal representation of the Archdiocese of San Juan*, Pedro A. Busó Garcia, Esq. is authorized to join the legal representation of the Archdiocese San Juan and of the Superintendence of Catholic Schools of the Archdiocese of San Juan. The Clerk's Office shall take notice.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

CERTIFIED TRANSLATION


Having examined the motions titled *Application for Stay Pursuant to Sup. Ct. R. 23.3* filed on June 7, 2018 and *Emergency Motion Reiterating Application for Stay Pursuant to Sup. Ct. R. 23.3*, filed on June 12, 2018 by the Archdiocese of San Juan and the Superintendence of Catholic Schools of the Archdiocese of San Juan, they are denied in light of the grounds stated in the opinion of June 11, 2018.

The Court agreed and the Secretary of the Supreme Court certifies it. Acting President Judge Mrs. Rodriguez Rodriguez and Associate Judge Mr. Colon Perez would grant the application for stay. President Judge Oronoz Rodriguez did not intervene.

[SIGNED]

Juan Ernesto Davila Rivera
Secretary of the Supreme Court

[seal: Commonwealth of Puerto Rico
Supreme Court
General Court of Justice]

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

APPENDIX C

CERTIFIED TRANSLATION

IN THE SUPREME COURT OF PUERTO RICO

Yali Acevedo Feliciano, et al. Petitioners v. Roman Catholic and Apostolic Church, et al. Respondents	CC-2018-0475	<i>Certiorari</i>
Sonia Arroyo Velázquez, et al. Petitioners v. Roman Catholic and Apostolic Church, et al. Respondents		
Elsie Alvarado Rivera, et al. Petitioners v. Roman Catholic and Apostolic Church, et al. Respondents		

OPINION AND ORDER

San Juan, Puerto Rico, May 31, 2018.

Having evaluated the second motions for reconsideration filed by the Fideicomiso Plan de Pensiones para Empleados de Escuelas Católicas [*Pension Plan Trust for Catholic School Employees*], the Archdiocese of San Juan



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

CERTIFIED TRANSLATION

CC-2018-0475

2

and the Academia de Perpetuo Socorro, the motions are all denied. It is ordered that the parties abide by the ruling.

Be it immediately notified by telephone and e-mail.

So rules the Court and so certifies the Acting Clerk of Court.

Acting Chief Judge Rodríguez Rodríguez dissents and makes the following statement for the record:

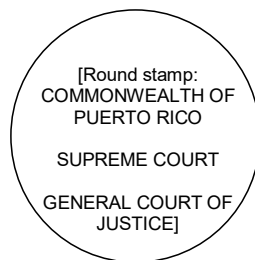
"Acting Chief Judge Rodríguez Rodríguez would reconsider based on her understanding that the petitions were filed prematurely in view of the fact that a motion for reconsideration is still pending before the Court of Appeals. Based on the forgoing she understands that this Court is without jurisdiction to resolve the petitions presented."

Associate Judge Colón Pérez dissents and makes the following statement for the record:

"Associate Judge Colón Pérez would reconsider for reasons similar to those set forth in his dissenting opinions contained in the Opinion and Order of May 24, 2018, issued by this Court in its handling of procedural developments being carried out in the present litigation."

Chief Judge Oronoz Rodríguez did not participate in the decision.

[illegible signature]
Sonnya Isabel Ramos Zeno
Acting Clerk of the Supreme Court



pep I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

APPENDIX D

CERTIFIED TRANSLATION


AT THE SUPREME COURT OF PUERTO RICO

Yalí Acevedo Feliciano, <i>et al.</i> Petitioners v. Roman Catholic and Apostolic Church, <i>et al.</i> Respondents	CC-2018-0475	<i>Certiorari</i>
----- Sonia Arroyo Velázquez <i>et al.</i> , Petitioners v. Roman Catholic and Apostolic Church, <i>et al.</i> Respondents		
----- Elsie Alvarado Rivera <i>et als</i> , Petitioners v. Roman Catholic and Apostolic Church, <i>et al.</i> Respondents		

DECISION

San Juan, Puerto Rico, May 25, 2018.

Having examined the *Urgent Motion for Reconsideration* filed by the Pension Plan Trust for Employees of the Catholic Schools, the *Motion for Reconsideration* filed by the Archdiocese of San Juan, and

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

CERTIFIED TRANSLATION

CC-2018-0475

2

the Office of the Superintendent of Catholic Schools of the Archdiocese of San Juan, and the *Motion for Reconsideration* from Academia Perpetuo Socorro, we hereby deny them.

Let it be notified **immediately** by phone, e-mail, and ordinary means.


So agreed by the Court and certified by the Acting Clerk of the Supreme Court. Associate Justice Colón Pérez would reconsider on similar grounds to those stated in his dissenting statements in the Decision on May 24, 2018. Chief Justice Oronoz Rodríguez and Associate Justice Rodríguez Rodríguez did not intervene.

[signature]

Sonny Isabel Ramos Zeno

Acting Clerk of the Supreme Court

[seal:] *COMMONWEALTH OF PUERTO RICO; GENERAL COURT OF JUSTICE; SUPREME COURT*

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

APPENDIX E

CERTIFIED TRANSLATION


AT THE SUPREME COURT OF PUERTO RICO

Yalí Acevedo Feliciano, <i>et al.</i> Petitioners v. Roman Catholic and Apostolic Church, <i>et al.</i> Respondents	CC-2018-0475	<i>Certiorari</i>
_____ Sonia Arroyo Velázquez <i>et al.</i> , Petitioners v. Roman Catholic and Apostolic Church, <i>et al.</i> Respondents		
_____ Elsie Alvarado Rivera <i>et als</i> , Petitioners v. Roman Catholic and Apostolic Church, <i>et al.</i> Respondents		

DECISION

San Juan, Puerto Rico, May 24, 2018.


Having examined the *Informative Motion* filed by the Pension Plan Trust for Employees of the Catholic Schools and other motions filed

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

today in compliance with the Order issued on the certified Decision from this past May 23, **we hereby deny the motions for dismissal filed.** On May 21, 2018, the Pension Plan Trust for Employees of the Catholic Schools filed an *Informative Motion* in which it informed this Court that Academia Perpetuo Socorro (Academy) had filed a *Motion for Reconsideration* before the Court of Appeals. In view of this, we granted the parties a term to express themselves regarding the jurisdiction of this Court. In it, we specified for them to express themselves on whether the appeal filed before us was premature due to such. In compliance with the order, the petitioners submitted their corresponding brief, in which they evidenced the lack of notice to that party of the *Motion of Reconsideration* filed before the intermediate appellate court. In essence, they demonstrated that the aforesaid motion was sent to an e-mail address that is not mandated by the Rules of the Court of Appeals; that is, it is not the one that appears in the Unique Attorney Registry. For its part, the Academy in its submittals confirms that, in effect, the notices to the legal representatives of petitioners are erroneous. As an aggravating situation, they did not list in their pleading particularized and detailed reasons of weight that evidenced just cause for its omission as part of the finalization of the *Motion of Reconsideration* filed. See, *Soto Pino v. Uno Radio Group*, 189 DPR 84 (2013). In view of this situation, the aforementioned motion for reconsideration was not duly finalized pursuant to law. See, 4 LPRA Ap. XXII-B, R. 71. Therefore, it is considered not filed and, consequently, the appeal was presented to us pursuant to law.

Alternatively, upon having examined the Motion in Aid of Jurisdiction and/or Expedited Processing, presented by petitioners, the remedies requested in the same are hereby granted. To those effects, the Roman Catholic and Apostolic Church in Puerto Rico **is hereby ordered to proceed immediately with the issuance of payments to plaintiffs under the Pension Plan. Likewise, it is ordered, as an interim measure and until this Court decides otherwise, to comply with that ordered by the Court of First Instance in the Decision from March 16, 2018 and the Order from March 26 of the same year.** With regard to the request for a writ of *certiorari*, a period of ten (10) days is hereby granted to the respondents to show cause wherefore this Court should not vacate the judgment issued by the Court of Appeals.

Let it be notified **immediately** by phone, e-mail, and ordinary means.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

So agreed by the Court and certified by the Acting Clerk of the Supreme Court. Associate Justice Colón Pérez dissents and makes the following statement for the record, joined by Associate Justice Rodríguez Rodríguez:

Associate Justice Colón Pérez dissents from the course of action followed by a majority of this Court in this case, and reiterates that, as a matter of law, the above-captioned case should be dismissed without further ado. This, given that he is of the opinion that, analogously to the decision of this Court in *Municipality of Rincón v. Velázquez Muñiz*, 192 DPR 989 (2015), we must afford deference to the intermediate appellate court to examine and rule on the motion for reconsideration that it currently has before its consideration, which was opportunely filed by Academia Perpetuo Socorro Inc., one of the parties in the lawsuit. **This includes, among other things, determining whether the aforesaid motion for reconsideration was properly filed and notified to all the parties involved in the case at hand.** It did not correspond to this Court, at this stage of the proceedings, to evaluate the correctness and/or merits of the motion for reconsideration filed before the Court of Appeals by Academia Perpetuo Socorro, Inc., as the majority of this Court did today.

In his opinion, the mere filing of a motion in aid of jurisdiction before this Court, which has not been addressed, does not deprive the Court of Appeals of jurisdiction to address a motion for reconsideration that has been opportunely filed, and, consequently, to render judgment on the correctness of such, as well as its previous opinion. As a matter of fact, on May 22, 2018, the intermediate appellate court, addressing the motion for reconsideration in question, ordered the parties to express themselves regarding such.


Chief Justice Oronoz Rodríguez did not intervene.

[signature]

Sonny Isabel Ramos Zeno

Acting Clerk of the Supreme Court

[seal:] COMMONWEALTH OF PUERTO RICO; GENERAL COURT OF JUSTICE; SUPREME COURT

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

APPENDIX F

Certified Translation

Commonwealth of Puerto Rico
COURT OF APPEALS
JUDICIAL REGION OF SAN JUAN
SPECIAL PANEL

<p>YALÍ ACEVEDO FIGUEROA, JOHN A. WILLIAMS BERMÚDEZ, AND THE COMMUNITY PROPERTY FORMED BY BOTH, ET AL.</p> <p>Respondents</p> <p>v.</p> <p>LA SANTA IGLESIA CATÓLICA APOSTÓLICA EN LA ISLA DE PUERTO RICO, INC., REPRESENTED BY MONSIGNOR ROBERTO GONZÁLEZ NIEVES IN HIS CAPACITY AS ARCHBISHOP OF SAN JUAN, ET AL.</p> <p>Petitioners</p>		<p><i>Writ of Certiorari from the Court of First Instance, Superior Court of San Juan</i></p> <p><i>Case No. SJ2016CV0131</i></p> <p><i>In re: Cease and Desist Order and/or Injunction; Declaratory Judgment; Fulfillment of Contract; Estoppel; Damages</i></p>
<p>SONIA ARROYO VELÁZQUEZ, JESÚS M. FRANCO VILLAFANE, AND THE COMMUNITY PROPERTY FORMED BY BOTH, ET AL.</p> <p>Respondents</p> <p>v.</p> <p>LA SANTA IGLESIA CATÓLICA APOSTÓLICA EN LA ISLA DE PUERTO RICO, INC., REPRESENTED BY MONSIGNOR ROBERTO GONZÁLEZ NIEVES IN HIS CAPACITY AS ARCHBISHOP OF SAN JUAN, ET AL.</p> <p>Petitioners</p>	<p>KLCE201800413</p>	<p><i>Writ of Certiorari from the Court of First Instance, Superior Court of San Juan</i></p> <p><i>Case No. SJ2016CV00143</i></p> <p><i>In re: Cease and Desist Order and/or Injunction; Declaratory Judgment; Fulfillment of Contract; Estoppel; Damages</i></p>
<p>ELSIE ALVARADO RIVERA, ISODORO HERNÁNDEZ, AND THE COMMUNITY PROPERTY FORMED BY BOTH, ET AL.</p> <p>Respondents</p> <p>v.</p> <p>LA SANTA IGLESIA CATÓLICA APOSTÓLICA EN LA ISLA DE PUERTO RICO,</p>		<p><i>Writ of Certiorari from the Court of First Instance, Superior Court of San Juan</i></p> <p><i>Case No. SJ2016CV00156</i></p> <p><i>In re: Cease and Desist Order and/or Injunction;</i></p>

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

<p>INC., REPRESENTED BY MONSIGNOR ROBERTO GONZÁLEZ NIEVES IN HIS CAPACITY AS ARCHBISHOP OF SAN JUAN, ET AL.</p> <p>Petitioners</p>		<p>Declaratory Judgment; Fulfillment of Contract; Estoppel; Damages</p>
--	--	---

Panel composed of its Chief Justice Cortés González, Justice González Vargas, and Justice Rivera Colón.

Judgment by González Vargas, Troadio,

JUDGMENT

In San Juan, Puerto Rico, on April 30, 2018.

Come now before this Court of Appeals the Archdiocese of San Juan and the Office of the Superintendent of Catholic Schools through a Writ of Certiorari and request the review of three decisions issued by the Court of First Instance, San Juan Part (CFI). Firstly, the Resolution issued on March 16, 2018, through which the CFI, in compliance with the Supreme Court’s order regarding the preliminary injunction, ordered ~~The~~ Roman Catholic and Apostolic Church in Puerto Rico to, immediately and without further delay, continue with the issuance of the payments to the plaintiffs in accordance with the Pension Plan, while this case is decided.”¹ Also, the CFI determined that the academies of the Archdioceses of San Juan lacked individual legal personhood, separate from that of the Church. Secondly, the Decision issued by the CFI on March 19, 2018, through which the CFI denied the *Motion Regarding Nullity of Decision and Request to Consider the Motion to Dismiss due to Lack of Jurisdiction*, filed by the Archdiocese of San Juan that same day. Lastly, the Order issued by the CFI on March 26, 2018, by way of which it ordered the ~~Roman Catholic and Apostolic Church in Puerto Rico~~ to consign \$4,700,000 in the Accounts Unit of the Court.

¹See Appendix to Writ of Certiorari, pg. 147.




I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

The dispute presented by this case faces us with a painful human and social drama that adds complexity to the already difficult legal dispute in which the parties are involved. In one side, we have the claim of a significant group of teachers from three catholic schools of the metropolitan area that have faced the loss of their pension after the trust fund that administered them presumably became insolvent. That apparently forced the discontinuance of said benefit and the subsequent liquidation of the trust fund, which is still inconclusive. Just as the plaintiffs, teachers, and former employees allege, this situation has caused them serious difficulties and great distress, given the dependence that many of them have on said pension to cover their most urgent needs.

On the other hand, we have mainly the three sued schools ² (Schools) and the Archdioceses of San Juan, who sustain that no legal obligation exists on their part to pay those pensions, a responsibility that, as they state, corresponds solely to the trust fund created for those purposes. The Archdioceses and the Schools individually allege that they were participating employers of said plan, along with other schools, for which they exclusively assumed the obligation to contribute to the trust a certain amount of money based on a payroll percentage to sustain the Plan, an obligation they state that they fulfilled. Also, they face the claim of a potentially multimillion dollar sum of money to be paid monthly to the teachers, which they point out, surpasses their financial capacity to satisfy such.

Conscious of this conflict, of profound consequences for both parties and of potential impact and interest for the entire religious community, we have the duty to solve this dispute with the strictest adherence to the applicable legal standards to reach the correct adjudication of this dispute.

² We take judicial notice of the Complaint filed by teachers of other schools that request the same remedy against the defendants. See, KLAN201701129 and KLCE201800519.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.


With the benefit of the appearance of the parties, and in light of the applicable law, we proceed to issue a determination on this Writ of Certiorari on the following grounds:

I.

The origin of this case dates back to June 6, 2016, the date on which a group of employees and former employees of Academia del Perpetuo Socorro filed a complaint against the “Holy Catholic Apostolic Church in Puerto Rico,” the Archdioceses of San Juan, the Office of the Superintendent of Catholic Schools, Academia del Perpetuo Socorro, and the Catholic School Employee Pension Plan Trust Fund (Trust Fund). The Trust Fund had just announced the discontinuance of the Catholic Schools Employee Pension Plan (Pension Plan), due to the insolvency of the Trust Fund funds and its virtual liquidation, from which the plaintiffs benefited. The Pension Plan was established under the sponsorship of the Office of the Superintendent of Catholic Schools of the Archdioceses of San Juan, which came into effect in 1979.³ The 26th of November of that same year, the Office of the Superintendent of Catholic Schools created the Trust by way of the corresponding public instrument. The Pension Plan operated by means of the Trust Fund and grouped together forty-two schools, among them, Academia del Perpetuo Socorro. As stated in the Pension Plan and the Trust, each participating employer would contribute to the Trust funds between two to four percent of its payroll to sustain the payment of the pensions. The teachers and employees of the participating employers would not need to make contributions to the fund.

Analogous lawsuits to that filed by the teachers of Academia del Perpetuo Socorro were later filed by employees and former employees of Academia San José and Academia San Ignacio de Loyola

³ See Appendix to Motion in Compliance with Order (April 4, 2018), page 124. (Exhibit 3 of the Complaint of Academia del Perpetuo Socorro of July 6, 2016 – Writing No. 12 of November 26, 1979.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

. The three lawsuits were consolidated by the CFI by way of a Decision notified on July 15, 2016.

As alleged in the complaint, which over the course of time has been amended on four occasions, the plaintiffs demand the continuation of the payment of the pensions that they they used to receive and those that are owed to them, pursuant to the terms of the Plan. To that effect, they sustain that in its capacity as employer of the plaintiffs, the Roman Catholic and Apostolic Church in Puerto Rico ~~is~~ obligated to respond with its own assets to honor the terms of the existing contracts with the plaintiffs.”⁴

The Complaint originally filed by the employees and former employees of Perpetuo Socorro was filed together with a preliminary injunction and request for seizure of property to secure judgment. In this request the plaintiffs alleged that the suspension of the pension plan payments caused them irreparable damage that threatened their acquired rights. They requested seizure of the assets of the Roman Catholic and Apostolic Church in Puerto Rico, up to the amount of \$4,444,419.95 to secure the judgment that one day may possibly find in their favor. Likewise, they demanded that the Trust Fund be ordered to continue with the pension payments. The CFI denied the injunction.

In disagreement, the defendants opportunely recurred to this Court of Appeals, where a fellow panel refused to issue the recourse. Still in disagreement, they recurred to the Supreme Court of Puerto Rico by way of a petition for a writ of certiorari. On July 18, 2017, the Supreme Court of Puerto Rico approved the recourse and issued a judgment (case CC-201601053) revoking the determinations of the court of first instance and the court of appeals and granted the request for a preliminary injunction and the extraordinary remedy requested. It determined that it remained to be decided who was obligated to continue the payments to the plaintiffs until the conclusion of the lawsuit.

⁴ See Appendix to Writ of Certiorari (March 26, 2018), page 109. (Fourth Amended Complaint from January 15, 2018).



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

6


. As a consequence, it ordered the court of first instance to hold a hearing to determine whether the sued schools had legal personhood and ordered the continuance of the pension plan payments by the employers, whether they be the schools or the Church.⁵

In view of such, the parties filed various motions regarding said issue before the CFI. On one side, the plaintiffs alleged the lack of legal personhood of Academia del Perpetuo Socorro, Academia San José, and Academia San Ignacio de Loyola, due to being “dependencies” of the Archbishopric of San Juan, who in turn also lacked legal personhood. This, due to it being a subdivision of the Roman Catholic and Apostolic Church in Puerto Rico, (the only institution with legal personhood). On the other side, Academia del Perpetuo Socorro argued that it had its own legal personhood independent from the Roman Catholic and Apostolic Church in Puerto Rico due to being registered as a non-profit organization. It sustained that even though its Certificate of Incorporation was revoked by the Department of State on May 4, 2014, the incorporation was later reinstated, and its legal personhood was retroactive to the date of the original incorporation, to wit, February 2, 1968.

On January 11, 2018, the Trust filed an informative motion stating that it had filed a bankruptcy petition before the Bankruptcy Court of the Federal District Court.⁶ As a consequence of such, the Archdioceses of San Juan and the Office of the Superintendent of Catholic Schools filed an informative motion before the CFI stating that they had filed a notice of removal of the present case before the Federal Court for the District of Puerto Rico due to understanding that the claim against them was related to the bankruptcy petition filed by the Trust in said court and that their rights could be affected if the plaintiffs prevailed in the litigation. The CFI issued a Partial Judgment by way of which it ordered the stay of the proceedings and the administrative filing of the present complaint without prejudice or statistical

⁵ Although the Judgment mentions the schools and Church, it is our understanding that that is merely illustrative (i.e. examples), which can include other entities of the Church.

⁶ It must be noted that on January 8, 2018, the CFI issued an Order through which it granted the Trust a 48-hour period to present an updated certificate stating the balance of available funds. On January 10, 2018, the Trust filed a *Motion Requesting a Brief Twenty-four Hour Extension to Comply with Court Order*. The CFI granted said request. However, the documents do not show that the Trust complied with said Order.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

purposes. Moreover, the CFI concluded that ~~the~~ Court reserves jurisdiction for its reopening to the current procedural status, as soon as such is requested.”⁷


On March 13, 2018, the Bankruptcy Court for the Federal District Court dismissed the bankruptcy petition filed by the Trust. That same day, the Archbishopric of San Juan filed before the CFI a *Motion to Dismiss* alleging the court of first instance’s lack of jurisdiction over the Archdiocese of San Juan due to it being part of the Roman Catholic and Apostolic Church with based in Vatican City, which is a Sovereign State pursuant to the Foreign Sovereign Immunities Act. Said motion was denied by the CFI.

On March 16, 2018, the Archdioceses and the Office of the Superintendent of Catholic Schools filed before the Federal District Court a notice of dismissal of its request for removal and they requested that the case be remanded to the local court.⁸ On that date, the CFI issued an Order nullifying the stay previously issued as a consequence of the bankruptcy petition filed by the Trust.

That same day, the CFI complied with that ordered by the Supreme Court of Puerto Rico on July 18, 2017 regarding the holding of an evidentiary hearing to determine whether the sued schools or the Church had legal personhood.

⁷ See Appendix of the Motion in Compliance with Courts Order (April 4, 2016), page 585. (Judgment issued February 12, 2018).

⁸ See Appendix of the Motion in Compliance with Courts Order (April 4, 2016) page 610. (Notice of Voluntary Dismissal Without Prejudice of March 16, 2018).

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.


After the evidentiary hearing was held, the CFI issued the first Decision, review of which is being requested. ⁹ It determined that the sued schools, as well as the Archdioceses of San Juan and the Superintendence of Catholic Schools, did not have its own legal capacity. It concluded that they were part of, or were dependencies of, the Roman Catholic and Apostolic Church in Puerto Rico, who has its own legal capacity by virtue of the Treaty of Paris of December 10, 1898. In accordance with the above, and before the apparent lack of legal capacity of the schools and the Archdioceses of San Juan, the CFI concluded that the Roman Catholic and Apostolic Church in Puerto Rico was responsible for the pensions payments and ordered the Church to continue making said payments to the plaintiffs in accordance with the Pension Plan while the case was litigated.

On March 19, 2018, the Archdioceses of San Juan and the Office of the Superintendent of Catholic Schools filed a *Motion Regarding Nullity of Resolution and Request to Consider the Motion to Dismiss for Lack of Jurisdiction*. They argued that through the dismissal of the Trust's bankruptcy petition, the CFI's Resolution cancelling the stay applied only to the Trust and not to them with regard to their request for removal. They added that the Federal Court had not yet issued the corresponding order to remand the case to local court and, therefore the decision issued on March 16, 2018 was issued without jurisdiction.

That same day, the CFI issued the second Decision for which review is being requested. ¹⁰ The CFI denied the *Motion Regarding Nullity of Resolution and Request to Consider the Motion to Dismiss for Lack of Jurisdiction*. Not satisfied,, on March 20, 2018, the Archdioceses and the Office of the Superintendent of Catholic Schools filed a motion for reconsideration and a

⁹ See Appendix of the Writ of Certiorari (March 16, 2018), page 140-147.

¹⁰ See Appendix of the Writ of Certiorari (March 19, 2018), page 148-155.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

9

motion to set bond pursuant to Rule 57.4 of the Rules of Civil Procedure, 32 L.P.R.A. Ap. V. This motion was also denied.

The plaintiffs filed a *Motion in Compliance with Orders 639 and 640* in which they argued that the Roman Catholic and Apostolic Church of Puerto Rico had freely and voluntarily withdrawn their request for removal by presenting a dispositive motion before the CFI on February 13, 2018 and a notice of dismissal of said request before the Federal District Court on March 16, 2018. Furthermore, they requested that Academia del Perpetuo Socorro, Academia San José, and Academia San Ignacio de Loyola be prohibited from appearing before the Court separately and independently from the Roman Catholic and Apostolic Church, due to being dependencies of the Church.

On March 21, 2018, the plaintiffs filed a motion requesting consignment of the remaining funds of the Trust ¹¹ **In March 26, 2018, the Court issued the Order, for which review is also being requested.**

¹² Through this Order, the CFI granted a term of 24 hours to the Roman Catholic and Apostolic Church in Puerto Rico to consign the sum of \$4,7000,000.00 in the Accounts Unit of the Court. The Court warned that if the Church failed to comply with that decreed, it would proceed to order the seizure of the bank accounts of the Roman Catholic and Apostolic Church in Puerto Rico.

Not satisfied with the CFI's determinations, the Archdioceses of San Juan appeared before this Court of Appeals by way of a petition for a writ of certiorari, which was accompanied with a Motion in Aid of Jurisdiction. This motion was referred to a special Panel of this Court, established to consider urgent matters during Holy Week. As a consequence, a stay of the proceedings was ordered while the action was considered on the merits. In its brief,

¹¹ This as a follow-up to a prior motion in which the plaintiff requested the Court to take control of the Trust's funds.

¹² See Appendix to Motion in Compliance with Order (April 4, 2018), pg. 620. (March 26, 2018 Order).



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

it formulated the following seven assignments of error:

- A. The Court of First Instance gravely and manifestly erred upon issuing the reviewed Decision without having jurisdiction when the case was removed to the Federal District Court and said court had not remanded it when the issued resolutions and orders were issued.
- B. The Court of First Instance gravely and manifestly erred by not dismissing the Fourth Amended Complaint for lack of subject matter jurisdiction pursuant to the Foreign Sovereign Immunities Act.
- C. The Court of First Instance gravely and manifestly erred by not dismissing the Fourth Amended Complaint for lack of personal jurisdiction over the Roman Catholic and Apostolic Church and for insufficient summons and service thereof pursuant to the Foreign Sovereign Immunities Act.
- D. The Court of First Instance gravely and manifestly erred by issuing a preliminary injunction without the imposition of a bond as required by Rule 57.4 of the Rules of Civil Procedure, which constitutes a violation of the constitutional right to due process of law.
- E. The Court of First Instance gravely and manifestly erred by concluding that the Archdioceses of San Juan does not have its own legal personhood independent from the Roman Catholic and Apostolic Church.
- F. The Court of First Instance gravely and manifestly erred by deciding that Academia del Perpetuo Socorro lacks legal personhood despite concluding as a matter of fact that it was correctly incorporated under the Puerto Rico General Corporations Act.
- G. The Court of First Instance gravely and manifestly erred by ordering the consignment of 4.7 million dollars, what equals a permanent injunction without the celebration of a hearing and/or evidence to determine the amounts corresponding to plaintiffs' pensions in violation of the due process of law.

The first three errors identified by the Archdioceses of San Juan are reduced to a jurisdictional matter. As they allege, the CFI did not have subject matter jurisdiction or personal jurisdiction over the Roman Catholic and Apostolic Church pursuant to the *Federal Sovereign Immunities Act*. 28 U.S.C. secs. 1602-1611, due to being a foreign state, immune to the legal proceedings against it, and for insufficient summons and service thereof in compliance with said



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

federal legislation. This, because it was understood that when the CFI referred to “Roman Catholic Apostolic Church in Puerto Rico” it was referring to the State of Vatican City or the Holy See, because no legal person known as “Roman Catholic and Apostolic Church in Puerto Rico” exists.

Moreover, on March 27, 2018, the CFI issued an Order for the seizure of assets against the Roman Catholic and Apostolic Church in Puerto Rico for the collection of the aforesaid \$4.7 million in unpaid pensions, as requested by the plaintiffs the previous day. For its part, on March 29, 2018 the Federal District Court issued a Decision ordering the formal remand of the case to the local court. The Diocese of Arecibo and its Bishop filed a Petition to Intervene before this Court alleging that they are being affected by the decision of the CFI without them being parties of this action. Upon examination of the petition, this Court entered a Decision ordering the interested parties to express themselves regarding the legal nature of the Trust and the Pension Plan in dispute and to explain in what way, if any, the new Trust Act, Law 219 of August 31, 2012, as amended, 32 L.P.R.A. sec. 3351, *et seq.*, has an impact on said legal nature of the Trust. Through said Decision we also granted the parties a term to express their positions regarding the *Petition to Intervene* and the *Document Explaining the Position of the Diocese of Arecibo* from Bishop of the Diocese of Arecibo of the Roman Catholic and Apostolic Church, Monsignor Daniel Fernández Torres.

As ordered, the parties, including the Trust, submitted their corresponding motions. With regard to the intervention by the Diocese of Arecibo, the plaintiffs opposed the requested intervention, although they agreed for the Diocese of Arecibo to be authorized as an *amicus curiae*.

Since then, this Court has received various intervening appearances from other



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Dioceses, namely, those of Ponce, Mayagüez, Fajardo, Humacao and Caguas, as well as the Parish of María Madre de la Misericordia. By way of a separate Decision we have ruled on the aforesaid appearances.

II.

A. Separation of Church and State

The First Amendment of the United States Constitution prohibits the establishment of any religion and guarantees the Freedom of Religion, stating that: *“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof [...]”* 1st Amendment, U.S. Const., L.P.R.A. Vol. I. Moreover, Section 3 of Article II of the Constitution of the Commonwealth of Puerto Rico states in that pertaining to this matter that ~~no~~ law shall be made respecting an establishment of religion or prohibiting the free exercise thereof. **There shall be complete separation of church and state.”** (Emphasis ours). Art. II, Sec. 3, Const. Commonwealth., L.P.R.A. Vol. I. Thus, the above constitutional citations consecrate the so-called Establishment Clause and Freedom of Religion Clause.

In its more generalized meaning, the Establishment Clause seeks to avoid the patronage, the economic support, and the active participation of the State in religious activities. *Walz v. Tax Commission*, 397 U.S. 664, 668 (1970); *Diaz v. Colegio Nuestra Sra. del Pilar*, 123 D.P.R. 765, 780 (1989). In accordance with this constitutional imperative, the state actions impugned under this provision shall be upheld if they resist a tripartite jurisprudentially developed scrutiny. In Diaz v. Colegio Nuestra Sra. Del Pilar, supra, the Supreme Court of Puerto Rico, adopting the analysis outlined by the Federal Supreme Court in the leading case of *Lemon v. Kurtzman*, 403 U.S. 602 (1971), established that, in order for the State to prevail before an alleged violation of this clause, it is required that the law or challenged conduct: (1) have a secular purpose; (2) that its primary or principal effect is not the promotion or inhibition of the religion;



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

13

and, (3) that it does not entail the possibility of provoking any meddling or excessive interference of the Government in religious matters. *Id.* Page 781. See, also, *Mercado Quilichini v. UCPR*, 143 D.P.R. 610, 637 (1997).

For its part, the Free Exercise or Freedom of Religion Clause guarantees the practice of religious beliefs and prevents any type of state intervention that could hinder such. *Dioceses of Arecibo v. Secretary of Justice*, 191 D.P.R. 292, 308 (2014); *Mercado, Quilichini v. UCPR*, *supra*, page 636. The purpose is, thus, to guarantee the practice of religious beliefs, whether they be individually or collectively, free of prohibitions imposed by any branch of government. *Id.*; *Lozada Tirado et al. v. Jehovah's Witnesses*, 177 D.P.R. 893, 914 (2009). This right extends to individuals that practice a determined religion, as well as to the organizations or entities that promote said practice. *Hosanna-Tabor Evangelical Lutheran Church and Sch. v. EEOC*, 565 U.S 171 (2012); *Mercado, Quilichini v. UCPR*, *supra*, page 639.

Of course, the right to Religious Freedom, as with other rights, is not absolutely guaranteed, nor does it [s]erve as a veil for violating other laws promulgated by the State." *Dioceses of Arecibo v. Secretary of Justice*, *supra*; *De Victoria Estate v. Pentecostal Church*, 102 D.P.R. 20, 22 (1974). Our rule of law recognizes that the freedom to act, pursuant to a religious practice, can be limited or restricted to protect the peace, moral ideas, and public order. *Id.* In line with this reality, it is the duty of the courts, as guardians of the constitution, to decide whether a state intervention violates the right of any individual or institution to practice their religion.

The party that challenges a state action under the Freedom of Religion clause has the initial burden of proof to demonstrate that the State has imposed a substantial burden on the exercise of their religious practice. *Díaz v. Colegio Nuestra Sra. del Pilar*, *supra*, page 779. To determine the constitutional validity of a government action pursuant to the Freedom of Religion clause, it is necessary to review



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

14

the state action, the interest of the State that motivates it, and the effect that it has over a determined religious practice. The Supreme Court of Puerto Rico, following the standard set in *Church of the Lukumi Babaly Aye, Inc., v. Hialeah*, 508 U.S. 520 (1993), recognized that ~~a~~ neutral and general applicability law does not have to be justified by a pressing governmental interest, even when it has the incidental effect of imposing a burden over a particular religious practice.” *Lozada Tirado et al. v. Jehovah’s Witnesses*, supra, pp. 914-915; *Mercado, Quilichini v. UCPR*, supra, page 636. To that effect, it is understood that ~~an action is not general when it is directed solely at the Church or the religious entity and their internal affairs.”~~ *Id.*, page 646.

In cases where it can be demonstrated that the state action is not neutral or of general applicability, the Court has to apply a strict scrutiny. Under same, the State may prevail only if it shows: (1) that it has a pressing interest that justifies its actions even when they have an incidental effect of imposing a burden on a particular religious practice; (2) that its action follows said interest; and (3) that, before said pressing interest, no other alternatives exist that impose less of a burden on the religious practice. *Dioceses of Arecibo v. Secretary of Justice*, supra, page 310; *Mercado, Quilichini v. UCPR*, supra.

On the other hand, it must be noted that it is also possible to invade the protected constitutional scope consecrated by the Freedom of Religion clause through an inappropriate court intervention. As the Supreme Court has determined: ~~the decisions of the Court that invade the religious liberties protected by our and the federal Constitution are invalid.”~~ *Id.* Therefore, it is firmly established that the Courts ~~cannot exercise their jurisdiction to determine disputes regarding property rights related to a church when to do so it has to irremediably pass judgment over~~



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

matters of teachings, discipline and faith of an internal ecclesiastical body.” (Our emphasis). *Jones v. Wolf*, 443 U.S. 595, 604 (1979); *Natal v. Christian & Missionary Alliance*, 878 F.2d 1575, 1576 (1st. Cir., 1989); *Amador v. Cone. Igl. Univ. de Jesucristo*, 150 DPR 571, 574 (2000); *Diaz v. Colegio Nuestra Sra. del Pilar*, supra, page 783; *Agostini Pascual v. Catholic Church*, 109 D.P.R. 172 (1979).

The cited standard responds to the interest recognized to the religious organizations in maintaining their autonomy, select their leaders, define their own doctrines, solve internal disputes, **as well as administer their institutions, property, and economic resources and elements.** *Mercado v. Quilichini v. UCPR*, supra, page 639, citing *Corporation of Presiding Bishop v. Amos*, 483 U.S. 327, 341-342 (1987). It is because of that that it is recognized that the judicial abstention doctrine in religious matters requires not only an analysis of the challenged legal authorities between the parties, but also requires that the Court determines if, with its interference, it enters ~~[-a]~~ the very core of the religion, a matter completely external to [its] competence.” *Díaz v. Colegio Nuestra Sra. del Pilar*, supra, page 784.

B. Canon Law

The canonical system is conceived as the legal structure of the Catholic Church. It is a system of legal relations that unify the faithful and situates them in a determined position within the social body of the Church. In that way, the immediate purpose of canonical law is to establish and guarantee the just social order within the Church, ordering and leading its subjects, through said order, to the achievement of the common good. A. Bernández Cantón et al., *Canon Law*, 2nd ed., Pamplona, Ed. Eunsa, 1975, pp. 75-79.

The regulations and provisions that arise from canonical law are codified in a legal body known as the Code of Canon Law or *Codex Juris Canonici* (“CCL”). The CCL is circumscribed almost exclusively to matters of the Church’s internal order, which are extended to regulations related to clergy and the structure and activity of the ecclesiastical body. P. Lombardia,

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Escritos de Derecho Canónico [Canonical Law Documents], Pamplona, Ed. Univ. of Navarra, 1974; T. 111, pg. 281. Promulgated by Pope John Paul II on January 25, 1983, the last version of the CCL organizes its content in canons that are divided into seven (7) Books with their respective titles and chapters.

Concretely, Book I provides a collection of general regulations and, in Title VI, it addresses matters related to the canonical condition of physical persons. It starts by stating that “[t]he Catholic Church and the Apostolic See has the character of a moral person by divine ordinance itself.” Canon 113, Sec. 1 of the CCL. Likewise, the CCL establishes that “[i]n the Church, besides physical persons, there are also juridical persons, that, in canonical law, are subjects of obligations and rights coherent to their nature.” Canon 113, Sec. 2 of the CCL. Finally, Canon 116 of the CCL clarifies that “[p]ublic juridic persons are aggregates of persons (*universitates personarum*) or of things (*universitates rerum*) which are constituted by competent ecclesiastical authority so that, within the purposes set out for them, they fulfill in the name of the Church, according to the norm of the precepts of the law, the proper function entrusted to them in view of the public good; other juridic persons are private.”

The mentioned Canon 116 gives legal personhood to various components within all the divisions that compose the Church. Thus, for example, the Dioceses, the Ecclesiastic Province, the Apostolic See, the Parishes, the Seminaries, among others, have public legal personhood. According to the CCL, all these can be owners of ecclesiastic property. Further on we will discuss this matter within the particular context of the present controversy.

C. Legal capacity of corporations

Our legal system requires the parties in a legal action to meet certain criteria in order to be able to participate in the proceeding. One of these criteria is *capacity*. In its more basic definition, capacity refers to “[t]he ability to appear in a legal proceeding without the assistance of another person.” J.A. Echevarria Vargas, *Procedimiento Civil Puertorriqueño* [Puerto Rican Civil Procedure], 1st ed. Rev., [Ed. of the author], 2012, pg. 131.



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

17

However, our doctrine recognizes that the concept extends to two components: the capacity to act and the legal capacity. R. Hernández Colón, *Práctica Jurídica de Puerto Rico: Derecho Procesal Civil* [Legal Practice in Puerto Rico: Civil Procedural Law], 6th ed., San Juan, LexisNexis of Puerto Rico, 2017, sec. 1101, page 144. The capacity to act refers to the aptitude of an individual to *participate* in a judicial act, assessed in light of physical and psychological criteria. *Id.* On the other hand, the concept of legal personhood encompasses that regarding the aptitude of a person to be the subject or party of a legal relationship. *Id.*

To those effects, Article 27 of the Puerto Rico Civil Code, 31 L.P.R.A., sec. 101, states that corporations with public interest and particular interest to whom the law grants legal capacity shall be considered legal persons. Thus, for example, Law 164- 2009, as amended, known as Puerto Rico General Corporations Act (Corporations Act), states in Article 1.05 that: “[h]aving executed and filed the certificate of incorporation, the person or persons who have thus associated and their successors and assignees, shall constitute, as of the filing date, or if it was set forth in the certificate of incorporation, as of a subsequent date which shall not exceed ninety (90) days, a corporate entity with the name set forth in the certificate, subject to dissolution as provided in this Act.” 14 L.P.R.A. sec. 3503. According to the procedure set above, as of the date of the execution of the certificate of incorporation, the corporate entity is born.

Once the corporation’s legal personhood has been established, its existence as a legal entity is independent to those of its shareholders, directors, and officers, as well as to any other associate corporate entity. *Peguero v. Hernández Pelot*, 139 D.P.R. 487, 502 (1995). Corporations can acquire and possess goods of any kind, as well as enter into contractual obligations, and exercise civil and criminal actions in accordance with the laws and the corporate by-laws. 31 L.P.R.A. sec. 104. Moreover, once the legal personhood of a corporation is recognized, the corporation can sue and be sued. See

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

18

Article 2.02 of the Corporations Act, 14 L.P.R.A. sec. 3522 (b). In the same way, the concept of individual legal personhood implies that the shareholders and members of the corporation ordinarily will not be held personally liable for the debts and obligations of the entity. Art. 1.02 and 12.04 of the Corporations Act, 14 L.P.R.A. sec 3502 (b)(5) and 3784 (b); *D.A.C.O. v. Alturas Fl. Dev. Corp et al.*, 132 D.P.R. 905, 924 (1993); *Flmeing v. Toa Alta Develop. Corp.*, 96 D.P.R. 240, 244 (1968).

However, and as an exception, the courts may disregard the legal personhood of a corporation, or pierce its corporate veil, and hold the shareholders' assets liable for the obligations of the corporation under certain circumstances, to wit: (1) if said entity is merely an alter ego, conduit of a passive financial instrument of their shareholders, with them receiving exclusively and personally the benefits produced by the corporate management; and, (2) if it is necessary to prevent fraud or the commission of an illegal activity or to prevent a clear wrongdoing or inequality. *D.A.C.O. v. Alturas Fl. Dev Corp. et al*, supra, pg. 925; *Fleming v. Toa Alta Develop. Corp.*, supra, pg. 243; *Cruz v. Ramirez*, 75 D.P.R. 947, 954 (1954).

D. The Trust

The Puerto Rican trust is an institution with particularities that incorporate the principles of the Anglo-Saxon trust and seeks to harmonize it with our Civil Law tradition. *Dávila Vega v. Agrait*, 116 D.P.R. 549, 553 (1985). It is because of this that the trust has been recognized as a "hybrid figure" difficult to specify and harmonize with its Civil and Anglo-Saxon law contours. C.T. Lugo Irizarry, *El fideicomiso en Puerto Rico: un híbrido jurídico ante el future* [The Trust in Puerto Rico: A Legal Hybrid for the Future"], First Book Publishing of PR, 1996, pg. 15.

The first Puerto Rican regulation of the trust was an adaptation of the Panamá Trust Act and was adopted by way of Law 41 of April 23, 1928, which incorporated



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

19

articles 834 to 874 into our Civil Code. Later on, some amendments were introduced by way of Law 211 of May 8, 1952. At that time, a trust was defined as an irrevocable mandate by virtue of which determined goods are transferred to a person called the settlor who would dispose of said goods as ordered by the one transferring them, the trustee, for the benefit of himself or a third party, called the beneficiary. Art. 834 of the Puerto Rico Civil Code, 31 L.P.R.A., sec. 2541.

Furthermore, it stated that the trust fund *inter vivos* should be created by way of public instrument and that it could be established over any kind of movable or immovable assets, tangible or intangible, present or future. Arts. 834 and 837 of the Civil Code, 31 L.P.R.A. sec. 2543-2544. The trust constituted over immovable assets must be documented in public instrument and registered, for only by way of such would it be enforceable before third parties from the date of its registry in a public registry. Art. 838 of the Civil Code, 31 L.P.R.A. sec. 2545. It was also established that the trustee would have the rights and actions regarding the complete control of the assets but would not be able to sell or encumber them without express authorization or, if necessary, for the execution of the trust. Art. 866 of the Puerto Rico Civil Code, 31 L.P.R.A. sec. 2573.

Through various decades without said regulation being amended, Law 219-2012 was enacted, best known as The Trust Act of 2012, 32 L.P.R.A. sec. 3351, *et seq.* (Act No. 219). This Act repealed Arts. 834 to 874 of the Civil Code and consecrated the figure of the trust under a single piece of legislation. It introduced various changes pertaining to the matter under consideration. Among them, the concept of the trust was redefined, and the creation of a Trust Registry was created in which all executed trusts in Puerto Rico shall be registered, under penalty of nullity.

Pursuant to the Trust Act, a trust is an autonomous patrimony that results



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

from the act by which the settlor transfers assets or rights that shall be administered by the trustee for the benefit of the beneficiary or for a specific end, in accordance with the provisions of the constitutive document and, in its defect, pursuant to the provisions of the Trust Act. 32 L.P.R.A. sec. 3351. The abovementioned shows the change of concepts from ~~irrevocable mandate~~ to autonomous patrimony that is the result of an act of the trustee. This change comes from the recognition that the phrase ~~irrevocable mandate~~ was contradictory and anti-judicial, for the trust and the mandate are different figures. It is said that a mandate is essentially revocable, and it acts in relation to assets that are and continue to be of the mandatary. Whereas the trust is irrevocable and allows assets to be transferred to the trustee, who cannot be compared to a mandatary because when he disposes of the assets he does so on his own name. With this change the concept of autonomous patrimony is formed, which is an indispensable quality of the figure of the trust.

Recently, amendments were introduced to Law 219-2012, by way of the passing of Law 9-2017 and Law 102-2017. The latter, which is limited to correcting a mistake of reference in Article 64, applicable to public trusts, does not pertain to the present case. Another one of the important changes introduced by Law 9-2017 is that of providing the trust with legal personhood. Art. 2, which defines the estate that constitutes the trust, was amended to read as follows:

The assets and rights of the trust constitute an estate that is fully autonomous and separate from the personal estates of the settlor, trustee, and beneficiary, which is allocated to the particular purpose granted to it at the time of its execution.

Once the deed of trust has been executed and filed pursuant to the provisions of this Law, **an entity independent of its settlors, trustees, and beneficiaries shall be constituted, enjoying full legal personhood.**

For as long as the trust remains in place, this estate is exempted from the single or collective actions of the creditors of the settlors, trustees, or beneficiaries, with the exception of that established in sec. 3353i *et seq.* of this title. (Emphasis ours). 32 L.P.R.A. sec. 3351(a).



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

21

This arrangement made it possible for the settlor to transfer ownership over the trust assets to the legal entity that is the trust and to designate a person trusted by them, the trustee, to perform the purpose proposed when the trust was constituted. In this regard, it is clarified that the attenuated personality of the trust refers to a capacity according to its purpose and for utilitarian purposes as is its registration in the Special Registry of Trusts. In addition, according to scholars of the subject, with this capacity it would not be necessary to make any procedures in the Property Registry if the trustee dies, is dismissed, resigns, rejects their position, becomes incapacitated or is substituted for any reason, since the assets would appear registered in the name of the trust. Lugo Irizarry, *op. cit.*, pages 35-36.

Regarding the acknowledgement of the legal personhood of trusts, the Supreme Court of the United States, through the voice of Justice Sotomayor, acknowledged that traditionally, trusts were not considered a legal entity, but rather a fiduciary relationship between multiple people. *Americold Realty Trust v. ConAgra Foods, Inc.*, 136 S. Ct. 1012, 1016 (2016). Thus, the legal procedures involving trusts are filed by or against the trustees under their own name. In that sense, when a trustee files a lawsuit or is being sued under their name, their citizenship is what counts for purposes of diversity of citizenship.

E. General theory of contractual obligations

As is known, obligations arise from the law, contracts, and quasi-contracts, from illegal acts and omissions or in which any kind of fault or negligence is involved. Article 1206 of the Civil Code of Puerto Rico 31 LPRA sec. 2992. Regarding the contract as a source of an obligation, Article 1206 of the Civil Code of Puerto Rico, 31 LPRA sec. 3371, provides that "[t]he contract exists from the time at which one or more persons consent to be bound in relation to another or others, to give something, or to render a service." In Puerto Rico, the principle of freedom of



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

contract prevails, as regulated in Article 1207 of our Civil Code 131 LPRA sec. 3372. It establishes that "[t]he contracting parties may establish the covenants, clauses and conditions that they deem convenient, provided they are not contrary to the laws, morals or public order." *Id.* Likewise, "[t]he obligations that arise from contracts have the force of law between the contracting parties, and must be fulfilled in accordance with them." Art. 1044 of the Civil Code, 31 LPRA sec. 2994.

It is known that a contract exists when the following requirements are met: (a) consent of the contracting parties; (b) a certain object that is the subject of the contract and (c) cause of the obligation that is established. Art. 1213 of the Civil Code, 31 LPRA sec. 3391; *Diaz Ayala v. Commonwealth*, 153 DPR 675 (2001). Once the essential conditions for its validity are met, the contracts are binding. Art. 1230 of the Civil Code, 31 LPRA sec. 3451. In line with the foregoing, the courts have the power to ensure the faithful fulfillment of contractual obligations between the parties. See, *Mercado, Quilichini v. UCPR*, *supra*.

E. The indispensable party

Rule 16.1 of Civil Procedure, 32 LPRA App. V., defines the indispensable parties as those "[p]ersons who have a common interest without whose presence the dispute cannot be adjudicated [...]". To this end, our Supreme Court has indicated that this Rule is inspired by two (2) principles, namely: (1) the constitutional protection that prevents any person from being deprived of liberty and property without due process of law, and (2) the need to include an indispensable party so that the legal ruling rendered is complete. *Cepeda Torres v. García Ortiz*, 132 DPR 698 (1993). In addition, it adds that it seeks to avoid multiplicity of litigation, provide the parties with a final, complete, and effective remedy in the same lawsuit, and protect those absent from the harmful effects of a decision without their presence. *Granados Navedo v. Rodríguez Estrada II*, 124 DPR 593 (1989).



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

In the same way, the Supreme Court has also defined the concept of indispensable party as one whose rights or interests could be destroyed or inevitably affected by a judgment issued while that person is absent from the litigation. *Mun. of San Juan v. Bosque Real SE*, 158 DPR 743 (2003); *Fred et al. v. Commonwealth*, 150 DPR 599 (2000). For this reason, the indispensable party must have such interest in the dispute that a judgment cannot be issued without their rights being affected. Our Highest Court has indicated that the third absentee must have a common interest in the lawsuit, which makes their presence an indispensable requirement to impart complete justice. See, *Mun. of San Juan v. Bosque Real, SE*, supra; *Hernández Agosto v. López Vives*, 114 DPR 601 (1983).

The jurisprudence has clarified that the phrase *common interest* does not mean any interest in the lawsuit, but rather that real and immediate interest and of such magnitude that prevents the preparation of an appropriate ruling without affecting it. *Hernández Agosto v. López Nieves*, supra. Therefore, a sentence issued without including an indispensable party in the lawsuit possesses defects of nullity. *Fred et al. v. Commonwealth*, supra. The determination of whether a person should be considered an indispensable party rests on pragmatic considerations and on the evaluation of the interests involved, which will depend on particular and specific facts of each case. *Granados Navedo v. Rodríguez Estrada II*, supra. In making this determination, the Supreme Court has stated that factors such as time, place, manner, class of rights, allegations, evidence, interests in conflict, formality and result must be taken into account. *Mun. of San Juan v. Bosque Real SE*, supra.

In those cases in which it is decided that an indispensable party is absent, the action cannot prosper. However, this dismissal shall not have the effect of an adjudication on the merits with the effect of res judicata. See, *Romero v. SLG Reyes*, 164 DPR 721 (2005); *Banco de la Vivienda de PR v. Carlo Ortiz*, 130 DPR 730 (1992). The Supreme Court has also ruled that the absence of an indispensable party



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

"even though it is grounds for dismissing the suit, does not constitute an impediment to the court, at the request of the interested party, to grant the opportunity to bring the originally omitted party to the lawsuit, as long as the court can acquire jurisdiction over it." *Deliz et al. v. Igartúa, et al.*, 158 DPR 403. 434 (2003). Regarding the latter, it should be noted that Rule 18 of Civil Procedure, 32 LPRA Ap. V. provides, where pertinent, that "[a]ny party may be included or eliminated by order of the court, at its initiative or by motion of party at any stage of the procedure under conditions that are fair. " See, *Aponte Caratini v. Román Torres*, 145 DPR 466 (1998).

F. The preliminary injunction

Rule 57.2 of Civil Procedure, 32 LPRA App. V, regulates everything related to the extraordinary remedy of injunction or preliminary injunction. This procedural mechanism is aimed at prohibiting or ordering the execution of a specific act, in order to avoid causing imminent harm or irreparable damage to any person, in cases where there is no other appropriate remedy in law. *VDE Corporation v. P&R Contractors*, 180 DPR 21, 40 (2010). Thus, it is intended to maintain the status quo while the dispute is elucidated on its merits. *Asoc. Vec. v. Caparra v. Assoc. Fom. Educ.*, 173 DPR 304, 317 (2008). The latter, with the aim of preventing the defendant from promoting with their conduct a situation that renders the final decision of the court moot.

For the issuance of a preliminary injunction, the court must evaluate the particular circumstances of the case, together with the following criteria: (1) the nature of the damages that may be caused to the parties by granting or denying it; (2) the irreparableness of the damage or existence of an adequate remedy in law; (3) the likelihood that the petitioner will eventually prevail when deciding the dispute on its merits; (4) the probability that the cause will become moot if not granted, and (5) the possible impact on the public interest of the remedy requested. *Next Step Medical v. Bromedicon*, 190



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

25

DPR 474, 486-487 (2014); *PR Telephone Co. v. Superior Court*, 103 DPR 200,202 (1975). Rule 57.3 of Civil Procedure, 32 LPRA App. V., lists the factors previously outlined by our casuistry and, in addition, adds the criterion of the diligence and good faith with which the petitioner has acted.

The Supreme Court of Puerto Rico has pointed out that **the requirement that the probability of prevailing be demonstrated obeys the basic notion that a court should not grant this type of extraordinary accessory remedy to any party that clearly does not have the right to do so in relation to the merits of the main appeal.** *Mun. of Ponce v. Governor*, 138 DPR 431 (1995). Likewise, the probability of success is not demonstrated by adducing mere speculations. *VOE Corporation v. P&R Contractors*, supra, p. 41. On this point, the professor Hernández Colón comments that "[t]he right of the injunction must have been unequivocally established by the petitioner, with certainty and clarity." There is no need to issue an injunction to protect a right that is doubtful, unrecognized, or disputed ". Hernández Colón, *op. cit.*, p. 530

Likewise, Rule 57.4 of Civil Procedure, 32 LPRA App. V, establishes that **"no preliminary injunction or injunction order shall be issued except through the provision of bail by the petitioner**, for the amount that the court deems just, for the payment of costs and damages that may be incurred or suffered by any party that has been improperly placed into question or restricted [...]" (Emphasis supplied). The purpose of this requirement is to provide the plaintiff with an immediate preliminary remedy while, in addition, it is intended to protect the defendant in the event that it is determined that said party was unduly restricted from a right. Echevarría Vargas, *op. cit.*, p. 337.



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

On the other hand, the difference between the injunction of Rule 57 of Civil Procedure, *supra*, and the remedy granted by Rule 56 of Civil Procedure, 32 LPRA App. V., was discussed in the case of *Asoc. Vec. V. Caparra v. Assoc. From. Educ.*, 173 DPR 304, 313 (2008)¹³³. Even though both are analogous in that both provide for an order to do or refrain from doing something as a remedy, the Supreme Court recognized that they are not the same and their concession depends on with the fulfillment of different requirements. *Id.* In distinguishing both rules, the High Court stated that the remedy under Rule 57 of Civil Procedure, *supra*, **always requires the provision of bail**, while under Rule 56 of Civil Procedure, *supra*, whose purpose is limited to the assurance of a judgment, **can be** granted without providing bail. *Id.* Pages 322-323. This, **when one of the following exceptions recognized in Rule 56.3 of Civil Procedure**, *supra*, **is set forth**:


- (a) if it appears from public or private documents, as defined by law and signed before a person authorized to administer an oath that the obligation is legally enforceable, or
- (b) when an insolvent litigant is expressly exempted by law for the payment of fees and filing fees, and in the judgment of the court, the claim adduces sufficient facts to establish a cause of action whose probability of success is evident or can be demonstrated, and there are well-founded reasons to fear, after a hearing on the matter, that if this preliminary remedy were not immediately obtained, the judgment that could be obtained would be moot because there would be no assets to foreclose on, or
- (c) if the remedy is arranged after the judgment.

III.

It is our first task to address the jurisdictional approach formulated by the petitioner in their first assignment of error related to the lack of jurisdiction of the Court of First Instance to issue

¹³ Rule 56.1 of Civil Procedure, *supra*, provides that:

In any lawsuit before or after sentencing, by motion of the petitioner, the court may dictate any preliminary order that is deemed necessary to ensure the effectiveness of the judgment. The court may grant the seizure, the seizure of funds in the possession of a third party, the prohibition to alienate, the claim and delivery of movable property, receivership, an order to do or refrain from doing any specific acts, or may order any other measure it deems appropriate according to the circumstances of the case. In any case in which a preliminary remedy is requested, the court shall consider the interests of all the parties and rule as required by substantial justice.


 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

the Resolutions and the Order appealed. This is because the case was stopped in the hearing of the Motion for Removal pending adjudication before the Federal District Court.

As can be seen from the events previously reported, at the beginning of this year, the Trust had filed a Bankruptcy Petition before the Bankruptcy Court of the Federal District Court. Based on the filing of that remedy, the petitioner submitted a Notice of Removal to the federal court based on the fact that the dispute that was filed in the CFI (local court) was closely related to the bankruptcy proceeding initiated by the Trust. Hence, to the effect that their rights were not affected by continuing the proceeding of the case before the local court, it was appropriate that the case be removed and heard by the Federal Court, as requested.

Although the petition before the Bankruptcy Court was later dismissed, the petitioner maintains that by the time the ruling was delivered in this case, it was at a standstill due to the Notice of Removal, as provided in 28 USC sec. 1446 (d), so the CFI lacked jurisdiction to continue the proceedings before that court. The respondent is right in their arguments against this statement. Although the remedy of removal before the Federal Court had been filed, and by virtue of the aforementioned federal provision, the proceedings in the state court remain at a standstill, the petitioner itself, in light of the conduct assumed and the jurisdiction invoked in the state court after submitting their petition for removal, necessarily waived the federal remedy requested. Note that after the petition in the Bankruptcy Court was dismissed, the petitioner filed with the CFI a request for dismissal alleging lack of jurisdiction of the court before its consideration, pursuant to the Foreign Sovereign Immunities Act.¹⁴

¹⁴ See, Appendix to Petition for Writ of Certiorari, pp. 152-155. (*Motion regarding Nullity of Decision and Request to Consider Motion for Dismissal due to Lack of Jurisdiction* from March 19, 2018).

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Not many days later, the petitioner filed before the Federal Court a motion voluntarily withdrawing their request for removal.¹⁵

In that direction, the Federal Court for the District of Puerto Rico has ruled that:

A party may waive removal to federal court by litigating in the state court in such a manner that "invoke(s) the jurisdiction of the state court" or engages in actions "that manifest the defendant's intent to have the case adjudicated in state court" . *Vistas de Canóvanas I, Inc. v. Fed. Deposit Ins. Corp.*, 266 F. Supp. 3d 563,571 citing *Hernández-López v. Com. of Puerto Rico*, 30 F. Supp. 2d 205, 209. See, also, persuasively, 32A Am. Jur. 2d. Federal Court sec. 1322

This decision, although not binding or mandatory, is persuasive and based on correct reasoning, compatible with the entrenched doctrine of estoppel, which postulates that litigants are not allowed to behave in a contradictory manner, against their own acts. *Int. General Electric v. Concrete Builders*, 104 DPR 871 (1976). See, *OCS v. Universal*, 187 DPR 164 (2012).

It is evident that when the petitioner recurred to the local court to request a remedy such as the one requested, this necessarily implied a waiver of the request for removal submitted, thus the jurisdiction was remanded to the local court. Consequently, the alleged error was not committed.

The same can be said with regard to the lack of jurisdiction based on the *Foreign Sovereign Immunities Act*. It is clear that the claims in this case: (1) are directed exclusively against entities within the Roman Catholic Church with recognized legal personhood here in Puerto Rico, (2) for actions alleged to have been committed by them on the Island, and (3) the remedies requested are also limited to those entities. There is no claim in this case directly, or even indirectly, directed toward the Holy See or the State of Vatican City, which is the entity which the United

¹⁵ After the appeal had been filed before this Court, the Federal Court ordered the remand of the case to the CFI.

pep

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

States of America and international law recognize as a sovereign entity.

Nor have proceedings, or even allegations, been initiated to bring this sovereign State to the present lawsuit, which requires formalization through the exceptional processes provided in the aforementioned federal statute, so that a court in the United States may assume Jurisdiction over said foreign State. Therefore, the aforementioned error was not committed either.

Given these threshold issues, it is necessary to begin by examining the nature and legal personhood of the Roman Catholic and Apostolic Church in Puerto Rico, which the CFI ordered to continue the issuance of payments to the plaintiffs, in accordance with the Pension Plan, within the context of the preliminary injunction decreed by the Supreme Court of Puerto Rico. This, after ruling that it was the only defendant entity with legal personhood to answer for the claim urged by the respondents. For its part, the position of the codefendants is that there is no legal entity in Puerto Rico such as this - the Roman Catholic and Apostolic Church in Puerto Rico - which has legal personhood.

The appearances of the co-defendants persuade us that, although there exists in Puerto Rico, and in other parts of the world, the Roman Catholic and Apostolic religion, said religion operates on the Island through various entities for whom canonical law recognizes their own legal personhood, namely: dioceses, parishes, and religious orders, among others. Such a conclusion is especially clear if we observe that, given the hierarchical equality among the bishops, and the autonomous or separate nature of their dioceses, including among them, the Archdiocese of San Juan, there is no structure on the Island that comprises under any single authority all the dioceses and to which their bishops are subordinated. Each diocese is the official representative of the Catholic faith within its particular territorial demarcation and is absolutely autonomous. It is

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

30

subordinated exclusively to the Universal Church, whose Representative Authority is held by the Bishop of Rome (the Pope). Sections 368 and 369 of the Code of Canon Law (CCL) expressly provide that:

Particular churches, in which, and from which the Catholic Church exists, one and only, are mainly the dioceses [...].

The diocese is a portion of the people of God, whose pastoral care is entrusted to the Bishop with the cooperation of the presbyter so that, united to its pastor and gathered by him in the Holy Spirit through the Gospel and the Eucharist, it constitutes a particular Church, in which the Church of Christ, holy, catholic and apostolic, is truly present and active. (Emphasis ours.)

Subsequently, the canonical ordinance provides that "[t]he diocesan Bishop represents the diocese in all its legal business". Sec. 393 of the CCL.

The parishes hold equal representation of the Church, also limited to their territorial circumscription, under the direct authority of the Parish Priest and in communion with the Bishop of the diocese to which it is assigned. See, Secs. 515 (1) (3) and 532 of the CCL.

It should also be clear that the Archdiocese has no more, no less authority, nor representative capacity of the Catholic religion, than the other dioceses within the territorial demarcation that has been assigned by the Holy See. Likewise, the scope of authority of the Archbishop is exactly the same as the other Bishops in their respective regions. As we have stated, each diocese, including the Archdiocese, is absolutely autonomous from one another. The Archbishop in particular, does not exercise any function of authority or supervision over the other dioceses or bishops. Such is precisely the consequence and nature of an apostolic church, according to canon law. The Archbishop is called in this way, because he is the Bishop of an Archdiocese, which, within the organizational and canonical structure, usually constitutes a diocese of great size and population. See Canons 369, 634, 515 of the CCL.



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.


As can be seen, the canonical order recognizes the representative capacity of the Catholic faith on the Island for the dioceses and parishes, within their respective territorial limits, as a particular Church. Outside of these entities, especially the parish and the dioceses, including the Archdiocese, the hierarchical structure of the Catholic religion has no other authority with the capacity to represent the entire Catholic Church in Puerto Rico, other than the Bishop of Rome, as the universal head of the Roman Catholic and Apostolic Church.¹⁶

Such is the hierarchal structure of said religion, pursuant to its dogmas of faith and the canonical law that governs it. Any action of the State, by way of any of its components, aimed at intervening or seeking to alter the way in which internally it or any other religion operates or is organized, infringes upon the clause of separation of Church and State of the Constitutions of the United States and Puerto Rico, as already transcribed.

The Decision issued by the CFI, and moreover, its Order for Seizure, to the extent in which it is aimed against a legally nonexistent entity in light of the internal organization of the Church contravenes the aforesaid constitutional clause, wherefore it lacks validity and effectiveness, among other grounds that shall be set forth later on.

Hence, as co-defendants correctly hold, the certification of the Department of State that recognizes the legal personhood of the Roman Catholic and Apostolic Church in Puerto Rico, to the extent that recognizes such a non-existent entity, according to the order and structure of this religion, is inofficious. This, above all, when it does not rest in the registers under its jurisdiction and control, since the juridical personality of the entities of the Church does not emanate from the registry of corporations,

¹⁶ It is important to note that the Puerto Rican Episcopal Conference is an entity that brings together the bishops of Puerto Rico in assembly, whose president is elected from among its own members. Canon 447 of the CCL, part II. This organization has no direct interference in the particular administration of each diocese, nor does it hold any official representation of the Catholic Church in Puerto Rico. See Canon 455 sec. 4 of the CCL, part II. As we pointed out according to canon law, such representation rests exclusively in the dioceses and parishes within their respective territorial space and in accordance with the hierarchical structure of the Church.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

but rather from the Treaty of Paris. Ultimately, this is a mere opinion or interpretation of that provided in the Treaty.

The foregoing having been established, and the subject having been addressed within the context of the controversy under consideration, it behooves us first of all to identify the entity or entities of the Catholic religion in Puerto Rico which hold legal personality, and from there, which of the codefendants enjoy that quality. To this end, it is essential that we refer to the Treaty of Paris of 1898 and to the Federal Supreme Court case, *Municipality of Ponce v. Catholic Church in Puerto Rico*, 210 US 296 (1908). We begin by transcribing the conclusions of law from the Court of First Instance in terms of the grounds of their decision regarding the matter of legal personality of ecclesiastical entities within the Catholic Church. These were correctly stated in its Decision from March 16, 2018, though the decision may have been incorrect. Regarding that issue, the appealed court stated:

[...] Art. 30 of Civil Code stipulates that the civil capacity of corporations, companies and associations shall be regulated by the laws that created or recognized them. 31 LPRA Sec. 103. Lastly, it stipulates that:


Legal persons may acquire and possess all manner of property, **and may contract obligations and exercise civil or criminal actions**, pursuant to the rules and regulations of their constitution.

.....

At the same time, we understand that the legal condition of the Catholic Church in Puerto Rico does not depend on an act by the Legislature of Puerto Rico, since the Church has its own legal personhood, **which is the same that it had and enjoyed during the Spanish regime and which it continued to enjoy when Puerto Rico became a territory of the United States after the Spanish-American war.**

The maintenance and possession of said legal personhood were recognized by the Treaty of Paris of December 10, 1898, in article 8, paragraph 2, which stipulated the following:

It is therefore declared that this relinquishment or cession, as the case may be, to which the previous paragraph refers, may in no way diminish the property, or the rights, that according to the law, correspond the peaceful holder of all manner of property of the provinces, municipalities, public or private establishments, ecclesiastical or civil corporations, or of any other communities whatsoever, that have legal personhood to acquire and possess property in the aforementioned relinquished or ceded territories, and those of specific individuals, whatever their nationality.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Based on this provision of the Treaty of Paris, the United States Supreme Court recognized the legal personhood of the Catholic Church in *Municipality of Ponce v. Catholic Church in Porto Rico*, 210 US 296 [311] (1908). The Court expressed the following:

This clause is manifestly intended to guard the property of the Church against interference with, or spoliation by, the new master, either directly or through his local governmental agents. There can be no question that the ecclesiastical body referred to, so far as Porto Rico was concerned, could only be the Roman Catholic Church in that island, for no other ecclesiastical body there existed.

Later on, the Court adopted the following conclusion:

The Roman Catholic Church has been recognized as possessing legal personality by the Treaty of Paris, and its property rights solemnly safeguarded. In so doing the treaty merely followed the recognized rule of international law which would have protected the property of the church in Porto Rico subsequent to the cession. **This juristic personality and the church's ownership of property had been recognized in the most formal way by the concordats between Spain and the papacy, and by the Spanish laws from the beginning of settlements in the Indies. Such recognition has also been accorded the church by all systems of European law from the fourth century of the Christian era.**

The concordat referenced in the opinion is the Concordat of March 16, 1851, between Pope Pius IX and Queen Isabel II, which in article 41 confirms that in addition to the Church's constituting a public entity, that is, under the government and representation of the Supreme Pontiff and that of the Archbishops, Bishops and Prelates of its institution, it also held independently in all of the Spanish domains, a civil personality recognized and guaranteed by the State itself, to acquire, through any legitimate title and to at all times, all manner of temporal goods. **It should be noted that the Spanish Civil Code that governed in the islands until the last day of Spain's sovereignty, converted the Concordats between the Church and the Spanish Crown, into civil Law, for**



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

34

purposes of acquiring and possessing all manner of property, contracting obligations and exercising civil and criminal actions. (Emphasis ours) See, Appendix to the Petition for Writ of Certiorari, P. 143 – 145. (Court of First Instance Decision from March 16, 2018).

From the conclusions above, essentially correct under law, as we stated, it is inferred that, by virtue of the Treaty of Paris, the legal personhood of the Catholic Church or its components in Puerto Rico is recognized with the same scope, conditions, and content as it was recognized by the Spanish State. Hence we must examine the legal treatment of the Church in Spain with regard to this matter, in order to determine which would be the rule that should be applied to this matter on the island by virtue of the Treaty of Paris. On this matter the Court of First Instance also correctly concluded that ~~the~~ Spanish Civil Code that governed in the island until the last day of Spain's sovereignty, converted the concordance between the Church and the Spanish Crown, into civil Law, for effects of acquiring and possessing all manner of property, contracting obligations and exercising civil and criminal actions. (Note omitted). *Id.*, P. 145. Specifically, in the note in question the Court of First Instance added that, ~~in~~ particular, it may create, modify or suppress dioceses, parishes and other territorial circumscriptions, **that shall enjoy civil legal personality to the extent they have canonical personality and that the competent State organisms are notified of this.**" (Emphasis ours). *Id.*, Footnote 1.

Hence, under the Concordat of 1851, the legal personality of the Church in Spanish civil law as provided under Canonical Civil Law was in turn recognized. See, Art. 1 of the Concordat. In other words, the entities of the Catholic Church thus acknowledged under canonical law enjoyed legal personality under the Spanish legal system. See, Art. 2 and 4 of the Concordat. As the Court of First Instance correctly stated, such is the situation with respect to the parishes, the dioceses and the religious orders, among other entities or organizations whose legal personhood was and is recognized by Canonical Code.



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Note that, with respect to the parishes, it is thus expressly provided under sec. 515 (3) of the CCL when it is established that, ~~the~~ legitimately erected parish holds legal personhood by virtue of the law itself." Likewise, section 532 establishes that ~~the~~ parish priest represents the parish in all legal transactions, pursuant to legal norms [...]." For its part, section 800 of the same Code authorizes the particular church to ~~establish~~ and direct schools of any subject matter, gender and grade."

Canon law recognizes the same personality for dioceses, by virtue of Canons 372 and 373.

These provide that:

372 – Section 1. As a rule, the portion of the people of God which constitutes a diocese or other particular Church is limited to a definite territory, so that it includes the faithful living in the territory.

–. Section 2. Nevertheless, where the judgment of the supreme authority of the Church it seems advantageous after the conferences of bishops concerned have been heard particular churches distinguished by the rite of the faithful or some other similar reason can be erected in the same territory..


373 –. It is only for the supreme authority to erect particular churches; those legitimately erected possess **juridic personality** by the law itself. (Emphasis ours).

The same thing can be said of religious orders, and other organizations, in accordance with section 634 (1) of the CCL, which indicates that:

As juridic persons by the law itself, institutes, provinces, and houses are capable of acquiring, possessing, administering, and alienating temporal goods unless this capacity is excluded or restricted in the constitutions.¹⁷

Such is the rule of law which binds us in Puerto Rico regarding this matter, and therefore, the legal treatment that we must apply and recognize for the entities of the Catholic Church with respect to their legal personhood under the Treaty of Paris and the Spanish law in effect at that time. As can be observed, as opposed to that argued by the respondent, this is not about

¹⁷ See also, section 114 (1) (2) of the CCL regarding religious and foundational corporations.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

canonical law being granted direct application in Puerto Rico in our civil law system with respect to this subject matter, which would be forbidden by the clause regarding separation of Church and State. The recognition and validity of these rules of canonical law operate by virtue of their effectiveness in Spanish law through the Concordat of 1851. From that arises their application to Puerto Rico through the Treaty of Paris. From that time on, as the Federal Supreme Court interpreted in *Municipality of Ponce*, supra,

Since April 11, 1899, Porto Rico has been a de facto and de jure American territory. The history of Porto Rico and its legal and political institutions up to the time of its annexation to the United States are matters which must be recognized by this court as the ancient laws and institutions of many of our states when matters come before it from several jurisdictions.

The court will take judicial notice of the Spanish law as far as it affects our insular possessions. It is pro tanto no longer foreign law. (Emphasis ours).

To the above, it adds:

In so doing the treaty merely followed the recognized rule of international law which would have protected the property of the church in Porto Rico subsequent to the cession. This juristic personality and the church's ownership of property had been recognized in the most formal way by the concordats between Spain and the papacy, and by the Spanish laws from the beginning of settlements in the Indies. Such recognition has also been accorded the church by all systems of European law from the fourth century of the Christian era.

While the Federal Supreme Court's statement in the aforementioned case *Municipality of Ponce*, supra may generate ambiguity as to the concept of legal personality with respect to the "Roman Catholic and Apostolic Church," that does not affect the legal personality of the diverse entities within the Church, identified above. Keep in mind that at that time there was only a single diocese in Puerto Rico (the Diocese of Puerto Rico), so in practice, there existed between the Catholic Church and the diocese a single identity or conceptualization. For all practical purposes it was the same thing. Hence the case was brought against the "Catholic Church in Puerto Rico" and it was thus heard by the Supreme Court. There was no dispute whatsoever between the interchangeable nature of these denominations. It was a matter of the common or popular name, the Diocese of Puerto

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Rico, as legitimate representative of the Catholic religion on the Island. Today, as we know, the situation has changed, since there are six (6) dioceses, including the archdiocese of San Juan. Nonetheless, each of them, as we explained, has its own legal personality separate from the others.

What is truly important in this decision is that it clarifies the manner and grounds under which the Church and its components must be recognized as entities with their own legal personhood through the Treaty of Paris and not by means of Puerto Rican legislative action. Ultimately, consistent with its multiple decisions regarding separation of Church and State, it was not up to the Federal Supreme Court, as a State body, to define, much less intervene, in the Church's internal structure, nor in its functioning or organization. That was and is an attribute of that religion, in accordance with the First Amendment, as regulated by Canonical Law. This is also the case with respect to the issue of legal personality conferred by that same legal body to the diverse entities or organizations within the Church.

With respect to the case under consideration, it falls to us to now resolve which of these entities with legal personality would be required to assume the obligation to respond to the remedy decreed by the Court of First Instance. This, within the context of what the Court of First Instance was tasked with in this regard by the Supreme Court.

Obviously, we should begin by determining what would be the source of the obligation for these entities (schools, parishes and Archbishopsrics) in terms of the claim in question. Firstly, this subsidiarity should be judged in light of the contractual obligations contracted under the Pension Plan and the Trust in charge of its execution and administration.

Upon exercising our revisory role, we start with the premise that, for whatever reasons, the Plan, as conceived by the Office of the Superintendent of Catholic Schools of the



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

38

Archdiocese of San Juan and the participating schools, ceased to exist. The fund created and provided for that purpose, except for an apparently small sum pending liquidation, does not exist either. So then we must ask, how should that obligation be transferred to the participating employers when presumably the scheme under which the Plan was agreed upon is inoperable and in practice nonexistent, especially the scheme designed to fund it and to make its payments?

We likewise cannot lose perspective of the fact that some of the participating schools, as the parties state, no longer exist and others claim to be facing financial hardships that allegedly prevent them from contributing as agreed to the fund. Apparently, plaintiffs' claim for such an obligation to be transferred to other entities outside of the Trust is in based on all of the above.

As we indicated, it is necessary to identify the source of obligations for those entities in order to assume or transfer that obligation to them, before asking ourselves if it is legally possible to uphold the plaintiffs' claim. It is well known that obligations arise from, among others, the Law¹⁸ and contracts. Art. 1042, 31 LPRA section 2992. In the absence of a statute which requires the provision of a pension plan, like this one, it is necessary to examine the obligation to continue the payment of pensions by the participating employers based on contractual law. The Pension Plan of the Catholic Schools of the Archdiocese of San Juan came into being through the specific terms and conditions set forth in the documents of incorporation of that Plan and the Trust established by way of agreement among the participating employers. As agreed, the Plan would be effective, executed, and administered by the Trust, which was duly constituted and regulated by way of the corresponding public deed, which further provided for its functioning and administration.

¹⁸ The Plan is not covered by ERISA. See, Appendix 2 Petition for Writ of Certiorari, P. 13. (Supreme Court Judgment of July 18, 2017).



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Note that, according to the Pension Plan, the schools individually and the Office of the Superintendent of Catholic Schools, as participating employers, agreed to contribute a fixed percentage of their payroll to a common fund in the aforesaid Trust in order to finance said Plan, in conjunction with the capital generated through their investment under the control of said entity. Hence, the appropriate pension benefit would be determined and structured for each teacher under the Plan. It is easy to observe that neither the schools individually, nor the Superintendence under the Archbishopric, contractually committed to granting or issuing a pension directly to **their** employees through a pension plan created by them. As indicated, they instead agreed to join the Pension Plan in question and to contribute to the common Trust fund jointly with a group of other schools, into which they would enter voluntarily, through that concept.

The exclusive contractual agreement of a School or the Archdiocese for the direct payment of a pension to its employees is neither legal, nor conceptually the same thing, as the obligation to join a pension plan together with a group of participants and to contribute a certain amount to the common fund to then grant this benefit, through a Trust. This, of course financed, moreover, with the proceeds and capital generated through the investments of that large fund constituted through the established Trust. From the legal–obligational point of view, and above all from the economic or financial perspective, there is a substantial difference between one and the other.

It is thus legally inadmissible to transfer directly to the colleges and to the Archdiocese individually the obligation to pay a pension that their employees were receiving, which was fixed based on actuarial criteria previously determined by the Trust. Beyond the collective obligation assumed, as deduced from the Plan, the Colleges and the Archdiocese did not contract an additional financial obligation with their employees. In such circumstances, standards of basic rules of contractual law require



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

these Schools to pay a pension directly to their employees and teachers, based on the remedial and temporary criterion of the issued preliminary injunction. Requiring them to do so could imply the emergence or acknowledgment of a source of obligation that is different from the one established and agreed upon. That is, an obligation that is different from the one established by the Trust and a radical change with regards to the object, cause, and consent of the previously assumed obligation. In other words, we cannot impose additional obligations on the codefendants other than the ones they had initially undertaken, since it is not appropriate under the law. Furthermore, such a scheme would be tantamount to giving way to a new pension plan through a legal process.

With respect to the Archdiocese of San Juan, particularly, the records of the case show that they are only one of many employers who participate in the Pension Plan, as far as their own employees are concerned, so it undertook no representative obligation towards the schools, or its employees and teachers. Aside from their role as participant and obligor with regards to their employees exclusively, the Archdiocese rather acted as a sponsor and settlor of the Plan, as shown by the Trust Deed. On the other hand, given the distinctive and separate legal personhood of these schools or of the parish church they belong to, and in the absence of substantiated claims regarding the doctrine of lifting the corporate veil, it is not appropriate for the employees of these schools to go directly to the Archdiocese to claim this benefit, in violation of the individual and separate personality of their respective employers.

It should be noted that, regarding Academia del Perpetuo Socorro, in addition to it being a parochial school attached to the Perpetuo Socorro Parish, therefore being covered by the legal personality of this Parish, it was registered with the Department of State as a nonprofit corporation. Although their certification was cancelled in 2014, it was renewed in 2017. As certified by the Department of State in the records of the case, once their renewal was approved,



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

41

the school recovered its legal personhood retroactively to the time of its original registration. Furthermore, this School was sued within the 3-year period after the cancellation of the Certificate; therefore, pursuant to Art. 9.08 of the Corporations Act, 14 LPRA Sec. 3708, it extends until the end of the dispute. Also, during the time that it operated as a participating employer, its certificate was still in force. Again, in terms of its corporate nature, neither the second amended complaint, which addressed the process for injunction hearing, nor the fourth amended complaint, which governed the procedures for the hearing ordered by the Supreme Court, show that any claims were made regarding the doctrine of lifting the corporate veil with regards to this or the other Schools. It was merely stated that these were entities attached to the Roman Catholic Church.

Meanwhile, as for Academia San José, it is also covered by the legal personhood of the San José Parish, as a parochial school attached to said Parish. Academia San Ignacio faces a similar situation, although with an important variant. In addition to its condition as a parochial school of the San Ignacio Parish, this School is attached to Orden de la Compañía de Jesús en Puerto Rico, Inc. (Jesuit Order). It is so stated by the Certification by Reverend Lawrence P. Searles, School Director, which is included in the case files. This religious order, with headquarters in Rome, also has legal personality in Puerto Rico by virtue of the Treaty of Paris, as acknowledged by canon law, and apparently also through the Corporations Act, as a nonprofit corporation.

Thus far, the considerations and controversies that we have examined and faced in response to the claim of the defendants and in compliance with the opinion of the Supreme Court, rise from an analysis essentially based on rules of contractual law. However, the present case also confronts us directly with the constitutional clause of separation of Church and State, to which



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

we have referred marginally in other contexts. We cannot detach from the fact that, in the end, this involves a claim against a religion through its different components, beyond the Trust. This necessarily causes that actions, measures, and considerations that may be addressed or applied to other types of disputants may not be available when dealing with churches, because it was so provided by the fathers of the Constitution of the United States and the Constitution of Puerto Rico. The adoption of this clause was aimed at safeguarding the essential social, moral, and spiritual value acknowledge by the People and its leaders to these institutions. It is a clause that was envisioned by the founding fathers of the United States not to protect the State, but, on the contrary, to protect the Church and religious worship from the State's intervention, which they perceived as harmful, based on the experiences lived by their ancestors. *Agostini Pascual v. Catholic Church*, 109 DPR 172 (1979). For a broader view of this subject, see part II-A of our Judgment.

This imposes upon us, as a Court, the obligation to be particularly careful when adjudicating disputes such as this one, and more importantly, when designing the remedies to be granted, in order not to impermissibly invade the sphere of protection provided by this clause, even in the procedural context in which we find ourselves right now by order of the Supreme Court. We already highlighted the practical and legal problem we would face if the intention were to adopt a new scheme to pay the pensions claimed through other entities outside the established Trust. Added to this is the risk of excessively interfering (entanglement) in issues that are specific to the church's government, in the administration of their property, and particularly, in the administration and disposal of their financial resources, which are presumed to be intended for the sustenance of their religious ministry and the promotion of worship, and the spreading of their doctrine.



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Our legal system legitimates a certain level of judicial intervention in church affairs, based on a compelling interest of the State in issues such as the one discussed in this case, which affect mostly secular aspects, such as that of the labor management relations. *Díaz v. Colegio Nuestra Sra. Del Pilar*, 123 DPR 765 (1989). However, given its real or potentially substantial impact on the finances of these institutions, in their internal organization, and above all, due to their operational complexity, the dispute under our consideration could go beyond what is constitutionally allowed. This, particularly, when, contrary to the opinion of plaintiffs and the Court of First Instance that said obligation applied to all the dioceses, parishes, and organizations of the Church throughout the Island, which could make that claim more plausible, that is not the situation. The burden in this case would rather fall on the codefendant schools and the Archdiocese of San Juan, as employers participating in the Plan.

As it can be seen, this is not an easy labor case, or a simple claim for damages in which payment of a compensation for fault or negligence is simply ordered. The imposition of an obligation such as the one before us, at a multimillion-dollar scale, whether on some parishes or on the Archdiocese, proposes the establishment of a scheme for the monthly payment of a pension to dozens of teachers, former teachers, and other employees, for years or maybe for decades. This would certainly have a substantial impact on the finances of these religious entities, with the real potential to disrupt and alter their policies, priorities, and activities in important aspects of their proselytizing, ministerial, and organizational work. This, of course, may substantially impinge on the aforementioned clause.

Hence, within the context of the separation of Church and State clause, the imposition of an obligation such as this one would require the court to carefully determine which of the assets of the Archdiocese and the affected parishes can be used to finance this kind of fund, and which



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

cannot. In light of this obligation, the main question here is how to draw a clear and accurate line between which of the Church's funds and resources, particularly those of these parishes and of the Archdiocese of San Juan, may be earmarked for said purposes due to their secular nature, and which are of religious significance, in other words, intended for the administration and sustenance of their ministerial activity and the promotion of their doctrine.

Obviously, that scenario becomes more complicated as we move to the execution phase of an order or decision, as the one appealed herein, to maintain the *status quo* between the parties until the trial is held,¹⁹ which, considering what has happened in this case with regard to the Order for Seizure of the Church's assets, is particularly relevant. Faced with this scenario, especially in the event that the Archdiocese, the parishes, or the schools, as the case may be, are unable to comply with the court's order, it would be inevitable to take legal action to ensure payment of these obligations. As stated before, this would really or potentially bring the Judicial Branch face to face with the separation of Church and State clause, and even more directly in this phase to enforce the order.

To achieve this, it would be necessary to determine, with the highest accuracy, which of these entities' assets may be seized, in order to avoid an impermissible interference with the aforementioned constitutional clause. In this sense, it is imperative to conclude that, for example, that the following property should not be subject to seizure: temples and their contents (benches, images, religious art, sacristies); other properties used for their evangelizing or proselytizing work or for their parishes' activities or apostolic movements, such as retreat houses, parish halls, convents, monasteries, or pilgrimage centers, among other similar properties; parish and Archdiocese vehicles used for the transportation of

¹⁹ See, Appendix to Petition for Writ of Certiorari, pg. 8 (Judgment of Supreme Court from July 18, 2017).



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

priests and the Archbishopric's staff members in performing their ministerial work; money collected during Mass and donations made to the Church for the sustenance of its temples, the Archdiocese, and other Church operations associated to religious work; the parishes' or the Archdiocese's individual bank accounts for the same purposes stated above or to finance the different projects and activities related to their religious ministry or cult, among others. As case law has shown, the secular, not the religious, purpose of these assets must be predominant to legitimate the court intervention, without breaching the limits of this clause.

Lastly, in order to avoid an impermissible interference of the Courts with the constitutional sphere of protection to the churches, granted by the Constitutions of the United States and Puerto Rico, we must exercise our judicial power with extreme caution, in order not to put the Judicial Branch in a position in which it lacks the legal tools, the legal criteria, and the means to enforce its authority.

In light of the above bases and analysis, it must be concluded that a Seizure Order, like the one requested and granted in this case, could be clearly in conflict with this clause, mainly due to its scope, which would allow for it to be executed on assets such as the ones listed above. Likewise, under the previously outlined contract law rules, it must be concluded that neither the codefendant parochial schools herein, nor the Archdiocese of San Juan, can be held liable for incurring the obligation to pay the pensions as they have been claimed by the plaintiffs. The fact that it is an interim remedial measure does not justify its imposition on parties that, at this stage in the proceedings, legally do not have, nor can they be attributed, said obligation. It should be noted that, in accordance with the above-cited Rule of Civil Procedure, *supra*, and its interpretative jurisprudence,



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

one of the main criteria or basis to impose this interim measure on a party is the possibility that the moving party may prevail in their claim against the opposing party.

As far as this issue is concerned, the Supreme Court provided in its revoking opinion that the remedy sought is appropriate as a matter of law, even if it is a monetary claim to which a financial remedy could be applied, given the existence of irreparable harm on the part of the plaintiffs. In light of the court ruling, it was, therefore, appropriate to identify who should be liable for said damages, based on the aforementioned criteria of Rule 57.3 of Civil Procedure, supra. Hence, the Supreme Court instructed the CFI to determine what other party, besides the Trust, could be liable for the payment of these accrued pension obligations, as agreed by the parties. This cannot be separated from the criterion of likelihood of prevailing, and even more importantly, from the existence of a source of obligation that will validate said measure. This is necessary as an essential complement to finally impose this obligation by direct operation of Rule 57.3 of Civil Procedure, supra, and the applicable law, especially given the hardship caused by this obligation, in light of the accrued amounts, as determined by the CFI, as well as of those to be paid in the future. We cannot lose sight of the fact that it is for the Courts to proceed and to act within the limits of the rule of law.

We reaffirm that the obligation of the participating employers on this matter was designed and implemented under the protection, scope, and limitations of the legal concept of the Trust. Consequently, and as we have already stated, what they agreed to therein was to make contributions to the Trust fund in order to contribute to a pension through the Trust, according to the terms provided in the documents which are the basis of the Pension Plan and the Trust.



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

As for the Trust, we must refer to the ownership unbundling principle of this figure.²⁰ I has been recognized that the essential elements for the constitution of a Trust are a separate estate and the destination or allocation given to said estate.²¹ According to professor Ana C. Gómez-Pérez, the estate may be defined as an organized set of assets, rights, and liabilities subject to an economic valuation, and which form a unit for their management, treatment, and liability. Although prevailing theories claim that the estate constitutes a financial protection of personality, since each estate corresponds to an individual, this has been rebutted. A dominant group of theoreticians rather acknowledge the existence of separate estates. That is, estates which are segregated from the settlor's general or personal estate and whose creation responds to a given time and to specific interests, as can be the creation of pension or investment funds for the benefit of a third party called the "beneficiary." According to the author, these separate estates are presented as a unit that is independent from any other set [of assets], which has a differentiated liability regime with regard to the settlor's personal estate, and which is completely disconnected from the settlor's obligations.²² Patrimonies by appropriation are the prevailing modality within this type of separate estates.

According to Gómez-Pérez, patrimonies by appropriation are those whose unit or organization is conferred by their allocation to a specific purpose, and not to the personality. The term "appropriation" refers to the destination or purpose for which said estate is separated and comes from the acknowledgment of a legal interest protected by law. This lends it unity and attributes certain legal consequences to it, such as the fact that the estate acts

²⁰ We clarify that we are not adjudicating any rights with regard to the Trust as defendant, since at the time when the evidentiary hearing was held, the process was at a standstill in terms of the hearing due to the Trust being under a bankruptcy proceeding. We merely state the rules that apply to this figure.

²¹ Rodolfo Batiza, *El Fideicomiso: teoría y práctica*, Editorial Porrúa, S.A., Mexico, 1980, 86-89.

²² Ana C. Gómez-Pérez, *Una revisión de las principales doctrinas civilistas que impiden la incorporación del "trust" en España* ["A Review of the Principal Civil-law Doctrines that Prevent the Incorporation of the 'Trust' in Spain"], *Revista Crítica de Derecho Inmobiliario (Spain)*, Year No. 89, Issue 740, 2013, pp. 3766-3768



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

independently from the general estate of the person, possesses its own legal life, and a differentiated liability regime, that solely attends to its concrete obligations. Among the most characteristic features of this type of patrimony by appropriation, the author mentions the following:

- (1) the requirement for a delimitation of the assets and rights that form part of the separate estate;
- (2) a separation with regard to any other estate (which at times entails several sets of assets that are independent of one another being found in one same holder);
- (3) their allocation to a purpose that serves to provide unity to the estate (such purpose may be granted by virtue of a law or an agreement);
- (4) is governed by particular measures of administration and conservation.

For Gómez-Pérez, trusts are included among the variations of the patrimony by appropriation. Regarding such, she states to us that the trust is characterized by being a financial entity that is independent of its constituent, allocated to a purpose and without their own legal personhood, at least under the primary statutes. Under common law, the separation of assets that constitutes it entails that, although there is an initial disposer of the estate (*settlor*), an administrator and holder of the rights (*trustee*), and a third party that is enriched by the estate (*beneficiary*), no channels of communication exist among the estates of the subjects involved. In sum, according to this author, this separation of assets of the trust under common law is obtained with the division of the property between two subjects, the trustee and the beneficiary, and the estate remains outside of the personal obligations of both.²³ With regard to

²³ Ana C. Gómez Pérez, *Una revisión de las principales doctrinas civilistas que impiden la incorporación del "trust" en España* ["A Review of the Principle Civil-law Doctrines that Prevent the Incorporation of the Trust in Spain"], *Revista Crítica de Derecho Inmobiliario* (Spain), Year no. 89, Issue 740, 2013, p. 3770.

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

the appropriation of the assets of the trust, the legal scholar Batiza explains that it must be in agreement with the limits of the current laws and public order. If the appropriation is not specific, if it becomes impossible or illicit, or if it is performed, the trust simply disappears.²⁴ See also, Art. 852 (2)(3) of the Civil Code, now repealed, and Art. 61 (d) of Law No. 219-2012.

From its earliest formulations, the Anglo-Saxon trust has followed these notions with regard to the separation of assets present in the trust and its appropriation. According to the author Ricardo Alvaro, who has made a synthesis of the Anglo-Saxon doctrine, such is evident upon defining the trust as a fiduciary relationship with regard to the assets or rights that the settlor transmits or creates in favor of the trustee so that he, keeping them in his name, but separated from his own estate, governs them and allocates them to the benefit of the beneficiary, or to a philanthropic, useful, or general-interest purpose. Again, these assets or rights form a specialized estate that must be kept separate from the estates of each one of the persons that intervene in the trust, particularly that of the trustee. With regard to this last point, this author clarifies that included among the obligations of the trust [sic] is his duty to keep the trust estate separate from his own assets and, to the extent possible, from any other assets that are not subject to the same. The Anglo-Saxon doctrine of the trust also warns that the existence of this figure is not possible without an estate appropriated to its purposes.²⁵

It must be pointed out that as Alfaro states, among the different uses of the trust, are the trusts in favor of employees and workers. These are trusts created by a company or employers in benefit of their employees. It entails the advantage of distribution of activities; the investment and management is under

²⁴ Rodolfo Batiza, *El Fideicomiso: teoría y práctica*. [“The Trust: Theory and Practice”], Editorial Porrúa, S.A., Mexico, 1980, 86-89).

²⁵ Ricardo J. Alfaro; Ruford G. Patton, *El Fideicomiso Moderno* [“The Modern Trust”], 28 Rev. Jur. UPR 149, 170 (1958).



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

50

the charge of a trustee, and the distribution of the yields for the established purposes may even be left in the hands of a committee of employees and workers.²⁶

In accordance with the foregoing, the legal scholar Lugo Irizarry points out that the trust estate is an autonomous one, given that it does not belong to any of the persons that participate in the trust. It is by way of such that the obligations contracted by the trustee in the performance of his duty could only be effective over the trust estate and not over the trustee, settlor, or beneficiary.²⁷ Along this same line, Fratcher states that the consideration of the fact that the trust is a separate estate clarifies several issues. This author states that the rights of the beneficiary are personal rights against the trustee, enforceable only against the special estate of the trust. Moreover, generally, the personal creditors of the trustee cannot demand their credit amounts from the special estate of the trust.²⁸

From this conception of the trust, it is deduced that one of its most characteristic features is the existence of a separate estate—independent and allocated to a particular purpose. Said estate, which comes from assets belonging to the settlor, once appropriated or allocated to the purpose of the trust, they are separated from the estates of the persons who intervene in it. In this sense, it is clearly understood that the appropriation of those assets disassociates them, not only from the personal estate of the trustee, but also from the settlor's estate. To such effects, and under the protection of the prevailing rule upon the effectiveness of Law 219-2012, it is the trustee who, in fulfillment of his duties as administrator, must perform the tasks assigned by the settlor in the deed of constitution of the trust. That said, the trustee must fulfill the benefits to the beneficiaries with the estate of the trust itself.

²⁶ *Id.*

²⁷ Carmen Lugo Irizarry, *El fideicomiso en Puerto Rico: un híbrido jurídico ante el futuro* ["The Trust in Puerto Rico: A Legal Hybrid for the Future"], p. 153 (1996).

²⁸ Fratcher, *Trust International Encyclopedia of Comparative Law*, Ch. 11, (1974). In Reporter's Notes on Sec 2, General Note on the sec 2 Definition and on the Nature of Trusts.

pep

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

To conclude otherwise, such as providing that said benefits must be performed with the personal estate of the settlor or the trustee, entails a crass contradiction to the previously explained doctrine, regarding the separation, independence, and allocation of the trust estate. It should be noted that the recent legislation regarding this figure has moved along that same line, such as Law 219-2012 and Law 9-2017, which emphasize the autonomous and inclusive estate in the acknowledgement of the trust as being of its own legal personhood.

In this case, by seeking to impose liability on the Roman Catholic and Apostolic Church, after binding the participating employers directly in such obligation, only the obligation contracted through the Pension Plan was taken into account, as if it was an agreement independent from the Trust. Hence, the claim that it is the Church who should continue making the pension payments.

Such, however, is not the situation, given that the Pension Plan in question was conceived and executed through the figure of the trust. This Plan, dated September 1, 1979, provides among other matters, the following:

That the pension plan is established for the benefit of the employees of the participating employers and/or their beneficiaries (family members).

The funds of the pension plan would go to the trust and the same would be contributed by the participating employers, who would pay a contribution for each employee to the trustee according to the agreed percentages.

The participating employers guarantee and declare that, for the operation and management of the plan, they have authorized and agreed to contribute the necessary funds by way of the trustees and that said funds form part of the property of the trust, which shall be maintained and managed by the trustee for the benefit of the employees and their beneficiaries; this under the terms of the Plan they are going to contribute the necessary funds through the trustee.

The Sponsor (settlor: Office of the Superintendent of Catholic Schools of the Archdiocese of San Juan) would delegate the management of the Plan in a Committee, said Committee would give orders regarding such to the trustee.



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

For its part, the Deed of Trust executed on November 26, 1999, among other matters, reveals the following with regard to the funds that will constitute the Trust:

The trust shall have the funds that from time to time are deposited with the trustee by the Plan Sponsor and its employee pursuant to the terms of the *Pension Plan of the Catholic Schools of the Archdiocese of San Juan*.

Said funds, and interest on such, income originating from them, and the property for which they are exchanged, shall all be the property of the trust.

As already pointed out, it arises from these documents that the Pension Plan was instituted as an agreement among the parties, individual employers that decided to form part of the Plan, in which it was provided that its operation would be performed by way of a trust. In the Pension Plan, in particular, it was clearly agreed that the participating employers were obligated to make contributions for each one of their employees to the trust fund, by way of trustees. So that, according to the Deed of Trust, the task of paying the pensions fell on the trustees of the trust.

It should be noted that, in its Judgment, the Supreme Court, upon examining the aforesaid constitutive documents of the Plan in their most literal sense, acknowledged for the purposes of the injunction, its contractual nature and validity. According to that stated in them, it is clear that what the participating employers pledged to was **to make contributions of 2%, 4%, or 6% of the payroll for each employee to the trust fund**, from which the pensions would be paid. **The text of said Plan does not state that the employers pledged to pay the pensions directly to the teachers, that is, independently from the management of the trust.** In the end, as appears in the text of the pension Plan, each participating employer would be liable only for the contributions that it pledged to contribute to the trust.

Hence, beyond the funds of the trust, it was not possible to commit or obligate the participating employers to assume the obligation of continuing the payments of the respondents until the lawsuit



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

ended. Thus, the mission of the Supreme Court, upon granting the preliminary injunction, as a matter of law, was not to impose that obligation, even in a provisional manner, to any of the parties mentioned in order to maintain the status quo. Such would only be appropriate against whomever the law assigned that obligation, on rational and legal grounds and of reasonable probability of the movants' claim prevailing. It should be noted that, pursuant to the previously outlined law, the probability rather pointed toward that obligation not falling on the entities of the Church with legal personhood considered herein. In this stage of the proceeding, the alleged inability and insolvency of the Trust to pay it cannot lead to attributing the obligation to pay to the participating employers in total abstraction of the legal liability of the Trust. It is clear that, in view of, with regard to this entity, the proceedings before the CFI were halted when hearing and adjudicating the present dispute, no judgment was rendered regarding its liability, if any, for purposes of the provisional remedy under consideration. Hence, this Court is equally prevented from issuing any remedy against said party at this stage in the proceedings. It would in time correspond to the CFI, once it acquires jurisdiction over that entity, and to the parties, to take any action that may be appropriate regarding this matter.

Having clarified the foregoing, and in compliance with that provided by the Supreme Court, the proper course of action in this case as a provisional remedy is to order the participating employers, Academia Perpetuo Socorro and the Archdiocese of San Juan, to continue making the contributions that they pledged to make in the Pension Plan and the Constitution of the Trust, including those accrued to date. These contributions must be consigned in the Court, given the current status of the aforesaid Trust. From that fund, under the criteria to be established by the CFI, the payments will be able to continue to be made to the plaintiffs while the complaint is



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

decided and the causes of action filed by the respondents are adjudicated on their merits.

With regard to Academia San Ignacio and Academia San José, it is not possible at this time to impose the same remedy on them as the other two co-defendants, due to the fact that they do not individually have legal personhood, but rather by way of their respective parishes, as parochial schools, and in the particular case of Academia San Ignacio, also through the Orden de la Compañía de Jesús. None of these entities appears directly as defendants in this case, wherefore they have not been summoned. If it is the interest of the plaintiffs to claim against those schools, the aforesaid entities are indispensable parties, without which it is not possible to issue any remedy against the aforesaid schools. Nevertheless, as we pointed out in part II of this Judgment, the absence of an indispensable party does not entail as a first measure the dismissal of the complaint, if not first providing the plaintiff to bring it to the complaint. Should they opt for that course of action, the plaintiffs may then request the Court of First Instance to impose the remedy ordered herein against the other co-defendants.

Lastly, the fact that the CFI issued the remedy in question without the imposition of the bond required by Rule 57.4 of Civil Procedure, *supra*, is cited as an error. Pursuant to that stated in Part II-F of this Judgment, the imposition of a bond is a mandatory requirement upon issuing an injunction. That remedy, as opposed to that set forth in Rule 56.3 of Civil Procedure, *supra*, does not contain any exceptions. However, in the case *V. Caparra Neigh. Assoc. v. From. Educ. Assoc.*, *supra*, the Supreme Court of Puerto Rico seemed to view a common junction between the preliminary injunction and the order confirm a judgment, which suggests that, in appropriate cases, it may recur to Rule 56.3 even within the context of a preliminary injunction. (To the contrary, see the Dissenting Opinion of Justice



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Hernández Denton, joined by Justice Rivera Pérez, regarding the inappropriateness of interchanging these rules).

Precisely, in the case at hand, the CFI applied the exceptions contemplated in Rule 56.3 to excuse the presentment of a bond in the decreed injunction. Specifically, to do so it based itself on subsection (c), which contemplates the exception of: ~~“if~~ “the remedy was processed after the Judgment was issued.” Without any aim to conclusively rule whether in this case the conditions set forth in *V. Caparra Neigh. Assoc.*, supra, to justify applying the aforesaid exceptions were present, it is true that the Court of First Instance erred as a matter of law in basing itself on the aforesaid subsection (c). This exception clearly refers to those cases to confirm judgments in which a final judgment has already been issued. Nevertheless, the CFI seemed to base its decision regarding this matter on the Judgment recently issued by the Supreme Court in this case. It should be noted, however, that this was precisely the judgment in which the appropriateness of the preliminary injunction as an interlocutory remedy was determined. Precisely having acknowledged the preliminary injunction in that Judgment, the proper course of action was therefore the consideration of the matter of the bond, which the Supreme Court evidently left in the hands of the CFI. It should be observed that, in its decision, the High Court did not make any pronouncement regarding that matter, which necessarily implies that it should have been attended to in time by the court of first instance. Hence, correctly, said court opted to rule on the matter, but, as we stated, incorrectly. This with regard to the extent to which it based [sic] its determination to except it in reference to the decision that precisely accepted the extraordinary remedy as an interlocutory measure.

If the CFI sought to use the exceptions of Rule 56.3, supra, it should have done so in the way in which they are applied to the remedy in judgment confirmation. In that context, we reiterate that exception (c) refers to final judgments and not to interlocutory



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

decisions, such as that issued by the Supreme Court in this case. See, *Ramos et. al. v. Colón et al.*, 153 DPR 534 (2001).

Thus, the proper course of action is to nullify the determination of the CFI authorizing the extraordinary remedy in question without the presentment of a bond. That said, given the remedy decreed in our judgment, in compliance with the order of the Supreme Court, this matter is to be remanded to the CFI for its reevaluation and final decision. Such, with the task, firstly, to decide whether it was appropriate to apply the exceptions of Rule 56.3 to this case, even when the judgment confirmation remedy has not been requested in light of the criteria of *V. Caparra Neigh. Assoc. v. From. Educ. Assoc.*, supra. In the event that the CFI were to decide in favor of the application of said Rule, it must provide for whether the requirement of the bond pursuant to the exceptions contemplated therein, as they have been applied and interpreted in our jurisprudential rules.


IV.

Based on the foregoing grounds, the Decision from March 16, 2018 and the Order from March 26 of the same year are hereby revoked. The case is hereby remanded to the court of first instance so that it may proceed, pursuant to that provided herein.

So agreed and ordered by the Court, and certified by the Clerk of the Court of Appeals. Justice Rivera Colón issues a dissenting vote in writing.

[signature]

Lilia M. Oquendo Solís
Clerk of the Court of Appeals

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Commonwealth of Puerto Rico
COURT OF APPEALS
JUDICIAL REGION OF BAYAMÓN AND CAROLINA
PANEL IV

<p>Yalí Acevedo Feliciano, John A. Williams Bermúdez, and the Community Property formed by both, et al.</p> <p style="text-align: center;">Respondents</p> <p style="text-align: center;">vs.</p> <p>La Santa Iglesia Católica Apostólica y Romana en la Isla de Puerto Rico, Inc., represented by Monsignor Roberto González Nieves in his capacity as Archbishop of San Juan, et al.</p> <p style="text-align: center;">Petitioners</p>	<p>KLCE201800413</p>	<p><i>WRIT OF CERTIORARI</i> from the Court of First Instance, Superior Court of San Juan</p> <p>In re: Cease and Desist Order and/or Injunction; Declaratory Judgment; Fulfillment of Contract; Estoppel; Damages</p> <p>Civil Case No.: SJ2016CV00131 (904)</p>
<p>Sonia Arroyo Velázquez, Jesús M. Franco Villafañe, and the Community Property formed by both, et al.</p> <p style="text-align: center;">Respondents</p> <p style="text-align: center;">vs.</p> <p>La Santa Iglesia Católica Apostólica y Romana en la Isla de Puerto Rico, Inc., represented by Monsignor Roberto González Nieves in his capacity as Archbishop of San Juan, et al.</p> <p style="text-align: center;">Petitioners</p>		<p><i>WRIT OF CERTIORARI</i> from the Court of First Instance, Superior Court of San Juan</p> <p>In re: Cease and Desist Order and/or Injunction; Declaratory Judgment; Fulfillment of Contract; Estoppel; Damages</p> <p>Civil Case No.: SJ2016CV00143 (904)</p>

KLCE201800413

<p>Elsie Alvarado Rivera, Isidoro Hernández, and the Community Property formed by both, et al.</p> <p style="text-align: center;">Respondents</p> <p style="text-align: center;">vs.</p> <p>La Santa Iglesia Católica Apostólica y Romana en la Isla de Puerto Rico, Inc., represented by Monsignor Roberto González Nieves in his capacity as Archbishop of San Juan, et al.</p> <p style="text-align: center;">Petitioners</p>		<p>WRIT OF CERTIORARI from the Court of First Instance, Superior Court of San Juan</p> <p>In re: Cease and Desist Order and/or Injunction; Declaratory Judgment; Fulfillment of Contract; Estoppel; Damages</p> <p>Civil Case No.: SJ2016CV00156 (904)</p>
--	--	---

Panel composed by its chief judge, Judge Cortés González, Judge González Vargas, and Judge Rivera Colón.


“Whenever a family does not have anything to eat because they have to pay the loan to the usurers, that is not Christianity, it is inhumane.”
-Pope Francis

DISSENTING VOTE OF JUSTICE RIVERA COLÓN

In San Juan, Puerto Rico, on April 30, 2018.

Now come the Archdiocese of San Juan and the Office of the Superintendent of Catholic Schools (together, the Archdiocese of San Juan) and request the review of three decisions issued by the Court of First Instance, Superior Court of San Juan (CFI):

1. They request the revocation of the Decision issued on March 16, 2018, by way of which the TPI determined that the Archdiocese of San Juan did not have legal

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

personhood and issued a preliminary injunction in which the “Roman Catholic and Apostolic Church in Puerto Rico” was ordered to “immediately and without any further delay proceed to content with the issuance of the payments to the plaintiffs while this lawsuit is decided.”¹

2. They also request the revocation of the Decision issued on March 19, 2018, by way of which the court of first instance denied the “Motion regarding Nullity of Decision and Request to Consider Motion for Dismissal due to Lack of Jurisdiction,” filed on the same date by the Archdiocese of San Juan.

3. They moreover petition for the revocation of the Order issued on March 26, 2018, in which ordered the “Roman Catholic and Apostolic Church in Puerto Rico” to proceed, within a term of 24 hours, to consign the sum of \$4,700,000.00 in the Accounts Unit of the Court.

-I-

On June 6, 2016, sixty-six (66) employees and former employees of Academia del Perpetuo Socorro filed in the CFI a petition for injunction and seizure in assurance of judgment against the “Holy Roman Catholic and Apostolic Church in Puerto Rico,” the Archdiocese of San Juan, the Office of the Superintendent of Catholic Schools, Academia del Perpetuo Socorro, and the Trust Pension Plan for Catholic School Employees (Trust). In said petition, it was stated that “[i]n view of the insufficiency of funds of the Trust, the proper course of action is for the Catholic Church to respond with its estate to fulfill its contractual obligations.”² Moreover, it was requested that “pursuant to the provisions of Rule 56.4 of Civil Procedure and that provided in 32

¹ See Ap. Petition for Writ of Certiorari, on pg. 147.

² See Ap. “Appearance in Compliance with Order,” on pg. 159.



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

L.P.R.A. sec. 3133, the seizure of the funds of the Catholic Church be ordered in a sufficient amount to cover the benefits of the plaintiffs.”³

In kind, the teachers filed a complaint regarding declaratory judgment, estoppel, breach of contract, and damages. In sum, they stated that the suspension of the payment of the pensions to the retired employees caused them irreparable damage, since they alleged that this action threatened their acquired rights. Furthermore, in assurance of the judgment that one day favors them, they requested the seizure of the assets of the Church for up to the sum of \$4,444,419.95. Thus, they petitioned for the Trust to be ordered to continue to provide the pension.

On June 15, 2016, other employees and former employees of Academia San José filed an analogous complaint. On June 22, 2016, the same action was taken by other employees and former employees of Academia San Ignacio de Loyola. On July 15, 2016, the CFI notified Decision and Order, by way of which it decided to consolidate the three complaints and redirect them to the ordinary proceeding.

On July 1, 2016, the CFI issued and notified a Decision and Order, by way of which it denied the request for preliminary injunction and seizure in assurance of judgment filed by the respondents. In disagreement, on July 28, 2016, the respondents appealed the aforesaid decision before the Court of Appeals, which denied the appeal. Still unsatisfied, the petitioning party recurred to the Supreme Court of Puerto Rico for review by way of a request for a writ of certiorari.

On July 18, 2017, the Supreme Court of Puerto Rico issued Judgment in case No. CC-2016-1053, and granted the petition for a preliminary injunction filed by the respondents to continue the payment of the pensions to the beneficiaries of the Pension Plan of the Catholic Schools of the Archdiocese of San Juan. In turn, it

³ See Ap. “Appearance in Compliance with Order,” on pp. 159-160.



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

ordered court of first instance to “hold a hearing to determine whether the defendant-schools have legal personhood and, immediately thereafter, order the continuation of the pension payments by the employers of the petitioners [respondents herein], whether that be the Academies or the Church.”

On January 8, 2018, the CFI issued an Order granting the Trust a term of 48 hours to submit an updated certification stating the balance of funds in its possession.


On January 10, 2018, the Trust filed a motion entitled “Motion Requesting Brief Final Twenty-Four Hour Term” to comply with the Order issued by the Court. The aforesaid motion was granted by the CFI. Nevertheless, the documents do not show that the Trust ever complied with the aforesaid order.

On January 11, 2018, the Trust filed an “Informative Motion regarding the Filing of a Petition before the Bankruptcy Court,” in which it stated that that day it had filed a petition for bankruptcy before said court.

On January 15, 2018, the respondents filed a “Fourth Amended complaint” in order to include the fiduciaries and/or trustees of the Trust and several unincorporated Catholic schools as defendants.

On January 30, 2018, the CFI held an evidentiary hearing in order to comply with the Judgment of the Supreme Court of Puerto Rico issued on July 18, 2017, *supra*.

On February 6, 2018, the petitioning party filed an “Informative Motion regarding Removal of the Case to the United States District Court for the District of Puerto Rico.” It stated that that day, it filed a Notice of Removal of the present case before the Federal Court for the District of Puerto Rico, based on the fact that the claim filed against it was related to the petition for bankruptcy filed by the Trust and

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

that, should the responding party prevail in the lawsuit, its rights could be affected. As such, it requested the CFI to abstain from carrying out any ulterior action and dismiss the above-titled case. Having heard the motion, on February 12, 2018, the CFI issued Judgment by way of which it ordered the stay of the proceedings and the closing, without prejudice, of the above-titled case for statistical purposes.


Against this background, on March 13, 2018, the Bankruptcy Court dismissed the request filed by the Trust and on the same date, the petitioning party filed a request for dismissal before the CFI based on the presumed lack of jurisdiction of the Court over the Archdiocese of San Juan as part of or a “dependency” of the Roman Catholic and Apostolic Church. Said motion was denied by the CFI.

On March 15, 2018, the responding party filed a “Motion Submitting a Copy of the Judgment by the Bankruptcy Court” to which it accompanied the Judgment issued on March 13, 2018 by the Bankruptcy Court dismissing the petition for bankruptcy filed before that Court by the Trust.

On March 16, 2018, the petitioning party filed before the Bankruptcy Court a notice of withdrawal of its removal and requested that the case be remanded to the state Court.

On the same date, the CFI issued the appealed Decision, and ruled that the Roman Catholic and Apostolic Church in Puerto Rico was liable for the payment of the pensions, given that neither the defendant-schools nor the petitioning party had their own legal personhood. Thus, it ordered the Catholic Church to continue with the issuance of the payments to the respondents pursuant to the Pension Plan while the case was decided.

On March 19, 2018, the petitioning party filed a “Motion regarding Nullity of Decision and Request to Consider Motion for Dismissal due to Lack of Jurisdiction.” It

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413


sustained that with the dismissal of the Trust's petition for bankruptcy solely the automatic stay of the claims against it were lifted. Nevertheless, it stated that the federal Court had not yet issued the corresponding order remanding the case to the state Court, wherefore the Decision issued on March 16, 2018, was issued without jurisdiction. On the same date, the CFI denied the aforesaid motion.

In disagreement, on March 20, 2018, the petitioning party filed a "Request for Reconsideration and Motion to Set Bond pursuant to Rule 57.4."

For its part, that day, the responding party filed a "Motion in Compliance with Orders 639 and 640." It argued that the Catholic Church waived its request for removal in view of the fact that said party had: (1) filed a dispositive motion before the Court of First Instance on February 13, 2018 and (2) filed a notice of withdrawal of its request for removal on March 16, 2018. In turn, it requested for Academia del Perpetuo Socorro, Academia San José, Academia San Ignacio de Loyola, and the other defendant-schools to appear separately and independently from the Catholic Church as dependencies of the Church.

March 21, 2018, the responding party reiterated by way of a motion for the consignment of the remaining funds of the Trust to be ordered.

On March 26, 2018, the CFI denied the motion for reconsideration filed by the petitioning party. On the same date, it issued an Order in which it granted a term of 24 hours to the Roman Catholic and Apostolic Church in Puerto Rico to consign the sum of \$4,700,000.00 in the Accounts Unit of the Court. It warned the party that, should it fail to comply with such, the seizure of its bank accounts would proceed to be ordered.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

In disagreement with the determinations of the CFI, on March 26, 2018, the Archdiocese of San Juan appeared before this Court of Appeals by way of the present request for writ of certiorari and formulated the following assignments of error:

A. The Court of First Instance gravely and manifestly erred upon issuing the reviewed Decision without having jurisdiction when the case was removed to the Federal District Court and said court had not remanded it when the issued resolutions and orders were issued.

B. The Court of First Instance gravely and manifestly erred by not dismissing the Fourth Amended Complaint for lack of subject matter jurisdiction pursuant to the Foreign Sovereign Immunities Act.

C. The Court of First Instance gravely and manifestly erred by not dismissing the Fourth Amended Complaint for lack of personal jurisdiction over the Roman Catholic and Apostolic Church and for insufficient summons and service thereof pursuant to the Foreign Sovereign Immunities Act.

D. The Court of First Instance gravely and manifestly erred by issuing a preliminary injunction without the imposition of a bond as required by Rule 57.4 of the Rules of Civil Procedure, which constitutes a violation of the constitutional right to due process of law.

E. The Court of First Instance gravely and manifestly erred by concluding that the Archdioceses of San Juan does not have its own legal personhood independent from the Roman Catholic and Apostolic Church.

F. The Court of First Instance gravely and manifestly erred by deciding that Academia del Perpetuo Socorro lacks legal personhood despite concluding as a matter of fact that it was correctly incorporated under the Puerto Rico General Corporations Act.

G. The Court of First Instance gravely and manifestly erred by ordering the consignment of 4.7 million dollars, what equals a permanent injunction without the celebration of a hearing and/or evidence to determine the amounts corresponding to plaintiffs' pensions in violation of the due process of law.

With its petition, the petitioning party accompanied a "Motion in Aid of Jurisdiction."

On March 27, 2018, this Court issued a Decision and ordered the stay of the proceedings of the present case before the CFI. In turn, the responding party was



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

granted a term ending on April 9, 2018 to state the reasons for which the writ of certiorari should not be issued and grant the requested remedy.

Opportunely, the responding party appeared by way of its pleading in opposition. Several intervening appearances and motions were also filed before our consideration, which were disposed of by way Decision.

Having listened to the recording of the hearing held on January 30, 2018 and having analyzed the appearances of the parties, as well as their appendices, in light of the applicable state of law, we dissent from the majority. Let us see.

-II-

A. Separation of Church and State.

The First Amendment of the Constitution of the United States states the following which reads as follows:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

1st Amendment, U.S. Const., LPRA, Volume 1.

For its part, Section 3 of Art. II of the Constitution of the Commonwealth of Puerto Rico provides that “[no] law shall be made respecting an establishment of religion or prohibiting the free exercise thereof. There shall be complete separation of church and state.” *Mercado, Quilichini v. U.C.P.R.*, 143 DPR 610 (1997). The referenced section consecrates the freedom of religion, prohibits the State from establishing an official religion, and orders the total separation between Church and State. *Christian Academy and Sch. Assoc. v. Commonwealth*, 135 DPR 150, on pg. 159 (1994); *Agostini v. Catholic Church*, 109 DPR 172, on pg. 175 (1979). Both prohibitions encompassed



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

by the first sentence of Section 3 of Art. II of our Constitution constitute a literal translation of the first two prohibitions contained in the First Amendment of the Federal Constitution. These two prohibitions in both Constitutions have been called separately and respectively the “Establishment Clause” and “Free Exercise or Freedom of Religion Clause.” *Mercado, Quilichini v. U.C.P.R.*, *supra*, on pp. 634-635.

The Establishment Clause constitutes a barrier of a constitutional nature by way of which the State is prevented from sponsoring any religion as the State religion. *Mercado, Quilichini v. U.C.P.R.*, *supra*, on pg. 635. Generally, the cases decided by the Supreme Court of the United States under the protection of the Establishment Clause consist of the assistance or backing that churches and/or parochial schools have received directly or indirectly through tax exemptions, subsidies, reimbursement of expenses related to any religion or recognized religious organization, among others. *Id.* **“In order for the State to be able to prevail against an alleged infraction of this clause, it is required for the attacked law or conduct to have a secular purpose, the primary or principal effect of which is not to promote or inhibit religion and, lastly, which does not entail the possibility of causing excessive meddling or entanglement of the government in religious matters.”** (Emphasis ours). *Lemon v. Kurtzman*, 403 US 602 (1971); *Díaz v. Colegio Nuestra Sra. del Pilar*, 123 DPR 765, on pg. 780 (1989).

Alternatively, the Free Exercise or Freedom of Religion Clause guarantees the practicing of religious beliefs, whether individual or collective, and absolutely prohibits the government from impeding said beliefs. *Mercado, Quilichini v. U.C.P.R.*, *supra*, on pg. 636. “The distinguishing thread that ties together the cases decided under the protection of the clause that guarantees the freedom of religion is the presence of any type of government intervention, through any of its Branches, that hinders or prevents



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

the practicing of any particular religious activity.” *Id.*, on pg. 636. Thus, just like any legislative action, **court decisions that infringe upon the religious freedoms protected by the Constitution of the Commonwealth of Puerto Rico and the Constitution of the United States are invalid.** *Id.*, on pg. 638.

Consonant with the foregoing, the Supreme Court of Puerto Rico has stated that:

[t]he civil courts cannot exercise their jurisdiction to decide disputes over property rights relating to a church when in order to do so they must irremediably render judgment on matters of doctrine, discipline, faith, or internal ecclesiastical organizations.

Díaz v. Colegio Nuestra Sra. del Pilar, supra, on pg. 783.

Religious organizations have an interest of a constitutional nature in maintaining their autonomy in the organization of their internal affairs, so that they may freely select their leaders, define their own doctrines, settle internal disputes, and administer their institutions. *Mercado, Quilichini v. U.C.P.R., supra*, pg. 639, citing *Corporation of Presiding Bishop v. Amos*, 483 US 327, on pp. 341-342 (1987).

B. Canon Law.

Pursuant to the Code of Canon Law of January 25, 1983 (CCL), the Catholic Church and the Apostolic See are moral persons by way of the same divine ordainment.⁴ The Catholic Church, in addition to possessing strictly spiritual characteristics, is legally organized.⁵ Said organization is based on the CLL, which provides the set of legal rules that govern the religious community of Christians, especially the Latin Catholic Church. Book 1, CLL. This establishes, principally, the constitutional right of the Church, the diocese, the parishes, and the religious orders. It also establishes the set of rules that regulate the organization of the Latin Church,

⁴ Canon 113 § 1 of CLL.

⁵ Vicente Prieto, *Relaciones Iglesia-Estado: La Perspectiva del Derecho Canónico* [“Church-State Relations: The Perspective of Canon Law”], Salamanca, Publicaciones Universidad Pontificia Salamanca, 2005, pg. 9.



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

as well as the rights and obligations of the faithful. O. Ochoa G., *Derecho Civil I: Personas* [“Civil Law I: Persons”], Caracas, Universidad Católica Andrés Bello, 2006, pp. 105-106.

Canon 368 of the CLL provides that:

Particular churches, in which and from which the one and only Catholic Church exists, are first of all dioceses, to which, unless it is otherwise evident, are likened a territorial prelature and territorial abbacy, an apostolic vicariate and an apostolic prefecture, and an apostolic administration erected in a stable manner.

The canonical system distinguishes between physical persons and juridic persons. Moreover, within juridic persons, it distinguishes between private and public juridic persons. We will focus our attention on public juridic persons, given that only they may be owners of ecclesiastical assets. In that pertaining to the matter at hand, Book V, entitled, On the Temporal Goods of the Church, in Title VI, entitled, On Physical and Juridic Persons, Chapter II, entitled, On Juridic Persons, develops all of that pertaining to juridic personhood within the Church, in light of the rights and obligations that it has, with regard to the ecclesiastical estate.

Specifically, it provides that juridic persons are constituted by the prescript of law or by special grant of competent authority, “[...] aggregates of persons (corporations) or of things (foundations) ordered for a purpose which is in keeping with the mission of the Church and which transcends the purpose of the individuals.”⁶ The purposes to which this canon refers are “those which pertain to works of piety, of the apostolate, or of charity, whether spiritual or temporal.”⁷

In accordance with such, the CLL distinguishes between private juridic persons and public juridic persons.⁸ In sum, the difference is based on their origin and

⁶ Canon 114 § 1 of CLL.

⁷ Canon 114 § 2 of CLL.

⁸ Canon 113 § 2 of CLL.



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

purpose. The former are constituted by the initiative of the faithful, by virtue of the right of association and they act on their own behalf for purposes or functions similar to public juridic persons, which we shall discuss shortly.

On the other hand, public juridic persons are constituted, formally or materially, as such by ecclesiastic authority and are those that:

[...] act on behalf of the Church pursuing public legal purposes, whether due to their very nature, or due to being reserved to the public ecclesiastical authority itself, or because the ecclesiastical authority [...] takes the initiative and assumes or creates a juridic person for the performance of a purpose or function that is not sufficiently attended to.⁹

The same author explains to us that by virtue of Canon 116, juridic personhood is granted to several components within all of the divisions comprised by the Church. Among these, for example, the Ecclesiastical Province, the Institutes of Consecrated Life, the Apostolic See, the College of Cardinals, the parishes, the Seminaries, among others, have public juridic personhood. In particular, with regard to the Institutes of Consecrated Life, the Provinces, and the Houses (monasteries or convents), the canonical system provides:

634 §1. As juridic persons by the law itself, institutes, provinces, and houses are capable of acquiring, possessing, administering, and alienating temporal goods unless this capacity is excluded or restricted in the constitutions.

§2. Nevertheless, they are to avoid any appearance of excess, immoderate wealth, and accumulation of goods.

[...]

635 §1. Since the temporal goods of religious institutes are ecclesiastical, they are governed by the prescripts of Book V, The Temporal Goods of the Church, unless other provision is expressly made.¹⁰

⁹ F. R. Aznar Gil, *La Administración de los Bienes Temporales de la Iglesia* ["The Administration of the Temporal Goods of the Church"], Salamanca, Ed. Publicaciones Universidad Pontificia de Salamanca, 1984, pg. 31.

¹⁰ Canon 634-635 of the CLL.



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

(Emphasis ours.)

The foregoing is important, given that only those subjects that have public juridic personhood may be owners of ecclesiastical assets.

In order to understand what ecclesiastical assets are, we must first point out that the canonical system allows the Church to have assets – called temporal goods- to the extent to which such guides it to the appropriate realization of divine worship.

That said, an ecclesiastical asset, according to Aznar Gil, are all of the material or immaterial, movable or immovable assets, allocated immediately or mediately to the performance of the purposes of the Catholic Church and that belong to an ecclesiastical public juridic person.¹¹ With regard to such, Book V of the CLL, entitled, On the Temporal Goods of the Church, explains: “[...] all temporal goods which belong to the universal Church, the Apostolic See, or other public juridic persons in the Church are ecclesiastical goods.”¹² Consequently, in order for us to be faced with an ecclesiastical asset, it must have the following characteristics:

-that the subject of domain or possession is an ecclesiastical public juridic person;

-that the thing is in the estate, that is, in the property or at least in legitimate possession of the ecclesiastical juridic person.¹³

Having identified these characteristics, it is necessary to underscore that ecclesiastical assets are grouped into several classifications, among which we highlight “sacred things and places.” Sacred things and places are those things, movable or immovable, that with the consecration or blessing have been intended for divine worship.¹⁴ Therefore, the sacred objects and places in the Church’s estate, hold a special category, due to their sacred nature. These objects and places become sacred

¹¹ Aznar Gil, *op. cit.*, pg. 27.

¹² Canon 1257 of the CLL.

¹³ Aznar Gil, *op. cit.*, pg. 29.



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

at the moment at which they are consecrated or blessed by way of prescribed liturgical rites. With such, a spiritual nature is bestowed upon the thing or place “[...] and it is placed in a particular legal condition, distinguishing it from profane things and separating them from profane or improper uses.”¹⁵ With regard to such, Aznar Gil, *op. cit.*, *supra*, explains that sacred things are: sacred images, sacred relics, sacred places intended for worship, Churches, oratories, private chapels, sanctuaries, altars, the accessories or instruments intended for divine worship, among others.¹⁶

Due to their spiritual nature and value, the canonical system prescribes the manner in which these sacred object shall be treated, so that, even in the hands of a private person, their use and purpose is specially regulated by the ecclesiastical rules. That is to say, their administration, necessarily, shall be governed by the limits imposed by the doctrines of separation of Church and State and Freedom of Religion, as previously set forth.

Alternatively, Canon 369 of the CLL defines the diocese in the following manner:

A diocese is a portion of the people of God which is entrusted to a bishop for him to shepherd with the cooperation of the presbyterium, so that, adhering to its pastor and gathered by him in the Holy Spirit through the gospel and the Eucharist, it constitutes a particular church in which the one, holy, catholic, and apostolic Church of Christ is truly present and operative.

The state of canonical law provides that: “[t]he diocesan bishop represents his diocese in all its juridic affairs.”¹⁷ He has the obligation to defend the unity of the Universal Church and, therefore, demand compliance with all ecclesiastical laws.¹⁸ It

¹⁴ Canon 1171 of the CLL. This type of asset may be ecclesiastical or private, given that they may belong to private individuals, but they entail certain limitations and restrictions imposed by the canonical system.

¹⁵ Aznar Gil, *op. cit.*, pg. 37.

¹⁶ Aznar Gil, *op. cit.*, pg. 37.

¹⁷ Canon 393 of the CLL.

¹⁸ Canon 392 of the CLL.



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

corresponds exclusively to the diocesan Bishop to erect, suppress, or change parishes.¹⁹ Moreover, the CLL establishes that the parishes of the dioceses constitute a determined community of faithful and each one of them, “legitimately erected, has juridic personality by virtue of the law itself.”²⁰ It appears, moreover, in the aforesaid Code that the **representation of the parishes is entrusted in the pastor (*parochus*) under the authority of the diocesan Bishop.**²¹

Consonant with the foregoing, the juridic personality of each diocese arises from Canons 372 and 373 of the CLL, which provide the following:

372 §1. As a rule, a portion of the people of God which constitutes a diocese or other particular church is limited to a definite territory so that it includes all the faithful living in the territory.

§2. Nevertheless, where in the judgment of the supreme authority of the Church it seems advantageous after the conferences of bishops concerned have been heard, particular churches distinguished by the rite of the faithful or some other similar reason can be erected in the same territory.

*373 It is only for the supreme authority to erect particular churches; **those legitimately erected possess juridic personality by the law itself.***

(Emphasis ours).

C. Federal Sovereign Immunities Act.

The Federal Sovereign Immunities Act establishes the limitations with regard to whether a foreign state may be sued in the courts of the United States. A foreign state includes its political subdivisions or an agency or instrumentality of a foreign state. 28 USC 1603(a). Moreover, it defines what constitutes an agency or instrumentality in the following manner:

An “agency or instrumentality of a foreign state” means any entity-

(1) which is a separate legal person, corporate or otherwise, and

¹⁹ Canon 515 §2 of the CLL.

²⁰ Canon 515 §1 and §3 of the CLL.

²¹ Canon 515 §1 of the CLL.

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

(2) which is an organ of a foreign state or political subdivision thereof, or a majority of whose shares or other ownership interest is owned by a foreign state or political subdivision thereof, and

(3) which is neither a citizen of a State of the United States as defined in section 1332 (c) and (e) of this title, nor created under the laws of any third country.


The Federal Sovereign Immunities Act provides, furthermore, the following:

“[s]ubject to existing international agreements to which the United States is a party at the time of enactment of this Act a foreign state shall be immune from the jurisdiction of the courts of the United States and of the States, except as provided in sections 1605-1607 of this chapter.” 28 USC 1604. Pursuant to the Federal Sovereign Immunities Act, the assets of a foreign state are also immune from seizure and foreclosure. 28 USC 1609.

D. Provisional Remedies.

Rule 56.1 of the Rules of Civil Procedure, 32 LPRA Ap. V, 56.1, empowers a court to issue in any lawsuit, before or after issuing judgment, any orders that are necessary to ensure the enforcement of such. It expressly recognizes as specific measures for achieving that purpose “seizure, seizure of funds in possession of a third party, prohibition to transfer, the claiming and delivery of movable assets, receivership, an order to do or refrain from doing any specific act,” in addition to “any other measure that it deems appropriate, according to the circumstances of the case.”

As a general rule, “[n]o ruling shall be granted, modified, annulled, or taken on a provisional remedy, without notifying the adverse party and without holding a hearing, except as provided in Rules 56.4 and 56.5.” Rule 56.2 of the Rules of Civil Procedure, 32 LPRA Ap. V, R. 56.2. The granting of a measure to enforce a judgment supposes, moreover, posting a bond, unless any of the following circumstances are present:

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

(a) *If it appears from public or private documents, as defined by law, signed before a person authorized to administer oaths, that the obligation may be legally enforced; or*

(b) *If party is indigent and expressly exempted by law from the payment of filing fees, and in the court's opinion the complaint adduces facts sufficient to establish a cause of action which may evidently succeed, and there are reasonable grounds to believe, after a hearing to that effect, that if such provisional remedy is not granted the resulting judgment would be academic since there would be no property over which to execute it; or*


(c) *If a remedy is sought after judgment is entered.*

Rule 56.3 of the Rules of Civil Procedure, 32 LPRA Ap. V, R. 56.3.

E. The Injunction.

Rule 57 of the Rules of Civil Procedure, 32 LPRA Ap. V, R. 57, as well as Arts. 675 to 689 of the Code of Civil Procedure, 32 LPRA secs. 3521-3533, regulate the injunction. *Asoc. Vec. V. Caparra v. Asoc. Fom. Educ.*, 173 DPR 304, on pg. 318 (2008). This extraordinary recourse seeks to prohibit or order the execution of a determined act in order to prevent imminent or irreparable damages from being caused to a person, whenever no other adequate remedy exists in law. *VDE Corporation v. F & R Construction*, 180 DPR 21, on pg. 40 (2010).

The preliminary injunction is a “recourse that is issued by the court prior to the holding of a trial on the merits and, ordinarily after the holding of the hearing where the parties have the opportunity to present evidence in support and opposition of the issuance of such.” *Next Step Medical v. Bromedicon et al.*, 190 DPR 474, on pg. 486 (2014). Its main objective is to maintain the status quo between the parties until the trial on its merits is held, so that a situation in which the judgment that is ultimately issued is not rendered moot and greatly considerable damages are inflicted on the petitioner of the injunction while the lawsuit continues. *Id*; *VDE Corporation v. F & R Construction*, *supra*, on pg. 41; *Rullán v. Fas Alzamora*, 166 DPR 742, on pg. 764

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

(2006). The decision to grant or deny a preliminary injunction rests on the sound discretion of the court, wherefore its determination shall be reviewed if any abuse of discretion on its part was involved. *Mun. of Ponce v. Governor*, 136 DPR 776, on pp. 784-785 (1994).

The criteria to be considered for the granting of a preliminary injunction are the following: (1) the nature of the damages that may be caused to the parties by granting or denying it; (2) the irreparableness of the damage or existence of an adequate remedy in law; (3) the likelihood that the petitioner will eventually prevail when deciding the dispute on its merits; (4) the probability that the cause will become moot if not granted, and (5) the possible impact on the public interest of the remedy requested. *Next Step Medical v. Bromedicon et al.*, *supra*, on pp. 486-487; *VDE Corporation v. F & R Construction*, *supra*, on pp. 40-41; *Mun. of Ponce v. Governor*, 136 DPR 776, *supra*, on pg. 784.


For its part, Rule 57.4 of the Rules of Civil Procedure, 32 LPRA Ap. V, R. 57.4, provides the following:

No restraining order or preliminary injunction shall be issued except upon the posting of bond by the applicant, in such sum as the court deems proper for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained. No such bond shall be required of the Commonwealth of Puerto Rico, its municipalities, agencies, instrumentalities or of any of its officers acting in their official capacity.

Whenever these rules require or permit the posting of bond by a party, each guarantor submits himself to the jurisdiction of the court and irrevocably appoints the clerk of the court as his agent upon whom any notice, summons or document affecting his liability on the bond may be served. His liability may be enforced on motion without the necessity of an independent action. The motion and such notice of the motion.

(Emphasis ours).

F. Legal Personhood and the General Corporations Act of 2009.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

Art. 27 of the Civil Code, 31 LPRA sec. 101, provides that the following are artificial persons:

- (1) Corporations and associations of public interest, having artificial personality recognized by law. The personality of such bodies shall commence from the moment of their establishment in accordance with law.
- (2) Private corporations, companies or associations, whether civil, commercial or industrial, to which the law grants legal personality.


Legal personhood is the collectivity of persons or group of assets that, organized for the realization of a permanent purpose, obtains the recognition of the state as a subject of law. *Rodríguez v. P.R. Gov. Dev. Bank*, 151 DPR 383, on pg. 401 (2000); *Rivera Maldonado v. Commonwealth*, 119 DPR 74, on pg. 81.

Art. 29 of the Civil Code, 31 LPRA sec. 103, provides that the civil capacity of corporations, companies and associations shall be regulated by the laws that created or recognized them. In other words, the artificial person shall receive its personhood directly from the law that created it, which shall provide for its limits, powers, rights, and responsibilities. *Rivera Maldonado v. Commonwealth, supra*.

For its part, Art. 1.05(A) of Law 164-2009, known as the General Corporations Act of 2009, 14 LPRA sec. 3505(a), provides the following with regard to the establishment of the legal personhood of corporations as follows:

(a) Once the certificate of incorporation has been executed and filed as provided in sec. 3503(d) of this Act and the fees required by law have been tendered, the person or persons who have thus associated and their successors and assignees shall constitute, as of the filing date, or if it was set forth in the certificate of incorporation, as of a subsequent date which shall not exceed ninety (90) days, a corporate entity with the name set forth in the certificate, subject to dissolution as provided in this Act.

(b) The issue of the certificate of incorporation by the Secretary of State shall constitute conclusive evidence that all the conditions required by this Act for incorporation have been satisfied, except in procedures initiated by

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

the Commonwealth to cancel or revoke the certificate of incorporation or to dissolve the corporation.

(c) All persons acting as a corporation without having the authority to do so shall be severally liable of all the debts and obligations incurred or assumed as a result of such action.

Alternatively, in addition to the requirements outlined in subsection (a) of Art. 1.02 of the General Corporations Act of 2009, 14 LPRC sec. 3502(a), the certificate of incorporation may contain:


(4) A provision limiting the duration of the existence of the corporation to a specific date. If no such provision is included, the corporation shall have perpetual existence.

(Emphasis ours).

Art. 1.02 (b)(4) of the General Corporations Act of 2009, 14 LPRC sec. 3502(b)(4).

For its part, Art. 11.02 of the General Corporations Act of 2009, 14 LPRC sec. 3762, provides, in that pertaining to this matter, as follows:

*(a) Any corporation organized under the laws of the Commonwealth as well as any corporation whose certificate of incorporation has become void pursuant to the law and any corporation whose certificate of incorporation has expired by reason of failure to renew it or whose certificate of incorporation has been renewed, but, through failure to comply strictly with the provisions of this Act the validity of whose renewal has been brought into question, may, **at any time before the expiration of the time limited for its existence** and subject to all of its duties, debts, and liabilities which had been secured or imposed by its original certificate of incorporation and all amendments thereto, procure an extension, restoration, renewal or revival of its certificate of incorporation, together with all the rights, privileges, and immunities provided by the same. Likewise, it may be requested by any corporation whose certificate of incorporation has become ineffective, pursuant to law; and any corporation whose certificate of incorporation has not been renewed or that having been renewed, the validity of this renewal would be questioned due to not strictly complying with the provisions of this subtitle.*

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

*(d) When drafting the certificate pursuant to sec. 3503 of this title, **the corporation shall be renewed and established with the same force and vigor as if it had not lost validity due to cancellation of its certificate of incorporation, pursuant to sec. 354(b) of this title or become ineffective or forfeited or void, or had not expired. Such reinstatement shall validate all contracts, acts, matters and things made, done and performed within the scope of its certificate of incorporation by the corporation, its officers and agents during the time when its certificate of incorporation was cancelled pursuant to sec. 354(b) of this Act, or forfeited or void, or after its expiration, with the same force and effect and to all intents and purposes as if the certificate of incorporation had at all times remained in full force and effect.** All real and personal property, rights and credits, which belonged to the corporation at the time its certificate of incorporation became cancelled pursuant to subsection (B) of Section 3.06 of this Act, or forfeited or void, or expired and which were not disposed of prior to the time of its revival and restoration, shall be vested in the corporation, after its revival and restoration, as they were held by the corporation at and before the time its certificate of incorporation became cancelled pursuant to 354(b) of this Act, or forfeited or void, or expired. The corporation after its revival and restoration shall be as exclusively liable for all contracts, acts, matters and things made, done or performed on its behalf by its officers and agents prior to its revival, as if its certificate of incorporation had at all times remained in full force and effect.*

(Emphasis ours).

The extinction of a corporation is not instantaneous, wherefore Art. 9.08 of the General Corporations Act of 2009, 14 LPRA sec. 3708, extends the legal personhood of such for a period of three years as of the date of extinction or dissolution or any greater term that the court of first instance deems to be necessary. During that term,

KLCE201800413

24

the corporation must attend to, among other matters, any litigation or proceeding against the corporation, regardless of its nature, the liquidation of the entity, and fulfillment of its obligations. C. Díaz Olivo, Corporaciones, Tratado sobre Derecho Corporativo ["Corporations: Treatise on Corporate Law"], 2016, §12.07, on pg. 382.

Art. 9.08 of the General Corporations Act, *supra*, provides as follows:



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413


All corporations, whether they expire by their own limitation or are otherwise dissolved, shall continue for a three (3)-year term from such expiration or dissolution or for such longer period as the Court of First Instance (Superior Part) shall in its discretion direct for the purpose of prosecuting and defending suits, whether civil, criminal or administrative, by or against them, and of enabling them to settle and close their business, to discharge their liabilities and to distribute to their stockholders any remaining assets; however, not for the purpose of continuing the business for which the corporation was organized.

With respect to any action, suit or proceeding begun by or against the corporation either prior to or within three (3) years after the date of its expiration or dissolution, the corporation shall, solely for the purpose of such action, suit or proceeding, be continued as a body corporate beyond the three (3)-year period and until any judgments, orders or decrees therein shall be fully executed, without the necessity for any special direction to that effect by the Court of First Instance (Superior Part).

G. Trust Act.

Trusts established prior to the passing of Law 219-2012, *infra*, as amended by Law 9-2017, *infra*, are regulated by Arts. 834 to 874 of the Civil Code. Art. 834 of the Civil Code defines the trust as “an irrevocable mandate by virtue of which determined goods are transferred to a person called the settlor who would dispose of said goods as ordered by the one transferring them, the trustee, for the benefit of himself of a third party, called the beneficiary.” 31 LPRA sec. 2541.

For its part, Art. 849 of the Civil Code provides, in that concerning this matter, that: “[t]he legal live of a trust begins from the time at which the trustee accepts the mandate, with which it is made irrevocable. [...]” Art. 865 of the Civil Code provides that: [t]he trustee shall have all of the rights and actions corresponding to full possession; but shall not be able to transfer or encumber the entrusted assets unless he as authorization for such or unless, without transferring or encumbering them, it is impossible to execute the trust.” Moreover, Art 866 of the Civil Code establishes that

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

the trustee shall not dispose of the entrusted assets in any way against that established in the trust.

Before Law 219-2012, *infra*, took effect, and pursuant to Arts. 835 and 837 of the Civil Code, the trust could “be created by way of will” so that it had “affect after the death of the settlor, or by an *inter vivos* act” and be established “over all types of movable and immovable, tangible or intangible, present or future assets.” 31 LPRA secs. 2542, 2544. Moreover, it could be used “to grant the use or usufruct of the assets of a beneficiary during their life and the full domain of another.” 31 LPRA sec. 2549. In sum, the settlor could create the trust in any way, for any purpose, and under any terms and conditions that do not infringe upon the law or public morality. 31 LPRA sec. 2562.

With regard to which figure has active legitimacy within the trust under the state of law prior to the effectiveness of Law 219-2012, *infra*, the Supreme Court of Puerto Rico in the case of *Belaval v. Puerto Rico Court of Expropriations*, 71 DPR 265, on pp. 273-274 (1950), stated the following:

In the trust, the assets that belonged to the settlor have been transferred **to the trustee, who has all of the rights and actions corresponding to full domain**, with

KLCE201800413

the sole limitation that the transfer is made in accordance with that which the settlor has ordered, for the benefit of the trust.

The title over the properties transferred in trust is with the trustee and so registered in the Property Registry, subject to the conditions of the trust, and not with the beneficiary minors in this case. They only have the right to receive said properties in the future upon meeting the terms of the trust.

(Emphasis ours.)

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

As is to be noted, active legitimacy under the state of law prior to the effectiveness of Law 219-2012, *infra*, was held by the trustee.

In 2012, the Legislative Assembly understood that, after decades without altering the provisions that governed the figure of the Puerto Rican trust, it had become obsolete with regard to the economic and social reality and it was necessary to update its regulation. Thus, Law 219-2012, 32 LPRA sec. 3351, et seq., was passed, which had the effect of repealing Arts. 834 to 874 prospectively. This Law, moreover, introduced several changes, among them, it defined the concept of trust and created a special registry of trusts.

Pursuant to Art. 1 of Law 219-2012, 32 LPRA sec 3351, a trust is:

an autonomous patrimony that results from the act by which the settlor transfers assets or rights that shall be administered by the trustee for the benefit of the beneficiary or for a specific end, in accordance with the provisions of the constitutive document and, in its defect, pursuant to the provisions of this Law.

For its part, Art. 2 of Law 219-2012, 32 LPRA sec. 3351a, establishes what constitutes an autonomous patrimony in the following manner:

The entrusted assets or rights constitute a totally autonomous estate separate from the personal estates of the settlor, the trustee, and the beneficiary, which is allocated to a particular purpose that is bestowed upon it at the time of its creation.

For as long as the trust remains in place, this estate is exempted from the single or collective actions of the creditors of the settlors, trustees, or beneficiaries, with the exception of that established in Section Six of this Law.

Moreover, this Law created the Special Registry of Trusts, ascribed to the Office of Notary Inspection of the Judicial Branch. As provided in Art. 5 of Law 219-2012, 32 LPRA sec 3351d, any trust created in Puerto Rico must be entered in the Special Registry of Trusts, under penalty of nullity.



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

Years later, on February 8, 2017, Law 9-2017 was passed, in order to amend Law 219-2012, *supra*, and Law 1 of 2011, Internal Revenue Code. The purpose of Law 9-2017, according to its statement of motives, is to prevent professionals from the island from migrating to other jurisdictions and safeguard their future and that of their family by providing a better protection of assets, incorporating the figure of the Retirement Plan Trust, attend to statutory conflicts, protect surviving spouses, and create an openness for more private employers to offer retirement plans. Said amendment entered into effect immediately after being passed.

Law 9-2017 amended several articles of Law 219-2012, among them, Art. 2, in order to add the following paragraph:


“Once the deed of trust has been executed and filed pursuant to the provisions of this Law, an entity independent of its settlors, trustees, and beneficiaries shall be constituted, enjoying full legal personhood.”

32 LPRA sec 3351a.

Thus, full legal personhood was recognized for trusts, capable of suing and being sued, forming contracts, and having the rights and obligations of an artificial person with full capacity (not attenuated).²² Moreover, it amended Art. 11 in order to add the following sentence: “The trust is the owner of all of the entrusted movable and immovable assets. [...]”.

Both Law 219-2012 as well as Law 9-2017 remain silent with regard to their retroactive application. To those effects, our legal system recognizes that laws of a substantive nature shall not have retroactive effect, unless expressly provided otherwise in the statute. Art. 3 of the Civil Code, 31 LPRA sec 3; *Rivera Padilla et al. v. OAT*, 189 DPR 315, on pg. 340 (2013). This being so, the intention of the Legislative

²² Carmen T. Lugo Irizarry, *Análisis Crítico Sobre la Ley de Fideicomisos de Puerto Rico, según Enmendada por la Ley Núm. 9-2017* [“Critical Analysis on the Puerto Rico Trust Act, as Amended by Law 9-2017”], Second edition, p. 38, 2017.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

Assembly upon creating said laws was for their application to be prospective. Even more, pursuant to Art. 5 of Law 219-2012, *supra*, the Office of the Director of Notary Inspection (O.D.I.N., by its Spanish acronym), by way of General Instruction, instructed all notaries on the duty to provide notice of any public instrument constituting, modifying, or notarizing a trust to the Registry of Trusts ascribed to O.D.I.N. It is stated in the aforesaid Instruction that “[t]he effectiveness of the Registry is prospective. However, nothing prevents an interested party from requesting the entry of an instrument with effectiveness prior to Law 219-2012.” It adds that said validity is effective as of October 1, 2012.


Thus, under Law 219-2012, as amended, it is required for all trusts that are created after the passing of this Law to be registered in the Special Registry of Trusts so that they may enjoy all of the rights that this law makes viable, under penalty of nullity.

-III-

In order to facilitate their understanding, we altered the order of analysis of the assignments of error.

By way of its first assignment of error, the Archdiocese of San Juan argues that the CFI erred by issuing the appealed decisions without jurisdiction for such, since it understands that the case was still remanded to the Federal District Court and it had not remanded the case to the CFI at the time at which the appealed decisions and orders were issued.

The Federal District Court for Puerto Rico has ruled that a party may waive a request for removal by way of its conduct. To those effects, the aforesaid Court has stated the following:

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.


KLCE201800413

“A party may waive removal to federal court by litigating in the state court in such a manner that “invoke[s] the jurisdiction of the state court” or engages in actions that “manifest the defendant’s intent to have the case adjudicated in state court.”

Hearings of *Canóvanas I, Inc. v. Fed. Deposit Ins. Corp.*, 266 F. Supp. 3d 563, 571 (citing *Hernández v. Com. of Puerto Rico*, 30 F. Supp. 2d 205, 209).

As we stated, on January 11, 2018, the Trust filed a petition for bankruptcy before the Federal Court for the District of Puerto Rico. Subsequently, on February 6, 2018, the petitioning party filed a Notice of Removal before the federal court based on the fact that the claim pending against it was related to the petition for bankruptcy filed by the Trust and that if the responding party were to prevail and request for bankruptcy be successful, the rights of the Archdiocese of San Juan would be affected. Against this background, on March 13, 2018, the Bankruptcy Court dismissed the request filed by the Trust and on the same date the petitioning party filed a request for dismissal before the CFI based on the alleged application of the Foreign Sovereign Immunities Act to the present case. It must be pointed out that three days later, the Archdiocese of San Juan filed a motion before the Federal Court in which it stated that it was voluntarily withdrawing its request for removal. Moreover, subsequent to the filing of the appeal before this Court, the Federal Court ordered the remand of the case to the CFI.

Evidently, the request for removal filed by the Archdiocese of San Juan, after the petition for bankruptcy had been dismissed, constitutes an affirmative act on its part by withdrawing the removal and once again invoking the jurisdiction of the state court. In light of this, the CFI had jurisdiction to issue the appealed decisions. Therefore, we understand that error (A) was not committed.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

In its assignment of error (E), the petitioning party sustains that the CFI erred by ruling that the Archdiocese of San Juan does not have its own legal personhood independent of the Roman Catholic and Apostolic Church.

The Roman Catholic and Apostolic Church is recognized as a religious institution the leadership and dogmas of which are established directly by the Supreme Pontiff,²³ also known as the Pope, from the Holy See in Vatican City.

According to the *Real Academia Española*, the term “Catholic” comes from the Latin *catholicus*, which means “universal.”²⁴

For its part, the work “Catholicism” is used, in general, to allude to the religious experience shared by the people who live in communion with the Catholic Church.²⁵ In this manner, reference is also habitually made both to the beliefs of the Catholic Church as well as to its community of the faithful.²⁶ Thus, we clarify that the Catholic Church does not constitute a building or denomination, but rather it is a representation of moral persons of the same divine ordainment.

Consonant with the foregoing, in order to analyze this assignment of error, it is appropriate to cite the second paragraph of Art. 8 of the Treaty of Paris of December 10, 1898, which was used as a starting point by the CFI to grant legal personhood to the Catholic Church in Puerto Rico. The aforesaid precept provides the following:

²³ The Supreme Pontiff [who is also the Bishop of the Church of Rome], elected during the conclave of cardinals that have not reached eighty years of age, is converted into a Sovereign State when he accepts his election to the Pontificate. <http://www.vaticanstate.va/content/es/stato-c-governo/organi-dello-stato.html> (last visit, April 17, 2018). With regard to such the canonical system provides:

“The bishop of the Roman Church, in whom continues the office given by the Lord uniquely to Peter, the first of the Apostles, and to be transmitted to his successors, is the head of the college of bishops, the Vicar of Christ, and the pastor of the universal Church on earth. By virtue of his office he possesses supreme, full, immediate, and universal ordinary power in the Church, which he is always able to exercise freely.” See, Canon 331 of the CLL.

²⁴ Real Academia Española, *Diccionario de la Lengua Española*, 23rd ed., Madrid: Espasa, 2014, <http://dle.rae.es/?id=7yAuNn2/> (last visit, April 12, 2018).

²⁵ Rausch, Thomas P., *Catholicism in the Third Millennium*. Collegeville, MN, U.S.: Liturgical Press. 2003, xii.

²⁶ Real Academia Española, *Diccionario de la Lengua Española*, 23rd ed., Madrid: Espasa, 2014, <http://dle.rae.es/?id=7yAleAZ> (last visit, April 12, 2018).



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

It is therefore declared that this relinquishment or cession, as the case may be, to which the previous paragraph refers, may in no way diminish the property, or the rights, that according to the law, correspond the peaceful holder of all manner of property of the provinces, municipalities, public or private establishments, ecclesiastical or civil corporations, or of any other communities whatsoever, that have legal personhood to acquire and possess property in the aforementioned relinquished or ceded territories, and those of specific individuals, whatever their nationality.

The aforesaid Article was interpreted by the United States Supreme Court more than 100 years ago in the case of *Municipality of Ponce v. Catholic Church in Porto Rico*, 2010 US 296, on pg. 311 (1908), in which the highest judicial forum stated the following:

This clause is manifestly intended to guard the property of the Church against interference with, or spoliation by, the new master, either directly or through his local governmental agents. There can be no question that the ecclesiastical body referred to, so far as Porto Rico was concerned, could only be the Roman Catholic Church in that island, for no other ecclesiastical body there existed.

As we see, by way of the second paragraph of Art. 8 of the Treaty of Paris, all of the assets and properties of the ecclesiastical bodies were respected, wherefore, pursuant to the express text of the same, it is not necessary for the Roman Catholic and Apostolic Church on the Island to have to incorporate in order to recognize its legal personhood. It is necessary to point out that, at the time of having signed the Treaty of Paris and deciding the case of *Municipality of Ponce v. Catholic Church in Puerto Rico, supra*, there existed one single diocese of the Roman Catholic and Apostolic Church in Puerto Rico, and there was no representation whatsoever of other denominations. Nevertheless, more than a century later, the Roman Catholic and Apostolic Church in Puerto Rico has reorganized into an Archdiocese and five additional dioceses, namely: Archdiocese of San Juan, and the Dioceses of Arcibo, Caguas, Mayaguez, Ponce, and Fajardo-Humacao. **Each one is autonomous, independent from the others, and has its own legal personhood, headed**



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

individually by a diocesan Bishop. He is appointed by the Supreme Pontiff by virtue of the canonical ordainment and is constituted as a Pastor of the Church to be “teachers of doctrine, priests of sacred worship, and ministers of governance.”²⁷ Likewise, “[t]he The diocesan bishop represents his diocese in all its juridic affairs.”²⁸

The action taken by the court of first instance of not granting legal personhood to the Archdiocese of San Juan evidently infringes on the internal structure of the Catholic Church

and unduly interferes with the prescriptions, guidelines, provisions, and orders that make up the Code of Canon Law. Moreover, it constitutes clear and undue meddling on the part of the Court of First Instance, in violation of the Freedom of Religion Clause. Doubtlessly, said order violates the constitutional clause that promotes the complete separation between church and state, given that none of the branches of the government, including the courts, can repeal the power to determine the organization or structure of the Roman Catholic and Apostolic Church, or pry into its internal affairs.

It is our judgment that error (E) was committed by the CFI, in view of the fact that the Archdiocese of San Juan has its own legal personhood independent from the Roman Catholic and Apostolic Church. With this determination we acknowledge the validity of the Code of Canon Law, its coexistence with our civil legal system, and we avoid any interference with its postulates.

Consonant with the foregoing, **the order issued by the CFI addressed to the “Roman Catholic and Apostolic Church in Puerto Rico” to continue with the issuance of the pension payments to the recurring party is a vague, nonspecific,**

²⁷ Canon 375 § of the CLL.

²⁸ Canon 393 of the CLL.

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

and general one. Thus we decide, above all, taking into consideration the fact that, evidently, the term *Church* expressed by the Supreme Court of Puerto Rico in its Judgment from July 18, 2017, *supra*, is a *numerus apertus* concept that includes countless entities within the Roman Catholic and Apostolic Church with their own legal personhood independent of the others. An example of this is the Archdiocese of San Juan, the Dioceses, as well as the Pontifical Catholic University of Ponce [sic] and Univeridad del Sagrado Corazón, to name a few Catholic university institutions. The CFI must itemize the exact and specific amount of the unpaid pensions, as well as the monthly payrolls of said pensions by academic institution.

We clarify, moreover, that the separation of church and state clause is not limited to the Roman Catholic and Apostolic Church, it is also addressed to all of the other religions that have been established and they enjoy their own legal personhood pursuant to their internal rules and standards. Among these religious organizations are:

Protestants, which includes the Christian Church of Disciples of Christ, Defenders of the Faith, the Pentecostal Church of God, the United Methodist Church, the American Baptist Churches, the United Presbyterian Church, the United Evangelist Church, the Episcopal Church, among others.

Unaffiliated churches, also known as Independent Churches, such as the Group of Evangelist Missionaries of Canóvanas- House of Praise Church (A.M.E.C., by its Spanish acronym), Fountain of Living Water, La Senda Antigua, Church of Jehova Our Justice-Heavenly Camp, among others.

Other protestant groups including Jehovah's Witnesses, Mormons, Mita Congregation, among others.



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

In addition to other religious denominations, such as Islam, Judaism, including Orthodox, Conservative, and Reformist, among others.

It is necessary to point out that the Church by way of its dependencies can be plaintiffs or defendants in a lawsuit and the court is obligated to decide the dispute brought forth. What the state (the executive, legislative, and judicial branch) cannot do is interfere, meddle in, or establish the internal standards and rules and institute the hierarchal structure or the legal personhood of each dependency within the Church. Doing so would constitute a crass entanglement and violation of the separation of church and state.

We reiterate that the courts cannot exercise our jurisdiction to decide disputes regarding property rights of a church when in order to do so we must render judgment on its internal organization. *Díaz v. Colegio Nuestra Sra. del Pilar, supra*. **When faced with this type of dispute, the judge is obligated to consider the canons, rules, and standards of the churches and/or religious denominations and may not intervene in their internal functioning or with their assets or places devoted to the spreading of the faith. Respecting in this manner the legal personhood held by each religious organization.**

On the other hand, the petitioning party sustains that it was appropriate in law to dismiss the fourth amended complaint due to lack of jurisdiction based on the Foreign Sovereign Immunities Act. In view of the fact that the claims in the present case are addressed to entities within the Roman Catholic and Apostolic Church and not the Holy See or the State of Vatican City, the entity recognized by International law as a foreign state, the Federal Sovereign Immunities Act does not apply to the present case. Therefore, errors (B) and (C) were not committed.



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.


KLCE201800413

In its assignment of error (F), the petitioning party sustains that the CFI erred by ruling that Academia del Perpetuo Socorro lacks legal personhood. Upon analyzing this assignment of error, it is appropriate to remember that the CFI erroneously granted legal personhood to the “Roman Catholic and Apostolic Church in Puerto Rico.” Below, we shall proceed to analyze whether the Trust, Academia del Perpetuo Socorro, Academia San Ignacio de Loyola, and Academia San José have legal personhood. Let us see.

It appears in the appearance by the Trust entitled “Motion in Compliance of Order by the Pension Plan of Catholic Schools Trust,” that the deed of the Pension Plan for Employees of Catholic Schools Trust was executed on November 26, 1979. It shows that one appearing party was the Office of the Superintendent of Catholic Schools of the Archdiocese of San Juan and the other appearing parties were Father Baudillo Merino, Father John Tomala, Ms. Anabel P. Casey, Brother Francis M. Oullete, and Mr. Santiago Aponte, as trustees. In the deed, the powers of the trustees were established, along with investment guidelines, guidelines regarding the expenses to be incurred by the Trust, and the validity of the Trust.

Included in the appearance also is a document entitled “Pension Plan of the Catholic Schools of the Archdiocese of San Juan” which establishes that a trust will be created. Art. 13, which is entitled “Creation of Trust” with regard to the trustees, states the following:

*The Sponsor [the Office of the Superintendent of Catholic Schools of the Archdiocese of San Juan] shall appoint the **trustees who**, upon executing the corresponding instruments, **shall enter into possession of the legal title of the property**. The custody and control of all of the assets that constitute part of the fund shall remain in the power of the trustee and neither the Sponsor nor any other participant shall be entitled to any ownership over such, except that the participants shall be entitled to receive those payments and distributions that are established in this document.*

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

(Emphasis ours).

The Pension Plan for Employees of Catholic Schools Trust, the sponsor of which is the Office of the Superintendent of Catholic Schools of the Archdiocese of San Juan, was created by way of public instrument on November 26, 1979. Therefore, Law 219-2012, as amended,

which grants full legal personhood to trusts, is not applicable to the same, due to being prospective. As such, the Trust lacks its own independent legal personhood. Nevertheless, those who were brought into the lawsuit by way of the “Fourth Amended Complaint” could be held liable for the payment of the pensions, in their capacity as trustees.

With regard to whether Academia San Ignacio de Loyola holds legal personhood, a document entitled “Financial Viability Certification” appears in the records, signed on May 15, 2017 by Rev. Lawrence P. Searles, Administrative Director and Pastor of Academia San Ignacio de Loyola. It is stated in the document that the aforesaid school is a “Parochial School of the Jesuit Order” and that Rev. Lawrence P. Searles was appointed administrator by the Provincial of the Order.

According to the canonical system, the Institutes of Sacred Life, the Provinces, and the Houses have legal personhood and they have the capacity to acquire, possess, administer, and transfer assets. Thus, the “Parochial of the Jesuit Religious Order” holds distinct and independent legal personhood from the Archdiocese of San Juan and, therefore, in the case of the pensions claimed by the affected teachers at that school, both the “Parochial of the Jesuit Religious Order,” the San Ignacio Parish, the Archdiocese of San Juan, as well as the trustees of the Trust, in their capacity as trustees, could be held liable.




I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

With regard to whether Academia del Perpetuo Socorro has legal personhood, in addition to being a Parochial School ascribed to the Perpetuo Socorro Parish, it was registered in February of 1968 as a nonprofit corporation in the Puerto Rico Department of State, the following appears in the “Certificate of Revocation of Certificate of Incorporation” issued by the Puerto Rico Department of State: “Academia del Perpetuo Socorro, Inc., Santurce,” registration number 4692, has been cancelled as established by the General Corporations Act of Puerto Rico, on April 16, 2014 at 12:01 A.M.” **Alternatively, it is stated on the Certificate of Incorporation of Academia del Perpetuo Socorro signed on February 2, 1968, as well as the document entitled “Articles of Restoration” issued by the Puerto Rico Department of State on December 19, 2017, that the term of existence of the corporation Academia del Perpetuo Socorro, Inc., Santurce shall be perpetual or indefinite as of February 1968.** As such, the corporation of Academia del Perpetuo Socorro regained its legal personhood retroactively on to February 2, 1968. In addition to this, the above-titled case was filed on June 6, 2016, within the term of three years established by Art. 9.08 of the General Corporations Act, *supra*, so that the corporation maintained its corporate identity until the end of the lawsuit.

We rule that Academia del Perpetuo Socorro has distinct and independent legal personhood from the Archdiocese of San Juan and, therefore, in the case of the pensions claimed by the teachers affected at that school, Academia del Perpetuo Socorro, the Archdiocese of San Juan, Perpetuo Socorro Parish, as well as the trustees of the Trust, in their capacity as trustees, could be held liable. The CFI erred by ruling that Academia del Perpetuo Socorro lacks legal personhood.

With regard to Academia San José, it arises from the evidence presented by the parties that it is a parochial school belonging to the Archdiocese of San Juan,

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

wherefore the Archdiocese of San Juan, San José Parish, as well as the trustees of the Trust, in their capacity as trustees, could be held liable for the payment of the pensions of the teachers of that school.

In its assignment of error (D), the petitioning party argues that the CFI erred by issuing a preliminary injunction without the imposition of a bond pursuant to Rule 57.4 of the Rules of Civil Procedure, *supra*. As we pointed out, the Supreme Court of Puerto Rico, by way of its Judgment on July 18, 2017, granted the request for a preliminary injunction so as to continue the payment of the pensions before the holding of a trial on the merits. The preliminary injunction was issued by the high court and mentioned nothing with regard to the posting of bond in the appellate stage. In view of the fact that Rule 57.4 of the Rules of Civil Procedure, *supra*, expressly and categorically establishes that no preliminary injunction order shall be issued except by way of the posting of bond by the requestor, it corresponds to the CFI to impose such.

Moreover, as we pointed out, the Supreme Court of Puerto Rico in its Judgment on July 18, 2017, ordered the court of first instance to hold a hearing in order to determine whether the defendant-schools have legal personhood and to order the continuation of the pension payments, whether those corresponding to the Academies or the Church. Therefore, in the present case, the responding party has not prevailed given that it continues litigating the case and no final and enforceable judgment regarding the matter has been issued. In view of the foregoing, in the event that the party(-ies) fail to comply with the continuation of the issuance of the payments pursuant to the Pension Plan and seizure to be legally admissible, the CFI shall impose the bond pursuant to Rule 56.3 of the Rules of Civil Procedure, *supra*. Such must be proportional to the liability of each of the institutions.



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413


In its assignment of error (G), the Archdiocese of San Juan argues that the CFI erred by ordering the consignment of \$4,700,000.00 without holding a hearing regarding the amounts corresponding to the pensions of the plaintiffs in alleged violation of the due process of law.

From the documents filed before this Court, it does not appear exactly that the amount to be consigned is \$4,700,000.00. As such, the CFI must hold a hearing in which both the Trust and the parties provide the corresponding documents and based on the evidence presented, the court of first instance shall determine the exact amount of the pension payment per institution.

It is advised that sacred things, including movable assets that have been consecrated or blessed to be used for divine worship, such as: sacred images, sacred relics, and the instruments or accessories intended for divine worship, among others, shall never be subject to seizure. Nor shall the sacred places intended for divine worship or the burial of the faithful through blessing or dedication such as churches or temples, oratories, private chapels, sanctuaries, altars, cemeteries, among others, be subject to seizure. To those ends, the CFI must evaluate case by case and hold a hearing to decide which are seizable, should the liable party fail to comply with the payments.

-IV-

Based on the foregoing grounds, I consider that the preliminary injunction issued by the Supreme Court of Puerto Rico ordering the continuation of the payment of the pensions should be addressed to the entities with legal personhood within the Roman Catholic and Apostolic Church that are liable for making such and that are part of this lawsuit. Due to the fact that the Trust no longer finds itself under the

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

jurisdiction of the Federal Court, its trustees may also be liable for the payment of the pensions, in their capacity as trustees.


The CFI must use the necessary mechanisms to determine the exact liability that corresponds to each Academy according to the retired teachers that it covers. Once such has been determined, it is the duty of the court of first instance to implement the mechanism for its enforcement, including evaluating the imposition of a bond pursuant to the criteria of Rule 57.4 of the Rules of Civil Procedure, *supra*.

That said, at this time no liability may be imposed on those parties that have not been brought to the lawsuit, namely: "Parochial of the Jesuit Religious Order," San José Parish, Perpetuo Socorro Parish, and San José Parish.

Once it has been established who holds liability for continuing the payment of the pensions, pursuant to that provided herein, said entity or entities of the Roman Catholic and Apostolic Church with legal personhood shall be liable for making such.

I concur with the majority of this panel revoking the order for seizure against the Roman Catholic and Apostolic Church, given that such is null, since as was explained, it does not have legal personhood. The seizure must be directed solely at the entities of the Roman Catholic and Apostolic Church with legal personhood and that are parties of this lawsuit.

Should the parties fail to comply with the continuation of the payments pursuant to the Pension Plan and seizure be legally appropriate, the CFI must consider a seizure bond pursuant to Rule 56.3 of the Rules of Civil Procedure, *supra*. With such being proportional to the liability of each one of the institutions.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

KLCE201800413

Said seizure order must be limited to assets that are not sacred pursuant to the Code of Canon Law or devoted to the spreading of the faith, given that, in doing so, the separation of church and state clause would be violated.

I dissent from the Judgment issued by the majority of the Judges of the Panel, due to understanding that the Judgment issued on July 18, 2017, by the Supreme Court of Puerto Rico ordering “the continuation of the payments of pensions by the employers of the petitioners, whether that be the Academies or the Church,” is a clear and specific one, wherefore it is not subject to interpretations. Contrary to the clear order by the highest Court, the majority of the Judges of the Panel went into adjudicating the entirety of the case in this early stage of the proceedings. I understand that the proper course of action was to decide who could be held liable for the continuation of the payment of the pensions until the entire lawsuit is decided.

[signature]
Felipe Rivera Colón
Appellate Judge

APPENDIX G

CERTIFIED TRANSLATION


SL2016CV00131 3/27/2018 10:18:05 a.m. Page 1 of 3

COMMONWEALTH OF PUERTO RICO
COURT OF FIRST INSTANCE
SUPERIOR COURT OF SAN JUAN

<p>YALÍ ACEVEDO FELICIANO, JOHN A. WILLIAMS BERMUDEZ and the Community Property formed by both, <i>et als</i>,</p> <p>Plaintiffs;</p> <p>v.</p> <p>LA SANTA IGLESIA CATÓLICA APOSTÓLICA EN PUERTO RICO, INC., represented by MONSIGNOR ROBERTO GONZÁLEZ NIEVES in his capacity of Archbishop of San Juan, <i>et al.</i>,</p> <p>Defendants.</p>	<p>CIVIL NO. SJ2016CV0131</p> <p>COURTROOM: 904</p> <p>IN RE:</p> <p>CEASE AND DESIST ORDER AND/OR INJUNCTION; DECLARATORY JUDGMENT; CONTRACT COMPLIANCE; ESTOPPEL; DAMAGES</p>
<p>SONIA ARROYO VELÁZQUEZ, JESÚS M. FRANCO VILLAFANE and the Community Property formed by both, <i>et als</i>,</p> <p>Plaintiffs;</p> <p>v.</p> <p>LASANTA IGLESIA CATÓLICA APOSTÓLICA EN PUERTO RICO, INC., represented by MONSIGNOR ROBERTO GONZÁLEZ NIEVES in his capacity of Archbishop of San Juan, <i>et al.</i>,</p> <p>Defendants.</p>	<p>CIVIL NO. SJ2016CV00143</p> <p>COURTROOM: 904</p> <p>IN RE:</p> <p>CEASE AND DESIST ORDER AND/OR INJUNCTION; DECLARATORY JUDGMENT; CONTRACT COMPLIANCE; ESTOPPEL; DAMAGES</p>
<p>ELSIE ALVARADO RIVERA, ISIDRO HERNÁNDEZ and the Community Property formed by both, <i>et als</i>,</p> <p>Plaintiffs;</p> <p>v.</p> <p>LASANTA IGLESIA CATÓLICA APOSTÓLICA EN PUERTO RICO, INC., represented by MONSIGNOR ROBERTO GONZÁLEZ NIEVES in his capacity of Archbishop of San Juan, <i>et al.</i>,</p> <p>Defendants.</p>	<p>CIVIL NO. SJ2016CV00156</p> <p>COURTROOM: 904</p> <p>IN RE:</p> <p>CEASE AND DESIST ORDER AND/OR INJUNCTION; DECLARATORY JUDGMENT; CONTRACT COMPLIANCE; ESTOPPEL; DAMAGES</p>

ORDER

Having addressed the request filed by plaintiffs to Order the Seizure of Funds of the Catholic Church, to secure the payment of the pensions of the plaintiff-employees, it is hereby granted.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.


CERTIFIED TRANSLATION

In this case, by way of its judgment on July 18, 2017, the Supreme Court of Puerto Rico ruled that the plaintiffs are suffering irreparable damages due to the suspension of payment of their pensions.

Accordingly, the Sheriff of this Court is ordered to seize assets and moneys of the Holy Roman Catholic and Apostolic Church in an amount of \$4,700,000 to secure the payment of plaintiffs' pensions, including bonds, values, motor vehicles, works of art, equipment, furniture, accounts, real estate, and any other asset belonging to the Holy Roman Catholic and Apostolic Church, and any of its dependencies, that are located in Puerto Rico.

If the seizure is performed on sums of money, including wages or benefits, or movable property that is under the possession, deposit, or custody of third parties, the Sheriff is ordered to make such seizure by notifying a copy of this Order to said third parties requiring them to surrender said assets immediately or, in the event that their immediate surrender is impossible, retain them until they can be consigned to the court without being able, under penalty of contempt, to deliver such to the defendants or any other natural or artificial person other than the Sheriff unless the court provides otherwise. In the case of real estate, its seizure shall be made by recording it in the Property Registry and notifying the defendant.

Furthermore, the Sheriff is ordered and authorized, if the place, location, or site where the assets to be seized are located is closed, to take any and all necessary measures {such as opening doors, breaking locks,

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

CERTIFIED TRANSLATION

or forcing entry into the aforesaid place or locale) so as to not render the seizure futile or inoperative.

The present order may be served night or day, anywhere in Puerto Rico where there are assets belonging to the Holy Roman Catholic and Apostolic Church. To these ends, the Sheriff is authorized to move outside the Judicial District for its execution. The Sheriff is also ordered and authorized to, if the place, location, or site where the assets to be seized are located is closed, to take any and all necessary measures {such as opening doors, breaking locks, or forcing entry into the aforesaid place or locale) so as to not render the seizure futile or inoperative.


This Order is issued free of bond, pursuant to Rule 56. 3 of the Civil Procedure, due to the plaintiffs having already prevailed by way of a final and enforceable judgment of the Supreme Court and it having been established that the obligation to pay arises from a public document prepared by defendants themselves.

The Clerk of the Court shall issue, without requiring further order, all orders necessary to faithfully enforce that ordered herein.

In San Juan, Puerto Rico, March 27, 2018.

[signature]

ANTHONY CUEVAS RAMOS
Superior Judge

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.


APPENDIX H

CERTIFIED TRANSLATION

<p>YALÍ ACEVEDO FELICIANO, JOHN A. WILLIAMS BERMUDEZ and the Community Property formed by both, <i>et als</i>,</p> <p>Plaintiffs;</p> <p>v.</p> <p>LA SANTA IGLESIA CATÓLICA APOSTÓLICA EN PUERTO RICO, INC., represented by MONSIGNOR ROBERTO GONZÁLEZ NIEVES in his capacity of Archbishop of San Juan, <i>et al.</i>,</p> <p>Defendants.</p>	<p>CIVIL NO. SJ2016CV0131</p> <p>COURTROOM: 904</p> <p>IN RE: CEASE AND DESIST ORDER AND/OR INJUNCTION; DECLARATORY JUDGMENT; FULFILLMENT OF CONTRACT; ESTOPPEL; DAMAGES</p>
<p>SONIA ARROYO VELÁZQUEZ, JESÚS M. FRANCO VILLAFANE and the Community Property formed by both, <i>et al.</i>,</p> <p>Plaintiffs;</p> <p>v.</p> <p>LASANTA IGLESIA CATÓLICA APOSTÓLICA EN PUERTO RICO, INC., represented by MONSIGNOR ROBERTO GONZÁLEZ NIEVES in his capacity of Archbishop of San Juan, <i>et als</i>,</p> <p>Defendants.</p>	<p>CIVIL NO. SJ2016CV00143</p> <p>COURTROOM: 904</p> <p>IN RE: CEASE AND DESIST ORDER AND/OR INJUNCTION; DECLARATORY JUDGMENT; FULFILLMENT OF CONTRACT; ESTOPPEL; DAMAGES</p>
<p>ELSIE ALVARADO RIVERA, ISIDRO HERNÁNDEZ and the Community Property formed by both, <i>et al.</i>,</p> <p>Plaintiffs;</p> <p>v.</p> <p>LASANTA IGLESIA CATÓLICA APOSTÓLICA EN PUERTO RICO, INC., represented by MONSIGNOR ROBERTO GONZÁLEZ NIEVES in his capacity of Archbishop of San Juan, <i>et als</i>,</p> <p>Defendants.</p>	<p>CIVIL NO. SJ2016CV00156</p> <p>COURTROOM: 904</p> <p>IN RE: CEASE AND DESIST ORDER AND/OR INJUNCTION; DECLARATORY JUDGMENT; FULFILLMENT OF CONTRACT; ESTOPPEL; DAMAGES</p>

ORDER

On July 18, 2017, the Supreme Court, pursuant to the Judgment in the case CC-2016-1053, vacated the Decision issued by this court and **granted the preliminary injunction requested the continuance of the**

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

payment of the plaintiffs' pensions. In its Judgment, it provided that it remains to be determined who is obligated to continue payments to the plaintiffs until this this lawsuit concludes. To those effects, it ordered for us to hold a hearing in which we determine whether the defendant-schools have legal personhood, and once that has been determined, for us to order the continuation of pension payments by the employers of the plaintiffs, whether they be the corresponding academies or the Church. After having held the hearing and in compliance with that order, we proceeded to issue our Decision on March 16, 2018. In it, we ordered the Roman Catholic and Apostolic Church in Puerto Rico to proceed to **immediately and without further delay, to continue issuance of payments to plaintiffs according to the pension Plan, until this lawsuit is decided.** As of today, defendants have “crossed their arms” in breach of our order.


In view of the foregoing, as well as the reckless attitude assumed by defendants, such party is ordered to, in the final term of 24 hours, proceed to deposit the sum of 4.7 million dollars in the Unit of Accounts of this Court.

Defendant is warned that this Court shall not tolerate any further delays or procrastination during the proceeding, wherefore, if this Order is not complied with within the established term, we shall proceed to order the seizure of the bank accounts of the Roman Catholic and Apostolic Church in Puerto Rico.

NOTIFY.

In San Juan, Puerto Rico, March 26, 2018.

s/ANTHONY CUEVAS RAMOS
SUPERIOR JUDGE

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

APPENDIX I

CERTIFIED TRANSLATION

SL2016CV00131 3/16/2018 11:55:39 a.m. Page 1 of 8


COMMONWEALTH OF PUERTO RICO
COURT OF FIRST INSTANCE
SUPERIOR COURT OF SAN JUAN

<p>YALÍ ACEVEDO FELICIANO, JOHN A. WILLIAMS BERMUDEZ and the Community Property formed by both, <i>et als</i>,</p> <p>Plaintiffs;</p> <p>v.</p> <p>LA SANTA IGLESIA CATÓLICA APOSTÓLICA EN PUERTO RICO, INC., represented by MONSIGNOR ROBERTO GONZÁLEZ NIEVES in his capacity of Archbishop of San Juan, <i>et als</i>,</p> <p>Defendants.</p>	<p>CIVIL NO. SJ2016CV0131</p> <p>COURTROOM: 904</p> <p>IN RE: CEASE AND DESIST ORDER AND/OR INJUNCTION; DECLARATORY JUDGMENT; FULFILLMENT OF CONTRACT; STOPPEL; DAMAGES</p>
<p>SONIA ARROYO VELÁZQUEZ, JESÚS M. FRANCO VILLAFANE and the Community Property formed by both, <i>et als</i>,</p> <p>Plaintiffs;</p> <p>v.</p> <p>LA SANTA IGLESIA CATÓLICA APOSTÓLICA EN PUERTO RICO, INC., represented by MONSIGNOR ROBERTO GONZÁLEZ NIEVES in his capacity of Archbishop of San Juan, <i>et als</i>,</p> <p>Defendants.</p>	<p>CIVIL NO. SJ2016CV00143</p> <p>COURTROOM: 904</p> <p>IN RE: CEASE AND DESIST ORDER AND/OR INJUNCTION; DECLARATORY JUDGMENT; FULFILLMENT OF CONTRACT; STOPPEL; DAMAGES</p>
<p>ELSIE ALVARADO RIVERA, ISIDRO HERNÁNDEZ and the Community Property formed by both, <i>et als</i>,</p> <p>Plaintiffs;</p> <p>v.</p> <p>LA SANTA IGLESIA CATÓLICA APOSTÓLICA EN PUERTO RICO, INC., represented by MONSIGNOR ROBERTO GONZÁLEZ NIEVES in his capacity of Archbishop of San Juan, <i>et als</i>,</p> <p>Defendants.</p>	<p>CIVIL NO. SJ2016CV00156</p> <p>COURTROOM: 904</p> <p>IN RE: CEASE AND DESIST ORDER AND/OR INJUNCTION; DECLARATORY JUDGMENT; FULFILLMENT OF CONTRACT; STOPPEL; DAMAGES</p>

DECISION

I.

This Decision is issued for the purposes of complying with the order of the Supreme Court of Puerto Rico

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

CERTIFIED TRANSLATION

SL2016CV00131 3/16/2018 11:55:39 a.m. Page 2 of 8

in this case, as a result of a writ of certiorari filed by plaintiffs. On July 18, 2017, the Supreme Court, by way of the Judgment in the case CC 2016-1053, vacated the Decision issued by this court and granted the preliminary *injunction* requesting that payment of plaintiffs' pensions continue. It affirmed that it remains to be determined who is obligated to continue payments to the plaintiffs until this litigation concludes. To those effects, it ordered us to hold a hearing in which we determine whether the defendant-schools have legal personhood, and once that has been determined, for us to order the continuation of pension payments by the employers of the plaintiffs, whether that be the corresponding school or the Church.


To that end, the parties submitted several documents on this particular matter. Plaintiffs have questioned the legal personhood of "Academia del Perpetuo Socorro" (APS) and, in turn, of "Academia San José" ("ASJ") and "Academia San Ignacio de Loyola" ("ASIL"), presumably, because none of the three schools possesses legal personhood due to being "dependencies" of the Archdiocese of San Juan.

APS has argued, in several pleadings, that it has its own legal personhood independent of the Roman Apostolic Catholic Church (Church). It affirms that plaintiffs expressly admit that APS is one of the participating schools in the Pension Plan for Employees of Catholic Schools (Plan) of the Archdiocese of San Juan and that it contributes at the rate of four percent (4%) of its payroll. Moreover, it recognizes that they, as employees of APS, are beneficiaries of the plan and this is part of their compensation.

It argues that although the Certificate of Incorporation for APS was revoked by the Department of State on May 4, 2014, Article 12.08 of the Corporations Act, *supra*, in no way prevents plaintiffs from ignoring the existence of the corporation in a legal proceeding such as this one.

On December 18, 2017, plaintiffs filed a "Motion Submitting Documents on the Lack of Legal Personhood of the Schools." In sum, they reiterated that the academies have no legal personhood and that they belong to the Catholic Church. To that end, they supported their arguments in a series of documents pertaining to the academies.

On January 19, 2018, plaintiffs reiterated that APS has no legal personhood inasmuch as it lost its incorporation before the Department of State. Moreover, on January 24, 2018, it argued that it does have legal

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

CERTIFIED TRANSLATION

SL2016CV00131 3/16/2018 11:55:39 a.m. Page 3 of 8

personhood because its incorporation was reinstated and such carries its legal personhood back to the date of its incorporation, that is, to February 2, 1968. APS affirmed that none of its actions were in any way affected during the period of time in which its Certificate of Incorporation was canceled.


On January 29, 2018, defendants filed a "Memorandum of Law Concerning the Legal Personhood of the Catholic Church and its Ecclesiastical Entities" in which it reiterated that argued in its previous pleadings.

Upon considering the briefs presented by the parties and the current law, we proceed to decide. Let us see.

II.

DETERMINATIONS OF FACTS

1. Plaintiffs consist of active and retired employees of "Academia del Perpetuo Socorro" (APS).
2. APS is one of the schools participating in the Plan of the Archdiocese of San Juan and which contributes four percent (4%) of its payroll. Plaintiffs, as employees of APS, are the beneficiaries of the plan and it constitutes part of their compensation.
3. On February 2, 2016, the Department of State issued a certificate in which it stated that, "in accordance with the Paris Peace Treaty of December 10, 1898," the Roman Catholic and Apostolic Church "has legal personhood, wherefore it does not have to be registered as a corporation in the Department of State."
4. Furthermore, on July 6, 2016, it issued two certifications in which it reiterated the foregoing and stated, also, that "any division or dependency created under said legal personhood shall be part of such, wherefore the Archdiocese of San Juan [and the] Office of the Superintendent of Catholic Schools of the Archdiocese of San Juan do not have to register in the registry of corporations."
5. On August 27, 2009, the Archdiocese of San Juan, by way of Ms. Lucía Guzman Orta, Chancellor of the Archdiocese, affirmed by letter that the Nuestra Señora del Perpetuo Socorro ["Our Lady of Perpetual Help"] Parish, the parish to which APS belongs, in turn, belongs to the Archdiocese of San Juan and is part of the Roman

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Catholic and Apostolic Church in Puerto Rico, which has its own legal personhood under the Treaty of Paris of 1898.

6. From the testimonial evidence in open court, it arose that the decisions of both the church-schools and of the Office of the Superintendent of Catholic Schools of San Juan are made by the Archbishop of San Juan.

III.

CONCLUSIONS OF LAW

A.

At the outset, it is important to note that the Civil Code of Puerto Rico establishes who artificial persons are in our jurisdiction. Art. 27 of the Civil Code prescribes that the following are artificial persons:

- (1) Corporations and associations of public interest, having artificial personality recognized by law. The personality of such bodies shall commence from the moment of their establishment in accordance with law.
- (2) Private corporations, companies or associations, whether civil, commercial or industrial, to which the law grants legal personality.

31 LPRA Sec. 101. Emphasis ours.

The Supreme Court has reiterated that an artificial person is, then, the collectivity of persons or group of assets that, organized for the realization of a permanent purpose, obtains the recognition of the State as a subject of law. The artificial person receives its personhood directly from the law; therefore, the limits of its powers, rights, and responsibilities are set by the enacting law. *Rivera Maldonado v. Commonwealth*, 119 DPR 74.

Likewise, Article 28 of the Civil Code prescribes that:


[t]he corporations, companies or associations referred to in subsection (2) of this title governed by such legal provisions as may be applicable thereto, by their classes of incorporation and by their bylaws, according to the nature of each of them.

31 LPRA Sec. 102.

Likewise, Article 30 of the Civil Code establishes that "the civil status of corporations, companies and associations shall be governed by the laws which create or recognize them." 31 LPRA Sec.103. Lastly, it prescribes that:

Artificial persons may acquire and possess property of all kinds and also contract obligations and institute civil and criminal actions, in accordance with the laws and regulations of their establishment.

B.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

CERTIFIED TRANSLATION

For its part, the Corporations Act, *supra*, prescribes on the birth of corporations upon the issuance of the corresponding Certification of Incorporation. To those effects, Art. 1.01 prescribes the following regarding the incorporating purposes:

- A. This Act shall be known as the “General Corporations Act.”
- B. Corporations may be organized under this Act to transact or promote any lawful business or purpose, except those prohibited by the Constitution and laws of the Commonwealth of Puerto Rico.
- C. Any natural person with legal capacity or any juridical person, singly or jointly with others, may incorporate or organize a corporation by filing a certificate of incorporation with the Department of State that shall be executed, acknowledged, filed, and recorded in accordance with Section 1.03 of this Act, and subject to inspection by the public.

14 LPRA sec. 3501. Emphasis ours.

Likewise, Art. 1.05 provides the following concerning the beginning of legal personhood. Specifically, it prescribes that:

- A. Once the certificate of incorporation has been executed and filed as provided in subsection (D) of Section 1.03 of this Act and the fees required by law have been tendered, the person or persons who have thus associated and their successors and assignees shall constitute, as of the filing date, or if it was set forth in the certificate of incorporation, as of a subsequent date which shall not exceed ninety (90) days, a corporate entity with the name set forth in the certificate, subject to dissolution as provided in this Act.
 - B. The issue of the certificate of incorporation by the Secretary of State shall constitute conclusive evidence that all the conditions required by this Act for incorporation have been satisfied, except in procedures initiated by the Commonwealth to cancel or revoke the certificate of incorporation or to dissolve the corporation.
- [...]


Emphasis ours.

C.

Alternatively, we understand that the legal status of the Catholic Church in Puerto Rico does not depend on an act of the Legislature of Puerto Rico, given that the Church has its own legal personhood, which is the same that it had and enjoyed during the Spanish regime and continued to enjoy when Puerto Rico became a territory of the United States after the Spanish-American War.

The maintenance and possession of said legal personhood was recognized by the Treaty of Paris of December 10, 1898, in Article 8, paragraph 2, which prescribed the following:

And it is hereby declared that the relinquishment or cession, as the case may be, to which the preceding paragraph refers, cannot in any respect impair the property or rights which by law belong to the peaceful possession of property of all kinds, of provinces, municipalities, public or

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

CERTIFIED TRANSLATION

SL2016CV00131 3/16/2018 11:55:39 a.m. Page 6 of 8

private establishments, ecclesiastical or civic bodies, or any other associations having legal capacity to acquire and possess property in the aforesaid territories renounced or ceded, or of private individuals, of whatsoever nationality such individuals may be."

Based on this provision of the Treaty of Paris, the Supreme Court of the United States recognized the legal capacity of the Catholic Church in *Municipality of Ponce v. Catholic Church in Porto Rico*, 210 US 296 (1908). The Court expressed the following:

This clause is manifestly intended to guard the property of the Church against interference with, or spoliation by, the new master, either directly or through its local governmental agents. There can be no question that the ecclesiastical body referred to, as far as Porto Rico was concerned, could only be the Roman Catholic Church in that island, for no other ecclesiastical body there existed.

Municipality of Ponce v. Catholic Church in Porto Rico, *supra* page 311.


And later the Court adopted the following conclusion:

The Roman Catholic Church has been recognized as possessing legal personality by the Treaty of Paris, and its property rights solemnly safeguarded. In doing the treaty only followed the recognized rule of international law which would have protected the property of the church in Porto Rico subsequent to the cession. This juristic personality and the church's ownership of property had been recognized in the most formal way by the concordats between Spain and the papacy, and by the Spanish laws from the beginning of settlements in the Indies. Such recognition has been accorded to the church by all systems of European law from the fourth century of the Christian era. Emphasis ours.

The concordat to which reference is made in the opinion, is the Concordat of March 16, 1851, executed between Pope Pius IX and Queen Isabella II, which in article 41 confirms that in addition to the Church constituting an entity that was public in nature, that is, under the government and representation of the Supreme Pontiff and the Archbishops, Bishops and Prelates of its institution, it also had, and independently, from all Spanish domains, a civil personhood recognized and guaranteed by the State itself, to acquire, for any legitimate title and possess at all times, all kinds of temporal goods. It should be noted that the Spanish Civil Code that governed the island until the last day of the sovereignty of Spain, converted the Concordats between the Church and the Crown of Spain, into civil law, for the purposes of acquiring and possessing property of all kinds, contract obligations and exercise civil and criminal actions.¹

6

¹ In the Legal Agreement with the Holy See, the Spanish State recognizes the legal personhood of the Spanish Episcopal Conference, in accordance with the Statutes approved by the Holy See. It is recognized, moreover, that the Church can be organized freely. In particular, it may create, modify or suppress dioceses, parishes and other territorial circumscriptions that shall enjoy civil legal personhood as soon as they are canonical and this is notified to the competent organs of the State. Marino Pardo, Francisco Manuel, Legal Regime of Religious Entities and their Foundations and Associations, (November 3, 2015), <http://www.franciscomarinpardo.es/mistemas/41-temas-10-27-parte-gcneral-program-2>.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

CERTIFIED TRANSLATION

SL2016CV00131 3/16/2018 11:55:39 a.m. Page 7 of 8

D.

In this case, the Supreme Court instructed us to determine whether the church-schools have their own legal personhood or if they are protected under the legal personhood of the Catholic Church.

As we previously pointed out, an artificial person is born from the recognition of the law by the State. In our jurisdiction, such recognition is made by the Department of State under the provisions of the Corporations Act, *supra*. It is through the incorporation that a corporation is formed, that, therefore, it has legal personhood in our legal system and is recognized by the State.

In this case, from the evidence presented, we cannot affirm that the Churches and Schools have their own legal personhood in our legal system. From the evidence presented we verified that APS was and is incorporated, but not other schools in the same condition, such as ASJ and ASIL, which operate without being incorporated. We were able to conclude that these church-schools are administered by the Archdiocese of San Juan.


Likewise, the Archbishop of San Juan recognized this in his letter issued on August 27, 2009, in which he affirmed that the Nuestra Señora del Perpetuo Socorro Parish, the parish to which APS belongs, belongs in turn to the Archdiocese of San Juan and is a part of Roman Catholic and Apostolic Church in Puerto Rico, which has its own legal personhood under the Treaty of Paris between Spain and the United States of December 10, 1898.

As we previously stated in a certificate issued by the Department of State, an entity that recognizes and regulates artificial persons in our legal system, it was stated that, "in accordance with the Treaty of Peace of Paris of December 10, 1898," the Roman Catholic and Apostolic Church "has legal personhood, wherefore it does not have to register as a corporation in the Department of State."

Likewise, it acknowledged that for the same reasons, any division or dependency created under said legal personhood shall be part of such. To this end, it relieved both the Archdiocese of San Juan and the Office of the Superintendent of Catholic Schools of San Juan to register in the registry of corporations, due to them belonging to and being protected under the legal personhood held by the Catholic Church.

By virtue of the foregoing, certainly, in our legal system legal personhood cannot be recognized for the defendant schools because they has not acted as such and not even the Department of State recognizes their own legal personhood. Note, that the testimonial evidence showed that all decisions, including administrative ones, are

7

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

CERTIFIED TRANSLATION

SL2016CV00131 3/16/2018 11:55:39 a.m. Page 8 of 8

consulted and carried out by the Archdiocese of San Juan, which, as previously indicated, belongs to the Roman Catholic and Apostolic Church in Puerto Rico, which has its own legal personhood under the Treaty of Paris.

Therefore, upon analyzing the provisions of our legal system, we conclude that the defendant church-schools, as well as the Archdiocese of San Juan and the Office of the Superintendent of Catholic Schools of San Juan, do not have their own legal personhood because they are part of the Roman Catholic and Apostolic Church, as an entity with its own legal personhood, recognized as such by our current legal framework.

IV.

DECISION


In accordance with the determinations of fact and conclusions of law set forth, we hereby declare that the defendant church-schools, as well as the Archdiocese of San Juan and the Office of the Superintendent of Catholic Schools of San Juan, do not have their own legal personhood because they are part of the Roman Catholic and Apostolic Church, as an entity with its legal personhood, recognized as such by our current legal framework.

As a consequence, the Roman Catholic and Apostolic Church in Puerto Rico is ordered to immediately and without any further delay proceed to continue to make payments to plaintiffs as provided in the pension Plan, while this claim continues.

NOTIFY.

In San Juan, Puerto Rico, March 16, 2018

s/ ANTHONY CUEVAS RAMOS
SUPERIOR JUDGE

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

APPENDIX J

CERTIFIED TRANSLATION

01 of 02

COMMONWEALTH OF PUERTO RICO
GENERAL COURT OF JUSTICE
SUPREME COURT

ACEVEDO FELICIANO, YALÍ ET AL - PETITIONER

v.

ROMAN CATHOLIC APOSTOLIC CHURCH ET AL -RESPONDENT

CASE: CC-2016-1053 ORIG. CASE: SJ2016CV00131 SPECIAL PROCEDURES
CIR. CASE: KLCE201601391 -----
CIVIL ACTION OR OFFENSE

REY CANCIO ISABEL
PO BOX 363128

SAN JUAN, PR 00936-3128

NOTIFICATION

I CERTIFY THAT IN RELATION TO THE PETITION FOR WRIT OF CERTIORARI,
THE COURT HAS ISSUED THE FOLLOWING
JUDGMENT:

- BAUZA SANTOS, ANTONIO [ESQ.]
PO BOX 13399
SAN JUAN, PR 00908
- JIMÉNEZ GONZÁLEZ RUBIO, JESÚS M. [ESQ.]
PO BOX 3025
GUAYAMA, PR 00785-3025
- RAMOS GONZÁLEZ, JOSÉ O. [ESQ.]
PO BOX 193317
SAN JUAN, PR 00919-3317
- RAMOS PRADO, CORALLY M. [ESQ.]
PMB 223
#130 WINSTON CHURCHILL AVE
SAN JUAN, PR 00926
- RIVERA MORALES, JOSÉ RAMON [ESQ.]
PO BOX 366104
SAN JUAN, PR 00936-6104
- RODRÍGUEZ LÓPEZ, MARÍA E. [ESQ.]
19 Carr 1353

pep I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

CERTIFIED TRANSLATION

02 of 02
CASE NO. CC-2016-1053

**PMB 283
GUAYNABO, PR 00966-2700
SANABRIA MONTAÑEZ, JAIME L. [ESQ.]
221 PONCE DE LEÓN 15TH FLOOR
SAN JUAN, PR 00917-3128
SANFILIPPO RESUMIL, ROSANGELA [ESQ.]
PO BOX 13399
SAN JUAN, PR 00908
TOYOS OLASCOAGA, YOLANDA V. [ESQ.]
PO BOX 193317
SAN JUAN, PR 00919-3317
ZORRILLA MALDONADO, FRANK [ESQ.]
PO BOX 191783
SAN JUAN, PR 00919-1783**

SAN JUAN , PUERTO RICO ON JULY 19, 2017

JUAN ERNESTO DÁVILA RIVERA, ESQ.

SUPREME COURT CLERK

MILKA Y. ORTEGA CORTIJO [Illegible Initials]

ASSISTANT COURT CLERK

pep I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

CERTIFIED TRANSLATION

IN THE SUPREME COURT OF PUERTO RICO


<p>Yalf Acevedo Feliciano, et al Petitioners</p> <p>v.</p> <p>Roman Catholic Apostolic Church, et al Respondents</p>		
<p>Sonia Arroyo Velázquez et al Petitioners</p> <p>v.</p> <p>Roman Catholic Apostolic Church, et al Respondents</p>	<p>No. <u>CC-2016-1053</u></p>	
<p>Elsie Alvarado Rivera et al Petitioners</p> <p>v.</p> <p>Roman Catholic Apostolic Church, et al Respondents</p>		

JUDGMENT

In San Juan, Puerto Rico on July 18, 2017.

We must determine the origin of a preliminary injunction to order the continuation of pension payments to the beneficiaries of the Catholic Schools of the Archdioceses of San Juan Pension Plan.

In the instant case, the Court of First Instance issued a *Resolution and Court Order* in which it denied a petition for preliminary injunction and attachment bond to secure the effectiveness of a judgment submitted by petitioners. In disagreement, the petitioners appealed to

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

CERTIFIED TRANSLATION

CC-2016-1053

2


the Court of Appeals for a writ of *certiorari*. For its part, the Court of Appeals issued a Resolution in which it denied the writ of *certiorari* sought by petitioners. The petitioners came before this Court with a timely petition for *certiorari*. In response to the appeal filed, we order the respondents, within a term of twenty (20) days, counted from the notification of the Resolution, to show cause why we should not issue the requested remedy and revoke the *Resolution and Order* issued by the Court of First Instance.

The controversy we before us today originated on June 6, 2016, when sixty-six (66) employees and former employees of the Academia del Perpetuo Socorro filed a motion for *cease and desist order and/ or injunction and seizure of funds*, against the Roman Catholic Apostolic Church, the Archdiocese of San Juan, the Superintendence of Catholic Schools and the Pension Plan Trust of the Superintendence of Catholic Schools. At the same time, they filed a suit for declaratory judgment, estoppel, breach of contract, and damages.¹

In their brief requesting the preliminary injunction, the petitioners argued that the termination of pension payments to the retired employees caused them irreparable damage. Likewise, they maintained that the controversy was of public interest, since it affects thousands of teachers, employees and former employees of the Catholic Church and its dependencies, for which it requires an expeditious preliminary remedy.

To resolve the controversy, the Court of First Instance held a hearing where four (4) petitioner members testified, whose testimonies were taken as representative of the teachers and

¹ Subsequently, on June 15, 2016, fifty-five (55) employees and former employees of the Academia San José filed an analogous lawsuit to the one submitted by the teachers of the Academia de Perpetuo Socorro. The hearing to settle the petition for preliminary injunction in the lawsuit against the Academia de Perpetuo Socorro was scheduled for June 22, 2016. On the day of the hearing, another analogous lawsuit was filed by fifty-two (52) employees and former employees of the Academia San Ignacio. After dismissing the petition for a preliminary injunction submitted by the employees of Academia de Perpetuo Socorro, the Court summarily denied the remedy of preliminary injunction to the plaintiffs in the cases of San José and San Ignacio, as it concluded that the legal dispute was identical. The Court of Appeals, for its part, heard the writs of *certiorari* of the three groups of plaintiffs jointly.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

CERTIFIED TRANSLATION
CC-2016-1053

3

former teachers of the Academia de Perpetuo Socorro, and the Superintendent of the Superintendence of Catholic Schools, Ms. Ana Cortés Crespo testified for the respondent party. The members of the petitioner party, in brief summary, conveyed their unfulfilled expectation of receiving a pension for their years of work and the adverse economic consequences of losing their pensions. For her part, Mrs. Cortés Crespo stated that the employees did not contribute to the Plan and the participating employers - who were the only ones contributing to the Plan - voted by majority to terminate the Plan.

The Court of First Instance, in weighing the plaintiffs' claim in the light of their request for the granting of a preliminary injunction, considered the following facts as determinants, namely: (1) that plaintiffs did not make a direct contribution to the Pension Plan, but the contribution was exclusive to the participating employers and the Superintendence, (2) that plaintiffs had other sources of income in addition to the pension in dispute and (3) that the Trust Deed provides that the Plan could be terminated at any time and for any reason, and no evidence was presented that would convince the Court otherwise.

Pursuant to the above, the Court of First Instance judge concluded, as a matter of law, that the damage to be suffered was economic and reparable, thus if defendants were found to be in default at the time, there would be room for compensation for damages. Likewise, the judge indicated that the plaintiff party did not preliminarily prove that the Church is responsible for continuing to pay for the Plan, since it was established that the Catholic Schools, such as the APS, are the participating employers who contribute to the Plan. Therefore, the judge concluded that it was not appropriate to apply the preliminary injunction and preventive attachment.



I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

CERTIFIED TRANSLATION
CC-2016-1053


4

However, when examining the factual situation, based on the same findings of fact that the Court of First Instance made, and the *Trust Deed* and the *Catholic Schools of the Archdioceses of San Juan Pension Plan* documents, we disagree with the lower courts.

The extraordinary *injunction* remedy is in order when a certain action connotes a grievance of patent intensity to the right of the individual who demands an urgent reparation. *VDE Corporation v. F&R Contractors*, 180 DPR 21, 40 (2010); *García Ortiz v. Policía de PR*, 140 DPR 247, 252-53 (1996); *Otero Martínez v. Gobernador*, 106 DPR 552, 556 (1977). The grievance must be irreparable in nature, which cannot be satisfied through the use of available legal remedies. *VDE Corporation*, 180 DPR on p. 40.

Regarding the preliminary injunction, we have established the criteria for granting it time and again, namely: (1) the nature of the damages that may occur on the parties if granting or denying the *injunction*; (2) its irreparability or the existence of an adequate remedy at law; (3) the probability that the plaintiff party will eventually prevail when the litigation is resolved in its merits; (4) the probability that the case becomes moot if the injunction is not granted and (5) the possible impact of the requested remedy on the public interest. *Next Step Medical v. Bromedicon*, 190 DPR 474, 486-87 (2016); *VDE Corporation*, 180 DPR on pp. 40-41; *Mun. de Ponce v. Gobernador*, 136 DPR 776, 784 (1994).

We have interpreted the decision to grant or deny a preliminary injunction as a discretionary function of the instance court, for which its determination will be reviewed in order to find if there was an abuse of discretion on their part. *Mun. de Ponce*, 136 DPR on pages 784-85. Likewise, it is necessary to emphasize that the granting or denial of a preliminary injunction does not adjudicate or prejudge the merits of a case. *Id.* on p. 791.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

CERTIFIED TRANSLATION
CC-2016-1053

5


On the other hand, we have established that the fundamental purpose of the preliminary injunction is to maintain the *status quo* between the parties until a trial is held on its merits, in order that no situation arises where the judgment becomes moot when finally delivered, thus causing damages of greater consideration to the petitioner of the interdict while the litigation continues. *VDE Corporation*, 180 DPR on p. 41; *Rullán v. Fas Alzamora*, 166 DPR 742, 764 (2006). For this reason, the core criteria that rule the issuance of an injunction are the possibility that the controversy and irreparability of the damage caused become moot. *VDE Corporation*, 180 DPR on p. 41; *Rullán*, 166 DPR on p. 764.

Regarding the irreparability of a particular damage, our jurisprudence has clarified that the mere monetary nature of a damage does not classify it, without further ado, as a reparable damage. *Mun. de Ponce*, 136 DPR on pages 786-87. In accordance with this principle, we have favorably cited a commenter to support our position that

the mere fact that what is in controversy is a monetary claim does not definitively exclude the remedy of Injunction if it is necessary to maintain the status quo and prevent that because of the mere passage of time the plaintiff is left without an effective remedy, as well as to protect a proprietary right threatened by an imminent unlawful act of the defendant. *Id.* on p. 787, citing David Rivé Rivera, *Recursos Extraordinarios* 26 (1989).

Thus, when evaluating a preliminary injunction request, it is not sufficient to determine that a damage is monetary to conclude that it is repairable. On the contrary, the analysis requires to further examine whether the monetary damage that will be suffered will produce adverse consequences, which could not be repaired by means of an adequate remedy at Law.

If we examine the request of the petitioners based on the criteria for the granting of a preliminary injunction, and specially the irreparability of the damage caused, we will see that the granting of the requested interlocutory remedy becomes imperative.

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.


CERTIFIED TRANSLATION
 CC-2016-1053

6

First, we consider the nature of the damage was not properly weighed, because although the judge correctly concluded that the damage was economic, it erroneously inferred that it was repairable. The testimony of the members of the petitioner party alluded to the imminent damages that awaited them, such as: facing a foreclosure process for not being able to pay their residence (which they could not recover later), not being able to pay the costly deductible from their or their partner's medications (which would worsen their physical health) and their inability to return to work to replace the needed source of income provided by the pension. Therefore, the Court of First Instance clearly made a mistake by minimizing the decrease in income that the plaintiffs would receive, merely because the pensions were not their only sources of income. Likewise, although the plaintiffs admitted that they never contributed to the Plan, as the trial judge emphasized, they did categorically establish their expectation of receiving their pensions as part of their employment conditions. It hardly matters who contributed directly to a pension plan; if the employer offers it as one of the employment benefits, they are obliged to honor it according to the conditions agreed between the parties.

Furthermore, we consider that the Court of First Instance prejudged the merits too much by giving an undue weight to the testimony of Mrs. Cortés Crespo, who stated that, contrary to the clear text of Article 18 of the Pension Plan, the termination of the Plan **did not require** prior approval of the Secretary of the Treasury and the Pension Benefit Guaranty Corporation.² As we know, "if the terms of a contract are clear and leave no doubt about the intention of the contracting parties, the literal meaning of its clauses shall prevail." Cod. Civ. PR, Art.1233, 31 LPRA sec.3471. In consideration of that hermeneutic rule, the Court of First Instance should

² Article 18 (A), in its entirety, indicates that "the Sponsor reserves the right to terminate this plan in its entirety at any time, for any reason, or for no reason whatsoever subject to the previous approval of the Secretary of the Treasury, and / the Pension Benefit Guaranty Corporation, as well as most of the participating employers." *Catholic Schools of the Archdioceses of San Juan Pension Plan*, Art. 18 (A).

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

CERTIFIED TRANSLATION
CC-2016-1053

7

consider for more solid evidence on the intention of the contracting parties to agree on that clause before preliminarily disrupting the clear text of Article 18 of the Plan. Undoubtedly, it was essential to examine more carefully the legality of the action that lies at the core of the controversy - the termination of the plan - before allowing payments to cease to their beneficiaries.

In turn, and regardless of the legality of the termination of the plan, several clauses arise from the Pension Plan concerning the participating employers responsibility to the beneficiaries, namely: 1) Article 2 (B)³, where employers **guarantee** their contribution of the necessary funds for the operation of the plan; 2) Articles 4 (B)⁴ and 8 (B.1)⁵ where a guarantee of payment of at least sixty (60) months is emphasized, 3) Article 7 (E)⁶, which establishes that employers who terminate their participation in the plan are responsible for amortizing the accumulated non-financed liability, y 4) Article 15 (B)⁷, which emphasizes that the employer who withdraws from the Plan is responsible for the **benefits acquired** from its employees while participating. All this requires examining the responsibility that the employers incurred in agreeing the Pension Plan, and if it extends beyond the Trust that was established.


³ "B. The participating employers guarantee and declare that for the operation and administration of the plan, they have authorized and agreed to contribute the necessary funds through the trustee and that said funds shall be part of the property of the trust that shall be maintained and managed by the trustee for the benefit of employees and their beneficiaries; this under the terms of the plan as established. *Catholic Schools of the Archdioceses of San Juan Pension Plan*, p.5.

⁴ "B. These benefits are independent of, and in addition to, Social Security benefits and will be paid for life, with a guarantee of at least 60 months." *Id.* on p. 6.

⁵ " B.1 Normal Form of Payment: Lifetime annuity with 60-month guaranteed payments..." *Id.*, on p. 8.

⁶ "E. A participating employer that terminates its participation in the plan, shall continue to be responsible for the amortization of the accumulated non-funded by services liability, from the date on which its status as a participating employer began; and the committee shall request that this participating employer contribute annually the necessary amount until it has paid its participation of the accumulated liability". *Id.*

⁷ "... Even in exceptional cases where a definitive withdrawal is authorized to an employer, they shall be responsible for the benefits acquired (past liability) of their employees while they were participating in the plan." *Id.* on p. 16

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

CERTIFIED TRANSLATION
CC-2016-1053


8

On the other hand, it is clear that the Pension Plan is not covered by the *Employee Retirement Income Security Act* (ERISA), since the ecclesiastical plans exemption applies under ERISA. 19 U.S.C.A. sec. 1003 (b) (2). As recently decided by the United States Supreme Court of the, it is irrelevant whether the Plan was originally established by a church or an organization affiliated with a church, as in this case. See *Advocate Health Care Network v. Strapleton*, 137 S. Ct. 1652 (2017).⁸ However, it becomes necessary, for purposes of resolving the present case, to examine the scope of Articles 2 (A) and 21 (O) of the Plan, where both indicate that all provisions of the Plan will be interpreted in accordance with ERISA.

Finally, the requested remedy has a substantial impact on the public interest, as it will prevent hundreds or thousands of people from being in a precarious economic situation because of a managerial decision of their employers, whose legality is in dispute before the courts. In fact, we do not doubt that during the pendency of litigation, several beneficiaries of the Pension Plan, deprived of their needed source of income, have suffered irreparable damage. It is imperative to stop this situation of precariousness until the case reaches its final conclusion. Therefore, the balance of interests, at this stage, leans towards the petitioners.

It remains to be determined who is obliged to continue the payments to the petitioners while the lawsuit reaches conclusion. As stated by the Court of First Instance judge, with the evidence presented so far, it has not been proven that the Church is responsible for continuing to pay for the Plan, since everything indicates that it is the participating employers - the various Catholic schools - who contribute to the Plan. However, the plaintiffs have presented evidence to show that the Academia San Jorge and the Academia San Ignacio de Loyola have never been incorporated and that the Academia de Perpetuo Socorro was incorporated, but its certificate of

⁸ Likewise, the Pension Plan was never subject to an irrevocable election to reject the exemption granted to ecclesiastical plans, as allowed by 26 U.S.C.A. sec. 410 (d).

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

CERTIFIED TRANSLATION
CC-2016-1053

9


incorporation was canceled in April 2014 due to its failure to render the reports required by law. Therefore, since the three are also parochial schools, the petitioners argue that the three academies are commercial names ("*doing business as*") of the Roman Catholic Apostolic Church, for which reason it is principally responsible for the obligations contracted with the plaintiffs. We consider that the origin of the argument of the petitioners would be better served through an evidentiary hearing held by the Court of First Instance.

Consequently, we revoke the *Resolution and Court Order* issued by the Court of First Instance, *we grant* the petition for preliminary injunction to continue the pension payments. We order the Court of First Instance to hold a hearing to determine if the defendant schools have legal personality and, thereupon, order the continuation of pension payments by the employers of the petitioners, whether the corresponding Schools or the Church.

It is agreed and ordered by the Court and the Clerk of the Supreme Court certifies it. Associate Justice Mr. Kolthoff Caraballo did not intervene.

[Illegible Signature]
Juan Ernesto Dávila Rivera
Clerk of the Supreme Court

[Round Stamped Seal
Commonwealth of Puerto Rico
Supreme Court
General Court of Justice]

 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

APPENDIX K

SWORN DECLARATION

I, Roberto Octavio González-Nieves, O.F.M., of legal age, single, Archbishop of the “Metropolitan Archdiocese of San Juan de Puerto Rico” (“Archdiocese of San Juan”), and resident of San Juan, Puerto Rico, declare as follows:

1. My name and personal circumstances are as stated above.

2. I was appointed by Pope John Paul II as Archbishop of the Archdiocese of San Juan de Puerto Rico on March 26, 1999, and was installed as such on May 8, 1999, a position that I continue to hold as of this date.

3. The Archdiocese of San Juan’s assigned geographical area includes the Municipalities of Carolina, Trujillo Alto, San Juan, Cataño, Guaynabo, Bayamón, Toa Alta, Toa Baja and Dorado, with an estimated population of approximately 920,000 Catholics.

4. There is no single entity of the Catholic Church in Puerto Rico that represents or oversees all Catholic entities in the territory. For example, the Archdiocese of San Juan has no independent authority over the five other dioceses located in Puerto Rico, or their constituent parishes and other institutions. Rather, each diocese and the archdiocese operates under the direction of the Holy See in Rome.

5. As part of its pastoral activities to evangelize the residents of the Catholic faith within its assigned geographical territory, the Archdiocese of San Juan engages, for example, in the following efforts: (1) operates various catechesis centers within the Municipalities of San Juan, Guaynabo and Bayamón; (2) operates television (Teleoro Channel 13) and radio stations (RadioOro FM92.5 and AM-81); (3) maintains a Metropolitan Ecclesiastical Tribunal to adjudicate penal and marital controversies; (4) administers *Archdiocesan Commission of Liturgy and Popular Piety* (by its acronym in Spanish, “CALPP”), to inform and teach about the Constitution of the Sacred Liturgy (*Sacrosanctum concilium*) adopted by the Second Vatican Council; (5) operates a charity for needy individuals known as “*Caritas de Puerto Rico*”; (6) maintains Vicariates on matters, such as, seminarians and priesthood vocation, Catholic education, family, culture, health, liturgical celebrations, social pastoral, youth, ecumenism, interfaith relations, amongst others; and (7) is one of the content contributors to the weekly newspaper known in Spanish as “El Visitante”.

6. To conduct the above mentioned pastoral activities, the Archdiocese of San Juan collects funds provided voluntarily by individuals of the Catholic faith, possesses real estate within

its assigned geographical territory, and owns property, amongst other ecclesiastical sites and/or goods used, or services provided.

5807
7. Any freezing of assets and/or seizure of real estate or property belonging to the Archdiocese of San Juan will prevent it from carrying out its pastoral and ecclesiastical ministerial duties to the individuals of the Catholic faith (as well as to persons of other religious beliefs and nonbelievers since through Caritas and our Catholic schools we serve all peoples) within the assigned geographical area of the Archdiocese of San Juan. For example, in the case of the Archdiocese of San Juan's own pastoral and ecclesiastical ministerial duties, contribution to charitable activities, such as "Caritas de Puerto Rico", would have to end; the Metropolitan Ecclesiastical Tribunal would have to cease operation; and the Archdiocese of San Juan will be unable to conduct any of its ministerial duties, as required by the Catholic Canon Law. Also, it would have an effect on Catholic parishes and schools (including during the summer sessions and camps). The seizure of funds or property will impact the parishes' ability to hold their scheduled masses, conduct marriages, baptisms, and first communions.

8. A freeze will also make it difficult if not impossible for the Archdiocese, parishes and other Catholic entities to provide ongoing relief to victims of Hurricane Maria and of the general poverty that pervades some parts of Puerto Rico. A freeze will also make it impossible for parishes to run their traditional summer camps or activities for impoverished or troubled Puerto Rico youth, regardless of their religious affiliation. A freeze will also silence the Archdiocese's Catholic radio and television stations charged with preaching the gospel to Puerto Rico's residents.

9. A freeze will also likely displace all or many of the Catholic clergy, nuns, monks, employees and otherwise homeless people who currently live and/or sleep on property owned by the Archdiocese, its parishes or other affiliated institutions. I estimate that some dozens of people may face a risk of displacement in the event of a freeze.

10. Any freezing of assets and/or seizure of real estate or property belonging to other dioceses in Puerto Rico could have similar effects on those dioceses as well as their constituent parishes, employees and members.

11. The aforementioned facts are true and I can attest to the same based on my personal knowledge, as well as the information made available to me through the Archdiocese of San Juan's records kept in the course of its regularly conducted activities.

The foregoing is sworn to by me, in San Juan, Puerto Rico, this 29th of May, 2018.

The foregoing is sworn to by me, in San Juan, Puerto Rico, this 29th of May, 2018.

Roberto Octavio González-Nieves, O.F.M.
Roberto Octavio González-Nieves, O.F.M.

Affidavit No. 11,120

Signed and sworn before me by Monsignor Roberto Octavio González-Nieves, O.F.M., of the aforementioned personal circumstances, whom I attest to have identified via his driver's license, issued by the Puerto Rico Department of Transportation and Public Works.

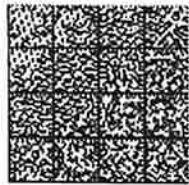
In San Juan, Puerto Rico, this 29th of May, 2018.

[Signature]
NOTARY PUBLIC



RECIBO
18-06443083

Sello



9397
04/26/2018
\$5.00
Sello de Asistencia Legal
80004-2018-0426-42723032

APPENDIX L

SWORN DECLARATION

I, Roberto Octavio González-Nieves, O.F.M., of legal age, single, Archbishop of the “Metropolitan Archdiocese of San Juan, Puerto Rico” (“Archdiocese of San Juan”), and resident of San Juan, Puerto Rico, declare as follows:

1. My name and personal circumstances are as stated above.
2. I was appointed by Pope John Paul II as Archbishop of the Archdiocese of San Juan de Puerto Rico on March 26, 1999, and was installed as such on May 8, 1999, a position that I continue to hold as of this date.
3. As stated in my Sworn Declaration of May 29, 2018, there is no single entity of the Catholic Church in Puerto Rico that represents or oversees all Catholic entities in the territory.
4. I am not an officer, agent or representative, and do not oversee a juridical entity known as the “Roman, Catholic, Apostolic Church in Puerto Rico” (known in Spanish, “*Iglesia Católica, Apostólica y Romana en Puerto Rico*”). Since I do not preside over said entity, and am not authorized to represent that entity, I cannot take any action to comply with an order directed towards that entity.
5. The orders issued by the Court of First Instance on March 16 and 26, 2018, and the Puerto Rico Supreme Court on May 24, 2018, are directed to the “Roman Catholic, Apostolic Church in Puerto Rico.” As such, the Archdiocese of San Juan cannot comply with said orders because none of them, based on their plain language, are directed to the Archdiocese of San Juan, or me, as the Archbishop of the Archdiocese of San Juan.

6. If the orders refer to the Holy See, it is not and should not be a party in this case. The Holy See is the only Roman Catholic entity with authority to oversee all six Catholic dioceses—including the Archdiocese—located in Puerto Rico. As an Archbishop, I am not authorized to represent the Holy See.

The foregoing is sworn to by me in San Juan, Puerto Rico, this 1st day of June, 2018.

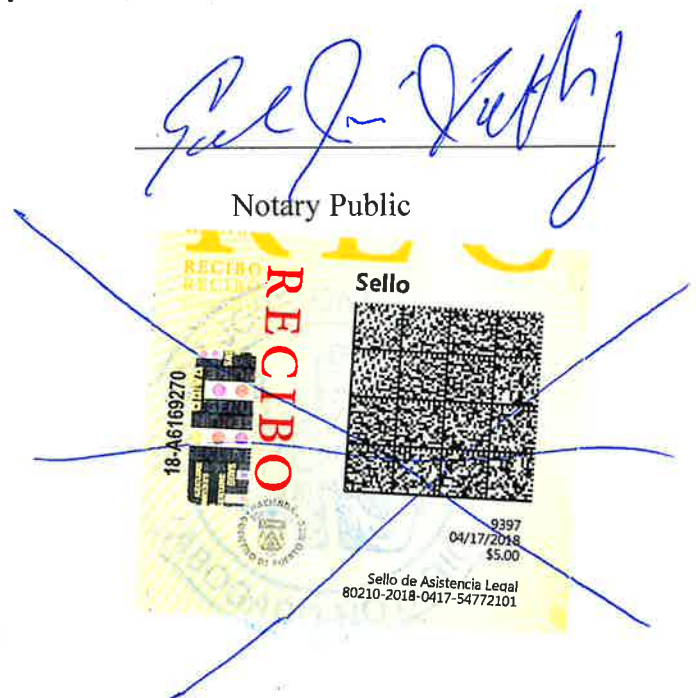


Roberto Octavio González Nieves

Affidavit No. 427

Signed and sworn before me by Archbishop Roberto Octavio González-Nieves, O.F.M. of the aforementioned personal circumstances, whom I attest to have identified via my personal knowledge.

In San Juan, Puerto Rico this 1st day of June, 2018.



APPENDIX M

SWORN DECLARATION

I, Alberto Figueroa Morales, of legal age, single, Vicar General of the “Metropolitan Archdiocese of San Juan, Puerto Rico” (“Archdiocese of San Juan”), and resident of San Juan, Puerto Rico, declare as follows:

1. My name and personal circumstances are as stated above.
2. I am the Vicar General of the Archdiocese. Pursuant to the duties of my position, I am responsible for the administration of the Archdiocese. Thus, I have personal knowledge of the operations of the Archdiocese.
3. On May 24, 2018, the Supreme Court of Puerto Rico reinstated two orders issued by the Court of First Instance on March 16 and 26, 2018, which had been reversed by the Court of Appeals.
4. The March 16, 2018, order states that the Archdiocese of San Juan does not have legal capacity.
5. If the Archdiocese does not have legal capacity, it cannot operate adequately.
6. The Archdiocese needs legal capacity to acquire goods and property; maintain bank accounts; execute contracts; provide services; comply with the requirements established by local and federal laws, including the local Treasury Department and the Internal Revenue Service; vindicate her rights against other entities; pay payroll taxes and operate radio and television stations, among other matters.
7. If the Archdiocese cannot have bank accounts, execute contracts and acquire goods it cannot purchase means that are necessary for providing religious services. This includes religious objects (hosts, etc.) needed for mass, baptisms, marriages and confirmations.
8. The Archdiocese has a serious concern that banks and financial institutions will not let her or the parishes maintain bank accounts because the Archdiocese does not have legal personality, according to the order issued. An inability to maintain a bank account would have an enormous detrimental effect on the daily operations of the Archdiocese or a parish. For example, besides its inability to purchase goods needed for religious services, the Archdiocese would have no safe place to store contributions provided by members and would be seriously impaired in its ability to pay and retain employees,

provide assistance to the needy, care for its religious buildings, pay costs for seminarians, monks and nuns, operate health clinics and catechesis centers, and maintain a Metropolitan Ecclesiastical Tribunal to adjudicate penal and marital controversies. Each of these effects will seriously impair the Archdiocese's ability to achieve her religious mission.

9. If the Archdiocese and parishes do not have legal capacity, third parties can question the title of the property of their churches, the cathedral, schools and other buildings. The Archdiocese has a serious concern that the lack of legal capacity will impair her right and the parishes' right to maintain, operate and administrate this property, thereby seriously impairing her ability to achieve her religious mission.
10. If the Archdiocese cannot comply with local and federal regulations, it cannot have employees and issue its payroll. As such, the Archdiocese has a serious concern that, without legal capacity, it will not be able to comply with her obligations in relation to payroll matters, thereby seriously impairing the achievement of her religious mission.
11. If the Archdiocese does not have legal capacity, it cannot operate several charities, including United Against Hunger and *Cáritas de Puerto Rico*, which are essential to comply with the need to evangelize and provide help to needy sectors of Puerto Rico. The Archdiocese has a serious concern that, without legal capacity, she will not be able to provide charitable goods and services to needy sectors in San Juan and the municipalities of Carolina, Trujillo Alto, San Juan, Cataño, Guaynabo, Bayamón, Toa Alta, Toa Baja and Dorado, with an estimated population of approximately 920,000 Catholics. The deprivation of the Archdiocese's ability to operate these charitable efforts would seriously impair her ability to achieve her religious mission.
12. If the Archdiocese does not have legal capacity, it cannot operate television (*Teleoro Channel 13*) and radio stations (*RadioOro FM92.5 and AM-81*). The Archdiocese has a serious concern that, without legal capacity, local and federal regulators will not allow her to own or operate television and radio stations. The Archdiocese's inability to operate these organs of evangelization would seriously impair her ability to achieve her religious mission.
13. If the Archdiocese and the parishes do not have legal capacity, they will not be recognized as legal entities by the Commonwealth of Puerto Rico and the United States

of America. Thus, they may not have access to utilities such as power and water. Those utilities are needed to operate seminaries, churches, schools, charities, shelters for homeless and needy people, health clinics and the offices of the Archdiocese - all essential to the achievement of her religious missions.

14. The order issued states that the Archdiocese does not have legal personality. As such, the Archdiocese will suffer irreparable injury because she may not be able to appear in cases and vindicate her rights to pursue claims against any entity, including municipal, state or federal agencies. The order has a chilling effect on the Archdiocese's ability to petition the government, and will make the Archdiocese unable to vindicate her rights and those of the Catholic faithful if it does not have legal capacity.
 15. If the order is left in place, the Archdiocese will suffer irreparable injury because it will not be able to properly carry on its obligation and functions. All of the services and property of the Archdiocese are committed to the evangelization of the Catholic Faith, which is the principal purpose of the Archdiocese.
 16. The order reinstated by the Puerto Rico Supreme Court has left the Archdiocese in a legal limbo, since the Court has confirmed that she does not exist while it considers a Petition for Writ of *Certiorari*. As such, the Court can maintain the Archdiocese in a legal limbo for months or years while it decides the Petition for Writ of *Certiorari*.
- The foregoing is sworn to by me in San Juan, Puerto Rico, this 7th day of June, 2018.



Alberto Figueroa Morales

Affidavit No. 408

Signed and sworn before me by Alberto Figueroa Morales, Vicar General of the Archdiocese of San Juan, of the aforementioned personal circumstances, whom I attest to have identified via his driver's license, no. 1436 922, issued by the Puerto Rico Department of Transportation and Public Works.

In San Juan, Puerto Rico this 7th day of June, 2018.



APPENDIX N

COMMONWEALTH OF PUERTO RICO
SUPREME COURT OF PUERTO RICO

YALÍ ACEVEDO FELICIANO, *et al.*

Plaintiffs-Petitioners

v.

ROMAN, CATHOLIC, APOSTOLIC
CHURCH, *et al*

Defendants-Respondents

SONIA ARROYO VELÁZQUEZ, *et al*

Plaintiffs - Petitioners

v.

ROMAN, CATHOLIC, APOSTOLIC
CHURCH, *et al*

Defendants-Respondents

ELSIE ALVARADO RIVERA, *et al*

Plaintiffs - Petitioners

v.

ROMAN, CATHOLIC, APOSTOLIC
CHURCH, *et al*

Defendants-Respondents

CASE NO. CC-2018-0475

18 JUN -4 PM 4:51

RECEIVED
SECRETARÍA DE JUSTICIA
TRIBUNAL SUPLENTE
18 JUN 2018 4:51 PM

MOTION IN COMPLIANCE WITH ORDER

Attorneys for Plaintiffs'-Petitioners:

GERMÁN J. BRAU-RAMÍREZ

TS No. 9710

german.brau@bioslawpr.com

ANTONIO BAUZA-SANTOS

TS No. 11760

antonio.bauza@bioslawpr.com)

BAUZÁ, BRAU, IRIZARRY, OJEDA &
SILVA

PO Box 13669

Santurce Station

San Juan, Puerto Rico 00908;

Attorneys for Defendants-Respondents

JOSÉ J. SANTIAGO-MELÉNDEZ

TS No. 5792

jsantiago@salawpr.com

JOSÉ A. RUIZ-GARCÍA

TS No. 13868

jruiz@salawpr.com

SCHUSTER AGUILÓ LLC

Abogados de la Arquidiócesis de San Juan, y
la Superintendencia de las Escuelas Católicas

PO Box 363128

San Juan, Puerto Rico 00936-3128

Tel: (787) 765-4646; Fax: (787) 765-4611

Other Co-Plaintiffs:

JOSÉ O. RAMOS-GONZÁLEZ
TS No. 7845
rgtolaw@gmail.com

YOLANDA V. TOYOS-OLASCOAGA
TS No. 7845
ytoyos@ramostoyoslaw.com
Tel. 787-765-2731
Fax: 787-641-1848

RAMOS GONZÁLEZ & TOYOS
OLASCOAGA, CSP
P.O. Box 193317
San Juan, Puerto Rico 00919-3317

FRANK ZORRILLA-MALDONADO
TS No. 7085
fzorrilla@fzmlaw.com
PO Box 191783
San Juan, Puerto Rico 00919-1786
Tel. 787-250-1510
Fax: 754-4951

JESÚS M. JIMÉNEZ GONZÁLEZ-RUBIO
TS No. 8536
jimesensei@yahoo.com
A-12 Villa Rosa I
Guayama, Puerto Rico 00704
Tel./Fax 787-866-1114

JOSÉ R. RIVERA-MORALES
TS No. 5742
rrivera@jgl.com
Tel. 787-767-1030
Fax: 787-751-4068

JIMÉNEZ, GRAFFAM & LAUSELL
P. O. Box 366104
San Juan, Puerto Rico 00936-6104

**COMMONWEALTH OF PUERTO RICO
SUPREME COURT OF PUERTO RICO**

YALÍ ACEVEDO FELICIANO, *et al.*

Plaintiffs-Petitioners

v.

ROMAN, CATHOLIC, APOSTOLIC
CHURCH, *et al*

Defendants-Respondents

SONIA ARROYO VELÁZQUEZ, *et al*

Plaintiffs - Petitioners

v.

ROMAN, CATHOLIC, APOSTOLIC
CHURCH, *et al*

Defendants-Respondents

ELSIE ALVARADO RIVERA, *et al*

Plaintiffs - Petitioners

v.

ROMAN, CATHOLIC, APOSTOLIC
CHURCH, *et al*

Defendants-Respondents

CASE NO. CC-2018-0475

TABLE OF CONTENTS

	Page
I. INTRODUCTION.....	1
II. PROCEDURAL HISTORY	4
III. THE COURT OF APPEALS ADEQUATELY AVOIDED INFRINGING THE ESTABLISHMENT CLAUSE	6
IV. THE COURT OF APPEALS COMPLIED WITH THE RFRA	9
V. THE COURT OF APPEALS RESPECTED THE FSIA	10
VI. THE COURT OF APPEALS REVERSED ORDERS THAT WERE ISSUED WITHOUT ANY EVIDENCE ON THE RECORD	12
VII. THE COURT OF APPEALS PROPERLY HELD THAT BOND IS REQUIRED BY DUE PROCESS AND PUERTO RICO LAW	13
VIII. THE PAROCHIAL SCHOOLS ARE INDISPENSABLE PARTIES	14
IX. PERPETUO SOCORRO ACADEMY HAS LEGAL CAPACITY PURSUANT TO THE LAW OF CORPORATIONS.....	15
X. CONCLUSION	18

COMMONWEALTH OF PUERTO RICO
SUPREME COURT OF PUERTO RICO

YALÍ ACEVEDO FELICIANO, *et al.*

Plaintiffs-Petitioners

v.

ROMAN, CATHOLIC, APOSTOLIC
CHURCH, *et al*

Defendants-Respondents

SONIA ARROYO VELÁZQUEZ, *et al*

Plaintiffs - Petitioners

v.

ROMAN, CATHOLIC, APOSTOLIC
CHURCH, *et al*

Defendants-Respondents

ELSIE ALVARADO RIVERA, *et al*

Plaintiffs - Petitioners

v.

ROMAN, CATHOLIC, APOSTOLIC
CHURCH, *et al*

Defendants-Respondents

CASE NO. CC-2018-0475

MOTION IN COMPLIANCE WITH ORDER

TO THE HONORABLE SUPREME COURT:

COME NOW respondents, the Archdiocese of San Juan and the Superintendence of Catholic Schools of the Archdiocese (hereinafter collectively referred to as “the Archdiocese”), through their undersigned counsel, and respectfully STATE and PRAY as follows¹:

I. INTRODUCTION

On March 16, 26 and 27, 2018, the Court of First Instance issued three orders to an entity known as “The Roman Catholic Apostolic Church in Puerto Rico.” The orders included a payment of pension benefits, the deposit of \$4,700,000.00 in twenty-four hours and the seizure of religious

¹ This Motion is filed in the English language pursuant to Rule 8.7 of the Puerto Rico Rules of Civil Procedure.

objects and assets. The Archdiocese filed a Petition for Writ of Certiorari and a Motion for Aid of Jurisdiction, or Stay. The Court of Appeals revoked all three orders. On May 10, 2018, the plaintiffs filed a Petition for Writ of Certiorari and on May 24, 2018, this Honorable Court ordered the parties to show cause as to why the Judgment issued by the Court of Appeals should not be revoked. The Archdiocese submits this Motion in strict compliance with said Order.

This case presents complicated and thorny issues of federal and local constitutional law. The Court of Appeals revoked three orders from the Court of First Instance that violated the First, Fifth and Fourteenth Amendments of the Constitution of the United States of America; Article II, sections 3 and 7 of the Constitution of the Commonwealth of Puerto Rico, the Foreign Sovereign Immunities Act (“FSIA”), 28 U.S.C. §§ 1602-161, and the Religious Freedom Restoration Act of 1993 (“RFRA”), 42 U.S.C. § 2000bb. These are not trivial matters. The case obliges this Court to consider the most fundamental rights of the Constitutions of the United States of America and the Commonwealth of Puerto Rico. The Court of Appeals used the adequate balance to rule the case and avoided infringing the Archdiocese’s fundamental rights. After a thorough and complete analysis of the case, the Court should deny the Petition for Writ of Certiorari and let the case continue in the Court of First Instance.

At the outset, it is a quintessential norm that churches have rights under both constitutions. One of those rights is to be free from government control and the right to govern themselves according to their own religious principles. The Supreme Court of the United States in *Murdock v. Pennsylvania*, 319 U.S. 105, 115 (1943), held that: “[f]reedom of press, freedom of speech, freedom of religion are in a preferred position.” The freedom of religion requires that no government action may burden a religious belief or practice or require interpretation of church doctrine and the state cannot interfere with church governance, e.g, by altering decisions a church makes about how to govern itself. *Serbian Eastern Orthodox Diocese v. Milivojevich*, 426 U.S. 696 (1976). Likewise, the Establishment Clause does not allow government to favor or denigrate one religion over another. *Larson v. Valente*, 456 U.S. 228, 244 (1982).

Unfortunately, the Court of First Instance issued the orders in clear violation of the most basic tenets of religious liberty in Puerto Rico and the United States. The Court of First Instance ignored the organization of the Catholic Faith in Puerto Rico and ruled that there was one entity responsible in this case: “The Roman Catholic and Apostolic Church in Puerto Rico.” On several occasions, the Archdiocese explained to the Court of First Instance the structure and organization

of the Catholic Church.² The response was a reorganization of the Catholic Church and judicial legislation. The Court of First Instance added a requirement of incorporation pursuant to the Law of Corporations to establish legal capacity.³

After trampling on religious liberty and our most basic freedoms, the Court of First Instance discarded the due process rights that a party has in any case. First, the Court of First Instance ordered the payment of pension benefits and the amount of \$4,700,000.00 without any evidence to buttress said orders. Such conduct is in clear violation of the Fifth Amendment of the United States Constitution and Article II, Sec. 7 of the Constitution of the Commonwealth. *Goldberg v. Kelly*, 397 U.S. 254 (1970). It is an elemental norm of fair play and the rule of law that a party has the right to review evidence, present evidence and cross examine witnesses. None of that happened in this case. The record is devoid of any evidence establishing the amount of the pensions owed or the \$4,700,000.00 that is being required to pay.

However, the violations of constitutional rights did not stop there. The Court of First Instance issued a preliminary injunction order without requiring the posting of bond. On several occasions, the Archdiocese and other defendants pointed to the constitutional obligation of posting a bond. *Connecticut v. Doehr*, 501 U.S. 1 (1991). The response was a seizure order of all of the belongings of the “Roman Catholic and Apostolic Church in Puerto Rico” including religious objects, paintings and temples.

Also, the Court of First Instance ignored the clear provisions of the RFRA by imposing a remedy that is burdensome to the Catholic Faith. Finally, the Court of First Instance ruled based on a document issued by the State Department of the Commonwealth that interprets the legal personality of the Catholic Church as part of the Holy See (Vatican State), in clear violation of the FSIA. The Court of Appeals issued a Judgment that grants the remedy requested by the plaintiffs and does not trample on the Archdiocese’s constitutional rights. Accordingly, this Court should deny the Petition for the Writ of Certiorari.

² The Archdiocese submitted a Memorandum of Law that explains said internal structure and several exhibits. In their Appendix, the plaintiffs omitted several exhibits attached to the Memorandum, including the Code of Canon Law. We, therefore, submit now the full document as part of our Appendix.

³ This is the effect of the decision issued by the Court of First Instance. Even the Court of First Instance stated in its March 16, 2018, order that said requirement was not established by the Puerto Rico Legislative Assembly. As such, it was a requirement legislated by the Court of First Instance. Ironically, the Court of First Instance ruled that Perpetuo Socorro Academy “was and is incorporated” but did not have legal capacity. Thus, even if a Catholic institution is incorporated it still does not have legal capacity.

II. PROCEDURAL HISTORY

On July 18, 2017, this Court issued a Judgment granting plaintiffs' request for a preliminary injunction. In said Judgment, the Court stated that *ab initio* the "Roman Catholic Apostolic Church in Puerto Rico" was not liable, and ordered the Court of First Instance to determine whether three parochial schools, Perpetuo Socorro Academy, San José Academy and San Ignacio of Loyola Academy had legal personality. Also, the Court indicated that it was not clear, what responsibility, if any, the employers had aside from making their contributions to the Pension Plan.

The Court of First Instance held the hearing on January 30, 2018. The Court of First Instance notified the parties that the only matter that would be discussed that day would be whether the parochial schools had legal capacity.⁴ The day before the hearing, the Court of First Instance allowed Plaintiffs to present a Fourth Amended Complaint which included another description of the defendants in the case at bar. The "Roman Catholic Apostolic Church in Puerto Rico" was now identified as the "Holy Roman Catholic Church in Puerto Rico." Thus, the plaintiffs changed the defendant. Also, the plaintiffs stated that this new entity included the Diocese of Caguas.⁵ Furthermore, the plaintiffs added dozens of individual co-defendants, who were not served or present during the hearing, and added several claims to their case.⁶

At the outset, counsel for the Archdiocese argued that the remedy included in the Fourth Amended Complaint was different than the one fashioned by this Court in its July 18, 2017 Judgment and that said amendment rendered the Judgment moot. In the Fourth Amended Complaint, the plaintiffs requested that the Court reinstate the Pension Plan and require the Trust of Catholic Schools Pension Plan to pay their benefits.⁷ Also, the Archdiocese raised several objections to continuing the hearing with said pleading and while the Trust of Catholic Schools Pension Plan was in bankruptcy proceedings. Even with said objections, the Court of First Instance held the hearing.

⁴ As such, this Court is only reviewing the January 30, 2018, hearing and the orders issued by the Court of First Instance as a result thereof. If this Court considers matters that do not stem from the controversy that was being litigated on January 30, 2018 – whether the parochial schools had legal capacity – this would constitute a violation of the Fifth Amendment of the Constitution of the United States of America. *Goldberg v. Kelly, supra*.

⁵ The Fourth Amended Complaint is premised on the argument that there are two distinct catholic churches in Puerto Rico: the incorporated and the unincorporated. Plaintiffs included allegations against any participating employer that was not incorporated. This unilateral division of the Catholic Church runs afoul of the Establishment Clause.

⁶ Holding the hearing without these defendants constitutes a violation of the due process of these defendants.

⁷ The plaintiffs made that specific request in a hearing held on March 6, 2018, in the Bankruptcy Court of the United States District Court for the District of Puerto Rico. *In Re: Catholic Schools Pension Plan*, Case No. 18-00108 (ESL). In that case, the plaintiffs unequivocally stated that what they were requesting in the Court of First Instance was the reinstatement of the Pension Plan and that the employers pay their respective contributions. A recording of the hearing is available in the docket of the Bankruptcy Court.

On February 7, 2018, the case was removed to Federal Court. While the case was being considered in the United States Bankruptcy Court for the District of Puerto Rico and prior to any remand order, the Court of First Instance issued three orders. First, on March 16, 2018, the Court of First Instance ruled that the Archdiocese of San Juan did not have legal capacity and did not exist as a legal entity; that none of the parish schools existed; and that the “Roman Catholic Apostolic Church in Puerto Rico” should pay the pension benefits to the plaintiffs, employees and former employees of the Perpetuo Socorro Academy.⁸

The next working day, on March 19, 2018, the Archdiocese indicated that the Judgment was null because the case was still pending in Federal Court. On that day, the plaintiffs requested to the Federal Court a remand of the case. On March 21, 2018, the Archdiocese filed another motion reiterating that the Court of First Instance lacked subject matter jurisdiction because the case had not been remanded from the Federal Court. The Court was closed on March 22 & 23, 2018 because of an administrative recess.

On March 26, 2018, the Court of First Instance issued a second order indicating that the “Roman Catholic and Apostolic Church in Puerto Rico” had “done nothing”,⁹ accused the entity of being frivolous and ordered the deposit of \$4,700,000.00 in a period of twenty-four hours or the Court would freeze or attach its assets. The Court of First Instance did not indicate what evidence, if any, supported the \$4,700,000.00 amount. Immediately, the Archdiocese filed a Petition of Writ of Certiorari and a Motion Requesting Aid of Jurisdiction in the Court of Appeals

On March 27, 2018, the Court of First Instance issued a seizure order and commanded the Marshal to take any and all property of the “Holy Roman Catholic Apostolic Church in Puerto Rico¹⁰.” Two hours after the seizure order, the Court of Appeals granted the Archdiocese’s urgent motion and stayed all three orders issued by the Court of First Instance. At the Court of Appeals, the Dioceses of Ponce, Arecibo, Caguas, Mayagüez and Fajardo–Humacao and the Parish of Mercy Mother of God filed petitions to intervene.

On May 3, 2018, the Court of Appeals issued its Judgment and held that the actions of the Court of First Instance ran afoul of the First Amendment of the Constitution of the United States of America and Article II, section 3 of the Constitution of the Commonwealth of Puerto Rico. The Court of Appeals held that there is no single entity in Puerto Rico known as the “Roman, Catholic

⁸ The Court of First Instance identified the plaintiffs as employees of the Perpetuo Socorro Academy. See Appx. p. 283 The plaintiffs did not seek to reverse said ruling in the Court of Appeals.

⁹ Even though the Archdiocese had filed two motions regarding the March 16, 2018, in three working days.

¹⁰ The name of this entity does not coincide with the name of any entity served in the case at bar.

and Apostolic Church in Puerto Rico.” Rather, that in Puerto Rico there is one Archdiocese, five dioceses, parishes and religious orders, and all of them have legal capacity to act, sue and be sued. Accordingly, the Court of Appeals granted the specific remedy requested by the plaintiffs in the Fourth Amended Complaint: the reinstatement of the Pension Plan while the case is being considered. Thus, the Court of Appeals ordered the participating employers in the case to deposit their contributions to the Pension Plan with the Court. The Archdiocese has not contested said Judgment and is willing to abide by it.

Even though, the Court of Appeals granted the remedy requested by the plaintiffs in the Fourth Amended Complaint, the plaintiffs filed a Petition for Writ of Certiorari and an emergency motion requesting the reinstatement of the March 16, 26 and 27 orders issued by the Court of First Instance. This Honorable Court granted the emergency motion and reinstated the March 16 and 26, 2018, orders and ordered the parties to brief the Court on whether the Judgment of the Court of Appeals should be revoked.¹¹

III. THE COURT OF APPEALS ADEQUATELY AVOIDED INFRINGING THE ESTABLISHMENT CLAUSE

The Court of First Instance ordered the “Roman Catholic Apostolic Church in Puerto Rico” to issue payments, instead of recognizing the church-created juridical entities that established the employer-employee relationship with the plaintiffs. In doing so, the Court of First Instance ignored the legal entities created pursuant to Catholic Canon Law, thereby allowing the Courts to decide what is and is not part of the Catholic Church and interfering with the structure and governance of religious institutions – areas into which the government has no business inserting itself. *See, e.g. Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 132 S.Ct. 694, 703 (2012); *see also e.g., Kedroff v. St. Nicholas Cathedral*, 344 U.S. 94, 116 (1952); *Presbyterian Church in U.S. v. Mary Elizabeth Blue Hull Memorial Presbyterian Church*, 393 U.S. 440, 450 (1969). “First Amendment values are plainly jeopardized when “legal questions “turn on the resolution by civil courts of controversies over religious doctrine and practice,” *id.* at 449

Religious organizations, in maintaining their autonomy, select their leaders, define their own doctrines, solve internal disputes, as well as administer their institutions, property, and economic resources and elements. *Corporation of Presiding Bishop v. Amos*, 483 U.S. 327, 341-342 (1987). The judicial abstention doctrine in religious matters requires, not only an analysis of

¹¹ This Court has not yet determined whether it will issue the Writ of Certiorari. If it does, the Archdiocese requests a period of time to file its brief, in strict compliance with Rules 21 and 35 of the Rules of the Puerto Rico Supreme Court.

the challenged legal authorities between the parties, but also that the Court determines if, with its interference, it enters “in the religion’s heart itself, a matter completely external to its competence.” *Díaz v. Colegio Nuestra Sra. del Pilar*, 123 D.P.R. 765, 784 (1989). Unless it satisfies strict scrutiny, any such interference violates the federal First Amendment and Article II, § 3 of the Constitution of the Commonwealth of Puerto Rico.

The Court of Appeals corrected this error, avoided interfering with the church’s organization structure and recognized the entities that operate within the structure of the Catholic Church. The Catholic faith operates through various entities, namely dioceses, parishes and religious orders. Catholic Canon law recognizes the legal capacity of said entities. Given the hierarchical equality among the bishops, and the autonomous or separate nature of their dioceses, including among them, the Archdiocese of San Juan, there is no structure in Puerto Rico that comprises under a single authority all the dioceses and to which their bishops are subordinated. Each diocese is the official representative of the Catholic faith in its particular territorial demarcation and is absolutely autonomous.

Article 8 of the Treaty of Paris and the Supreme Court of the United States in *Municipality of Ponce v. Catholic Church in Puerto Rico*, 210 U.S. 296 (1908), established that the entities of the Catholic faith in Puerto Rico hold legal personality and do not have to be incorporated. More than 40 years ago, the Bishop of Ponce published a note regarding the “Juridical Personality of the Roman Catholic Church in Puerto Rico.” *Revista de Derecho de Puerto Rico*, 15 Rev.Der.PR 307 (1975-1976). Bishop Fremiot stated that: “The legal status of the Roman Catholic Church in Puerto Rico does not depend on an act of the legislature of Puerto Rico. The Roman Catholic Church in Puerto Rico has its own juridical personality, which it already had during the Spanish regime, and which it continued to have when Puerto Rico became a territory of the United States after the Spanish-American War.” The organizational differences between the Catholic Faith in 1899 and that in 1976 were explained:

“At the time of the cession only one diocese existed in Puerto Rico. At present there are five: the archdiocese of San Juan and the dioceses of Ponce, Arecibo, Caguas and Mayaguez. Each diocese is a fragmentation of one entity possessing juristic personality, and each enjoys the same legal status as the original Diocese of Puerto Rico referred to in the above quoted opinion as ‘The Roman Catholic Church in Puerto Rico’¹².”

¹² Currently there are five dioceses and one Archdiocese in Puerto Rico. These are the dioceses of Arecibo, Caguas, Fajardo-Humacao, Mayagüez, Ponce and the Archdiocese of San Juan.

The Court of First Instance did not make that distinction, and defined the Catholic faith as if we were still living in 1908. The Court of First Instance refused to recognize the legal personality of dioceses, parishes and religious orders. Apparently, the only way that the Court of First Instance allowed them to exist is by incorporation,¹³ contrary to the holding of *Municipality of Ponce, supra*. For reasons explained above, even without discrimination, such an intrusion into the organization of a religious body is a plain violation of both Constitutions.

Moreover, it is difficult to see how the result could be reconciled with both Constitutions' command that the state may not "prefe[r] some religious groups over" others. *Fowler v. Rhode Island*, 345 U.S. 67, 69 (1953); see also, e.g. *Zorach v. Clauson*, 343 U.S. 306, 314 (1952) ("government must be neutral when it comes to competition between sects.") After all, laws can pose constitutional problems when they do "not operate evenhandedly," but instead have the "principal effect" of discriminating among religious sects. *Larson v. Valiente*, 456 U.S. 228, 253 (1982). Those constitutional concerns are acute when the Court imposes a requirement to operate as a single legal entity, even though the Supreme Court of the United States has indicated that said requirement is unnecessary¹⁴.

Moreover, if the Court were to hold that the dioceses, parishes and religious orders do not exist, it would be reversing its previous rulings on this matter. This Court has recognized juridical personality to the Diocese of Mayagüez and the Diocese of Arecibo without these entities being incorporated and registered with the Department of State.¹⁵ See *Obispo de Iglesia Católica v. Secretario de Justicia*, 2014 TSPR 86; *Diócesis de Mayagüez v. Junta de Planificación de Puerto Rico*, 99 TSPR 011. In *Ortiz Quiñones v. ARPE, Parroquia Sagrados Corazones*, 98 TSPR 130, it was recognized *sub silentio* the personality of the Sagrados Corazones Parish. In doing so, this Court has followed the reasoning of Justice Brennan's Concurrent Opinion in *Corporation of Presiding Bishop v. Amos*, 483 U.S. 327, 341, where he stated that:

Religious organizations have an interest in autonomy in ordering their internal affairs, so that they may be free to: 'select their own leaders, define their own doctrines, resolve their own disputes, and run their own institutions. Religion includes important communal elements for most believers. They exercise their religion through religious organizations must be protected by the [Free Exercise] [C]ause.

¹³ Even if parishes and Catholic entities create corporations they still do not exist according to the reasoning of this Honorable Court. The Court of First Instance ruled that *Academia del Perpetuo Socorro, Inc.* "was and is incorporated" pursuant to the Puerto Rico Law of Corporations, 14 P.R. Laws Ann. tit. §3501 but it does not have legal personality. See Appx, p. 287.

¹⁴ Ironically, the Court of First Instance also stated that said requirement was unnecessary. See Appx., p. 28.

¹⁵ The Supreme Court of the United States of America has expressly avowed the use of Catholic Canon Law. *González v. Roman Catholic Archbishop of Manila*, 280 U.S. 1 (1929)

An analysis of the grave issues at hand shows that the Court of Appeals adequately avoided an infringement on the rights of the Archdiocese, the dioceses, the parishes and religious orders. Thus, the Judgment should not be reversed. If this Court determines that it will decide the contours of the Catholic Church in the United States of America it would be akin to reorganizing a religion while violating the most basic and essential rights of the Constitution of the United States of America and the Constitution of the Commonwealth of Puerto Rico.

IV. THE COURT OF APPEALS COMPLIED WITH THE RFRA

Another error of the Court of First Instance is that it ignored the dispositions established by the RFRA. The RFRA prohibits the government from substantially burdening a person's "exercise of religion" even if the burden results from a rule of general applicability, unless the government demonstrates that application of the burden to the person: (1) is in furtherance of a compelling governmental interest; and (2) is the "least restrictive means" of furthering that compelling – governmental interest. *Burwell v. Hobby Lobby Stores*, 573 U.S. ____ (2014); *González v. O Centro Espirita Beneficiente Uniao do Vegetal*, 546 U.S. 418 (2006).

Under RFRA, the free exercise of religion is protected by the prohibition and exception under 42 U.S.C. § 2000bb-1(a) and (b), providing as follows:

(a) In general

Government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general application, except as provided in subsection (b) of this section.

(b) Exception

Government may substantially burden a person's exercise of religion only if it demonstrates that application of the burden to the person –
(1) is in furtherance of a compelling governmental interest; and
(2) is the least restrictive means of furthering that compelling governmental interest.

The Court of First Instance did not comply with the RFRA when it impeded the Catholic faith to follow its organizational structure and instead effectively forces the Church to reorganize itself. Did the incorrect interpretation of the Treaty of Paris and *Municipality of Ponce, supra*, substantially burden the Catholic faith? It clearly did. Did the Court of First Instance have a compelling governmental interest? It did not. Is it the least restrictive means of furthering that compelling governmental interest? It is not.

Also, the Court of First Instance was involved in religious veil piercing. The Court of First Instance determined "the Archdiocese" was responsible for the three schools. However, that

determination is in direct conflict with the RFRA. The mandate issued by this Court to the Court of First Instance was to determine whether the parochial schools had legal capacity. That was it. The Court of First Instance did not have the authority to determine who directs or leads a Catholic entity. That is an infringement of the Establishment Clause and the RFRA.

This Court can provide the plaintiffs the remedy they request and avoid a violation of the RFRA by confirming the Judgment of the Court of Appeals. The Court of Appeals reinstated the Pension Plan and ordered the participating employers to pay their contributions. In doing so, it also complied with the mandate included in the Court's July 18, 2017, Judgment when it held that the schools have legal capacity. Pursuant to the Fourth Amended Complaint, the Court of Appeals ruled that the participating employers in the Pension Plan did not extend their liability beyond the contributions made to the Pension Plan.

It further held that "given the equal hierarchy of the bishops and the autonomous nature or separate of each diocese, including among them, the Archdiocese of San Juan, there is no one structure in the Island which groups under one only authority all the dioceses to which the bishops would be subordinates." It also held that the dioceses and parishes have their own independent juridical personality. Since it held that the schools had legal personality, it correctly concluded that, as ordered by this Court, it was up to the participating employers to continue making the appropriate contributions to the Pension Plan.

This Court can avoid a RFRA violation, by recognizing the organizational structure of the Catholic faith, the legal identity of the parishes, diocese and religious orders. A denial of the Petition for the Writ of *Certiorari* is the adequate step to avoid RFRA infringement.

V. THE COURT OF APPEALS RESPECTED THE FSIA

Two of the six factual findings of the Court of First Instance are based on a futile document issued by the State Department of the Commonwealth. The document reads as follows:

I CERTIFY: That pursuant to the Treaty of Paris of December 10, 1898, the "Roman Catholic Apostolic Church" has its own legal personality as it is part of the **Vatican State** and, thus, does not have to register as a corporation in the Department of State.
(Emphasis added).

Instead of limiting itself to the legal prerogatives established by law, the State Department invaded the preempted waters of international relations, an area that is the exclusive prerogative of Congress, the Presidency and the State Department of the United States. *See Article I, Section 8 and Article II, Section 2 of the United States Constitution*. What power does the State Department

of the Commonwealth have to determine whether an entity in Puerto Rico is part of a sovereign country? None. What statute empowers the Secretary of State of the Commonwealth to issue documents concluding the legal personality of a sovereign country? None.

The State Department of the Commonwealth acted *ultra vires* and delved into determining what entities in Puerto Rico are parts of a sovereign country. Instead of condemning said action, the Court of First Instance seconded it and issued two of six factual findings based on that very same document. By doing so, the Court of First Instance joined the State Department of the Commonwealth in analyzing the legal contours of a sovereign country and its alleged entities.

Sovereign countries may be sued in the United States with certain limited exceptions and in strict compliance with the FSIA. When the Court of First Instance determined that the Archdiocese and all of the juridical entities of the Catholic Church do not exist, and “the Roman Catholic Apostolic Church” is one entity, it is clear that the only entity that oversees the five dioceses and the Archdiocese is the Holy See (Vatican State).¹⁶ The intention of the Court of First Instance is clear when it used the document of the State Department of the Commonwealth to support its factual findings.

The United States Supreme Court has held that the text and structure of the FSIA shows the Congress’ intent of establishing the FSIA as the only basis to acquire jurisdiction over a foreign state in our courts.¹⁷ *Argentine Republic v. Amerada Hess Shipping Corp.*, 488 US 428, 434 (1989). The United States of America recognized the Holy See as a foreign state in 1984. *See United Separation of Church & State v. Reagan*, 786 F.2d 194, 197 (3rd Cir. 1986). The Holy See has not been served pursuant to the FSIA, 28 U.S.C. §1608.

When the Court of First Instance used the certification of the State Department of the Commonwealth and determined that the “Roman Catholic Apostolic Church” is one entity, it was circumventing the FSIA. The Courts in Puerto Rico cannot ignore the mandates established by Congress. Moreover, the decision to ignore the application of FSIA to a foreign state that is, simultaneously, a religion, in a different way than that established by the Congress, is plainly discriminatory and otherwise unlawful. *See Trinity Lutheran Church of Columbia, Inc. v. Comer*, 137 S.Ct. 2012 (2017). A different requirement cannot be imposed on a foreign state merely

¹⁶ The appearing parties are not suggesting that the Holy See has any responsibility in this case. This issue is, however, brought to the attention of the Court in light of the apparent confusion regarding the correct names and the organizational structure of the Catholic Church.

¹⁷ Thus, evidently, the Puerto Rico Rules of Civil Procedure are not applicable.

because said state is religious. Said action violates the First Amendment of the United States Constitution and the FSIA.

To avoid such flagrant violations, the Court of Appeals adequately reversed the Court of First Instance. The Court adequately ruled that there is no juridical entity known as the “Roman Catholic Apostolic Church in Puerto Rico” and avoided a violation of the FSIA.

VI. THE COURT OF APPEALS REVERSED ORDERS THAT WERE ISSUED WITHOUT ANY EVIDENCE ON THE RECORD

The Court of First Instance issued two orders related to the payment of benefits. The March 16, 2018, order indicated that the “Roman Catholic Apostolic Church in Puerto Rico” should “continue paying the pension benefits to plaintiffs.” The Court of First Instance did not indicate the amount of the benefits, the names of the plaintiffs that should receive them or how they would be paid.¹⁸ The Court of First Instance did not indicate said information because it could not do so. The plaintiffs did not present any evidence with regards to the alleged amount owed to each plaintiff. Thus, the order could not be complied with. On March 26, 2018, the Court of First Instance repeated said conduct when it ordered the payment of \$4,700,000.00 in a period of twenty-four hours. Where did that number come from? No one knows, not even the plaintiffs. It was arbitrarily imposed without having any evidence on the record to buttress the amount.

The Fifth Amendment of the Constitution of the United States of America guarantees that a party has the right to a reasonable and fair hearing to confront evidence and cross examine witnesses. *See Goldberg v. Kelly, supra; Fuentes v. Shevin*, 407 U.S. 67, 82 (1972). When did the plaintiffs present evidence to establish the amount owed? Never. When did any defendant have the right to examine said evidence and cross examine witnesses related to this matter? Never. Said hearing did not occur.

The Court of Appeals listened to the recording and reversed the orders. The fact is that a fair hearing on the amount needed to secure payment of plaintiffs’ claims was not held. Should the Puerto Rico judicial system condone orders that are issued without evidence on the record? No. Should this Court, in its inherent power to review the rulings of lower courts, allow this type of conduct? No. This Court should not confirm the illegal deprivation of the property of a party in clear violation of the Fifth Amendment of the Federal Constitution and Article II, section 8 of the

¹⁸ The March 16, 2018, order also presents a relevant tax issue for plaintiffs. As beneficiaries of a pension plan they did not have to pay taxes in relation to the benefits received up to \$11,000.00 a year. Since the Court of First Instance determined that another entity – that is not the Pension Plan – should issue the payments, then the plaintiffs may have to pay taxes when they receive the benefits.

Constitution of the Commonwealth. The Court of Appeals reverse the orders because they are devoid of documentary evidence to support them.

VII. THE COURT OF APPEALS PROPERLY HELD THAT BOND IS REQUIRED BY DUE PROCESS AND PUERTO RICO LAW

Plaintiffs' Complaint requests preliminary and permanent injunctive relief. The Fourth Amended Complaint includes a specific request for injunctive relief. See Appx., p. 253. Rule 57.4 of the Puerto Rico Rules of Civil Procedure is categorical in establishing that no preliminary injunction order can be issued unless requiring a previous posting of a bond by the applicant, for the amount that the Court deems reasonable, for the payment of costs and damages in which the party who results improperly restrained or restricted may have suffered or has suffered. Rule 57.4 reads as follows:

No restraining order nor preliminary injunction shall be issued except through the issuance of a bond by the applicant, in the amount that the court considers just, for the payment of costs and damages in which the party who results improperly restrained or restricted may have suffered or has suffered. The mentioned bond shall not be required to the Commonwealth of Puerto Rico, its municipalities, agencies or dependencies, nor to any of its officers in their official capacity.

The Rule is clear in establishing that no preliminary injunction order can be issued unless a bond is given by the applicant, for the amount that the Court deems just, for the payment of costs and damages in which the party who results improperly restrained or restricted may have suffered or has suffered.¹⁹ This rule is required pursuant to the decision of the Supreme Court of the United States of America in *Connecticut v. Doehr, supra*, which held unconstitutional a Connecticut statute for violating the due process clause, as it authorized an order seizing goods, without prior notice, hearing and/or bond.

In the case at bar, the Court of First Instance issued a preliminary injunction without previously requiring the posting of bond. That injunction leaves the defendants without any protection against the risk of loss entailed by that injunction—including the obvious risk of funding ongoing pension payments to individuals who may not be able to repay those amounts if their claims prove unjustified. For similar reasons, the failure to require a bond also violates the First Amendment and RFRA, because the resulting financial harm would substantially impair the defendants' ability to carry out their religious missions, without any good policy justification.

¹⁹ The Report issued by the Puerto Rico Supreme Court Commission that reviewed the Rules of Civil Procedure, noted that Rule 57.4 was the equivalent to Rule 65 (c) of the Federal Rules of Civil Procedure. See Report of the Puerto Rico Supreme Court Commission on the Rules of Civil Procedure, p. 677.

Even worse, and as previously stated, the arbitrary nature of the injunction is best exemplified by the fact that there is not a single piece of evidence, documentary or otherwise, to buttress the amount of \$4,700,000.00. The net result of that equation is an order for a deposit of \$4,700,000.00²⁰ without the requirement of posting a bond or a hearing in which said evidence was presented. To avoid this constitutional error, the Court of Appeals held that it was necessary to comply with Rule 57 of the Puerto Rico Rules of Civil Procedure. The Court of Appeals stated that: “the imposition of a bond is a mandatory requirement upon issuing an injunction.”

Finally, to avoid the posting of a bond, the plaintiffs allege that they are now requesting a remedy under Rule 56 of the Puerto Rico Rules of Civil Procedure. Quite the contrary. In the Complaint, the plaintiffs requested an injunction. In the Fourth Amended Complaint, the plaintiffs requested an injunction. On July 18, 2017, this Court held that the plaintiffs had the right to a “preliminary injunction.”

The plaintiffs try to avoid posting of a bond as a condition of preliminary injunctive relief while the Court considers whether it will issue a permanent injunction.²¹ The plaintiffs request the best of both worlds. However, said scenario is legally inaccurate. Rule 56 is the equivalent of Rule 64 of the Federal Rules of Civil Procedure.²² Thus, it may only be used for post – judgment motions and is inapplicable to the case at bar. The plaintiffs pretend to obtain injunctive relief and a freeze order while ignoring *Connecticut v. Doehr, supra*. The Court of Appeals understood that said scenario was not plausible and also reversed that part of the decision.

VIII. THE PAROCHIAL SCHOOLS ARE INDISPENSABLE PARTIES

It is uncontested that the San Ignacio of Loyola Academy, San José Academy and Perpetuo Socorro Academy are parochial schools. As parochial schools, their juridical personality is that of the parishes, not the Archdiocese of San Juan nor the General Church. Perpetuo Socorro Academy belongs to the Perpetuo Socorro parish; San José Academy to the San José parish and San Ignacio of Loyola to the San Ignacio parish. Nevertheless, as we have stated, this last one is managed by

²⁰ Moreover, said amount is not even included in the Fourth Amended Complaint. Plaintiffs request the deposit of another amount, not the \$4,700,000.00, as payment for the permanent injunction, which has not been considered or granted by any Court. The Court of First Instance arbitrarily assigned the amount and this Court is confirming the decision.

²¹ The plaintiffs requested injunctive relief but now allege that Rule 56 applies to their case. Obviously, altering the name of the remedy will not change the Supreme Court’s ruling in *Connecticut v. Doehr, supra*. If this Court determines that the posting of a bond is not necessary when it previously held that the plaintiffs were entitled to injunctive relief, the Supreme Court of the United States would not allow a sidestep of *Connecticut v. Doehr, supra*, by merely changing the name of the remedy. Also, none of the exceptions included in Rule 56 have been established in the case at bar. Confirming the freeze order of the Court of First Instance, an order that was issued after it was held that the Archdiocese does not even exist, would be an infringement of the Archdiocese’s due process rights. It would constitute a taking of the Archdiocese’s property without celebrating a hearing.

²² See Report of the Puerto Rico Supreme Court Commission on the Rules of Civil Procedure, p. 651.

the *Compañía de Jesús, Inc.*, which is a religious congregation duly incorporated by the General Corporations Act of Puerto Rico.²³

The parishes to which the defendant schools belong, have distinct and separate juridical personality from the Archdiocese of San Juan. These parishes, however, have not been included as named defendants in the case and are indispensable parties. The Court of Appeals correctly held that if the plaintiffs from those schools seek to obtain a remedy from those parishes, the parish must be a party in the case. Accordingly, the Court of Appeals allowed the plaintiffs to amend their pleadings and include the parishes as parties.

IX. PERPETUO SOCORRO ACADEMY HAS LEGAL CAPACITY PURSUANT TO THE LAW OF CORPORATIONS

Notwithstanding the fact that the parishes have legal capacity, it does not impede that each school or parish be incorporated under the Puerto Rico General Corporations Act.²⁴ That is exactly what the Perpetuo Socorro Academy did. The Court of First Instance ruled that Perpetuo Socorro Academy “was and is incorporated.” See Appx. p. 287. However, the Court of First Instance ruled that same institution did not have legal capacity. The Court of Appeals correctly held that Perpetuo Socorro Academy is a corporate entity with juridical personality pursuant to the General Corporations Act.

Perpetuo Socorro Academy was incorporated in 1968. On February 28, 2014, its Certificate of Incorporation was inactivated. The corporation was reactivated on December 2017. Pursuant to Art. 11.02 of the General Corporations Act, said reactivation has retroactive effect. The General Corporations Act, Act No. 164 of December 16, 2009, as amended, as well as the two previous corporation acts of Puerto Rico, Act 144 of August 10, 1995 and Act 3 of January 9, 1956, are based on the Corporations Act of the state of Delaware, a State which has a corporation’s law very much updated to the new forms of business. *Miramar Marine v. Citi Walk*, 2017 T.S.P.R. 141; *DACO v. Alturas de Florida Dev. Corp.*, 132 D.P.R. 905 (1993).

The General Corporations Act of Puerto Rico provides for three types of corporate dissolution; the voluntary, the involuntary and the administrative corporate dissolutions, which occur, among other causes, when the yearly reports are not submitted and the State Department administratively dissolves the corporation. The Act is clear in that what is aimed is the

²³ Plaintiffs counter that there is a Canonical Agreement between the Archdiocese and the Jesuit Order. Said document is an internal agreement between two Catholic entities that cannot be interpreted by a civil court. Doing so, would alter the internal structure and dealings of the Catholic faith.

²⁴ San Ignacio Parish was incorporated and had legal capacity when the case was filed.

maintenance of the corporate status. This is why in Article 11.02 of the Act a procedure is established for the renewal and reinstatement of the certificate of incorporation. Said Article 11.02 provides, in its pertinent part, the following:

D. Upon the filing of the certificate in accordance with Section 1.03 of this Act the corporation shall be renewed and established with the same force and effect as if its certificate of incorporation had not been cancelled pursuant to subsection (B) of Section 3.06 of this Act, forfeited or void, or had not expired. Such reinstatement shall validate all contracts, acts, matters and things made, done and performed within the scope of its certificate of incorporation by the corporation, its officers and agents during the time when its certificate of incorporation was cancelled pursuant to subsection (B) of Section 3.06 of this Act, or forfeited or void, or after its expiration, with the same force and effect and to all intents and purposes as if the certificate of incorporation had at all times remained in full force and effect. All real and personal property, rights and credits, which belonged to the corporation at the time its certificate of incorporation became cancelled pursuant to subsection (B) of Section 3.06 of this Act, or forfeited or void, or expired and which were not disposed of prior to the time of its revival and restoration, shall be vested in the corporation, after its revival and restoration, as they were held by the corporation at and before the time its certificate of incorporation became cancelled pursuant to subsection (B) of Section 3.06 of this Act, or forfeited or void, or expired. The corporation after its revival and restoration shall be as exclusively liable for all contracts, acts, matters and things made, done or performed on its behalf by its officers and agents prior to its revival, as if its certificate of incorporation had at all times remained in full force and effect.

Moreover, the General Corporations Act has a specific article for renewal of the certificate of incorporation of religious, charitable and educational corporations, the same as Article 11.02 provides for the situation in which the certificate of incorporation turns ineffective and null for not having filed the required annual reports. The Act is clear in that once the corporation is reinstated it is renewed and established as if the certificate had never turned ineffective, expired or cancelled; the validity of the contracts and acts of the corporation during the period in which the certificate was cancelled are not affected; and a corporation which has renewed or reestablished its juridical personality has all the rights, privileges and immunities conferred by its certificate, besides all other benefits of the Act. Díaz Olivo, Carlos E., *Corporaciones: Tratado sobre Derecho Corporativo*, 2016, pages 388-389.

The plaintiffs' allegations regarding the nonexistence of Perpetuo Socorro Academy has no basis on the Puerto Rico Act nor in the Delaware Act, which was the basis for the Puerto Rico Act. The analogous article of the Delaware Act of the previously cited articles of the Puerto Rico Act provides, in its relevant part, that the reinstatement of the certificate of incorporation shall have retroactive effect. Again, the Delaware Act was the basis for the current General Corporations Act of Puerto Rico and the previous ones, and provides as follows:

(e) Upon the filing of the certificate in accordance with §103 of this title the corporation shall be revived with the same force and effect as if its certificate of incorporation had not been forfeited or void pursuant to this title. Such revival shall validate all contracts, acts, matters and things made, done and performed within the scope of its certificate of incorporation by the corporation, its directors or members of its governing body, officers, agents and stockholders or members during the time when its certificate of incorporation was forfeited or void pursuant to this title, with the same force and effect and to all intents and purposes as if the certificate of incorporation had at all times remained in full force and effect. All real and personal property, rights and credits, which belonged to the corporation at the time its certificate of incorporation became forfeited or void pursuant to this title and which were not disposed of prior to the time of its revival, and all real and personal property, rights and credits acquired by the corporation after its certificate of incorporation became forfeited or void pursuant to this title shall be vested in the corporation, after its revival, as if its certificate of incorporation had at all times remained in full force and effect, and the corporation after its revival shall be as exclusively liable for all contracts, acts, matters and things made, done or performed in its name and on its behalf by its directors or members of its governing body, officers, agents and stockholders or members prior to its revival, as if its certificate of incorporation had at all times remained in full force and effect.

Even if Article 11.02 did not exist, Article 9.08 of the same Act, 14 L.P.R.A. §3708, extends the juridical personality of a dissolved corporation for a period of three (3) years up to the execution of any judgment issued against it in a case filed before or after its dissolution. Said Article provides as follows:

All corporations, whether they expire by their own limitation or are otherwise dissolved, shall continue for a three (3)-year term from such expiration or dissolution or for such longer period as the Court of First Instance (Superior Part) shall in its discretion direct for the purpose of prosecuting and defending suits whether civil, criminal or administrative, by or against them, and of enabling them to settle and close their business, to discharge their liabilities and to distribute to their stockholders any remaining assets ...

With respect to any action, suit or proceeding begun by or against the corporation either prior to or within three (3) years after the date of its expiration or dissolution, the corporation shall, solely for the purpose of such action, suit or proceeding, be continued as a body corporate beyond the three (3)-year period and until any judgments, orders or decrees therein shall be fully executed, without the necessity for any special direction to that effect by the Court of First Instance (Superior Part).

The instant case was filed on June 4, 2016. Therefore, the case was filed within the three year period established in Art. 11.02. A thorough analysis of Articles 9.08 and 11.02 of the General Corporations Act shows that Perpetuo Socorro Academy had legal capacity when the case was filed and throughout the litigation. That is the reasoning of the Court of Appeals and the Judgment should not be altered.

X. CONCLUSION

The orders issued by the Court of First Instance include a barely veiled threat. If the “Roman Catholic Apostolic Church” does not deposit \$4,700,000.00 in a period of twenty-four hours, then any bank account bearing the name of the “Roman Catholic Apostolic Church” will be frozen or attached. As previously stated, the “Roman Catholic Apostolic Church” is not the “Archdiocese of San Juan.” Thus, if the Court orders the freezing and/or attaching of the Archdiocese’s assets, or of any entity of the Catholic faith, it would be an illegal garnishment. Likewise, it would have a direct adverse impact on the evangelizing mission of the Archdiocese.

A church is not mere brick and mortar. A church has a mission to evangelize and spread the tenets of its faith. The Archdiocese has an obligation to spread the message of salvation; promote faith, hope and love and plan and implement pastoral, sacramental, charitable, educational and administrative services. To fulfill its mission, the Archdiocese has seminaries, offices, the Superintendence of Catholic Schools, charities, such as *Cáritas de Puerto Rico*, and United Against Hunger, a radio station, a television station and several vicars. Also the Catholic faith includes more than three hundred parishes and hundreds of schools in the island. All of these entities are created to comply with the mission to evangelize. A seizure or freezing of any assets related to these services will have a direct impact and cause an irreparable harm to the Archdiocese and the Catholic faith throughout Puerto Rico.

A seizure or freezing of these assets will also likely make it impossible for Catholic parishes to conduct religious worship service and other religious ceremonies—such as baptisms, confirmations and marriages—for their members. A seizure or freeze will make it impossible for those parishes, the Dioceses and other Catholic entities to provide ongoing relief to victims of Hurricane Maria and of the general poverty that pervades some sectors of Puerto Rico. A seizure or freeze will make it impossible for parishes to run their traditional summer camps for impoverished or troubled Puerto Rico youth, regardless of their religious affiliation. A seizure or freeze could make it impossible for the Archdiocese to meet its payroll obligations and continue with its operations. And a seizure or freeze will silence Catholic radio and television stations charged with preaching the gospel to Puerto Rico’s residents. In short, a seizure or freeze could shut down all Church-related institutions and their operations.

This Court should not confirm the orders issued by the Court of First Instance. All three are in direct conflict with the Constitutions of the Commonwealth of Puerto Rico and the United

States of America. All three orders ignore the basic tenets of religious liberty and the RFRA. Also, the orders do not comply with the FSIA and reorganize the relations with a sovereign country. To avoid this conflict, the Court should deny the Petition for Writ of *Certiorari*.

By contrast, the Court of Appeals granted the essential remedy requested by the plaintiffs in the Fourth Amended Complaint. The Archdiocese has not contested the Judgment of the Court of Appeals and is ready to comply with said order. Allowing the parties to continue the case pursuant to the Judgment of the Court of Appeals will avoid a constitutional crisis and protect the rights of all religions in Puerto Rico as well as the plaintiffs.

WHEREFORE, it is respectfully requested that this Honorable Court deny the Petition for Writ of *Certiorari*. If the Court grants the Petition, the Archdiocese requests to file a brief in compliance with Rules 21 and 35 of the Rules of the Puerto Rico Supreme Court.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, on June 4, 2018.

We hereby certify that, on this same date, a true and exact copy of this motion was sent through certified mail and email to: German J. Brau-Ramírez, Esq. (german.brau@bioslawpr.com), Antonio Bauzá-Santos, Esq. (antonio.bauza@bioslawpr.com) and Guillermo J. Silva-Wischovich (gsilva@bioslawpr.com), Bauza, Brau, Irizarry, Ojeda & Silva, PO Box 13669, Santurce Station, San Juan, PR 00908; Yolanda V. Toyos-Olascoaga, Esq. (ytoyos@ramostoyoslaw.com) and José O. Ramos-González, Esq. (rgtolaw@gmail.com), Ramos González & Toyos Olascoaga, CSP, PO Box 193317, San Juan, Puerto Rico 00919-3317; Carlos A. Padilla-Vélez, Esq. (cpadilla@amoclaw.com), PO Box 194109, San Juan, Puerto Rico 00919-4109; Frank Zorrilla-Maldonado, Esq. (fzorrilla@fzmlaw.com), PO Box 191783, San Juan, Puerto Rico 00919-1786; Eda Mariel Ayala-Morales, Esq. (emayalam@hotmail.com), PO Box 360481, San Juan, Puerto Rico 0090; Jesús R. Rabell-Méndez, Esq. (jesusrabell@gmail.com), PO Box 195580, San Juan, Puerto Rico 00919-5580; Jesús M. Jiménez González-Rubio, Esq. (jimesensei@yahoo.com), Apartado 3025, Guayama, Puerto Rico 00785; José R. Rivera-Morales, Esq. (rrivera@jgl.com), Jiménez, Graffam & Lausell, PO Box 366104, San Juan, Puerto Rico 00936-6104; Frank Torres Viada, Esq. (ftv@ftorresviada.com) and Alexandra Rivera-Ríos, Esq. (ariverarios@ftorresviada.com), Bufete Frank Torres-Viada, PO Box 192084, San Juan, Puerto Rico 00919-2084; Félix J. Montañez-Miranda, Esq. (fmontanezmiran@yahoo.com), PO Box 364131, San Juan, Puerto Rico 00936-4131; Jorge Alexis Torres-Montes, Esq. (lcdo.torresmontes@yahoo.com), 3260 Emilio Fagot Ave., Ponce, Puerto Rico 00730-4603; and Fernando E. Agrait-Betancourt, Esq. (agraitfe@agraitlawpr.com), Centro de Seguros Bldg., Suite 414, 701 Ponce de León Ave., San Juan, Puerto Rico 00907; and Lourdes Arroyo-Portela and César R. Rosario-Vega, Adsuar Muñiz Goyco Seda & Pérez-Ochoa, P.S.C., PO Box 70294, San Juan, Puerto Rico 00936-8294.

SCHUSTER AGUILÓ LLC
PO Box 363128
San Juan, Puerto Rico 00936-3128
Teléfono: (787) 765-4646
Telefax: (787) 765-4611



José J. Santiago-Meléndez
RUA No. 5792

jsantiago@salawpr.com



José A. Ruiz-García

RUA No. 13868

jruiz@salawpr.com

APPENDIX O

EN EL TRIBUNAL SUPREMO DE PUERTO RICO

Yalí Acevedo Feliciano, et
al.

Peticionarios

v.

Iglesia Católica Apostólica
y Romana, et al.

Recurridos

Sonia Arroyo Velázquez, et
al.

Peticionarios

v.

Iglesia Católica, Apostólica
y Romana, et al.

Recurridos

CC-2018-0475 Certiorari

Elsie Alvarado Rivera, et al.

Peticionarios

v.

Iglesia Católica, Apostólica
y Romana, et al.

Recurridos

El Juez Asociado señor ESTRELLA MARTÍNEZ emitió la Opinión
del Tribunal

(Regla 50)

San Juan, Puerto Rico, a 11 de junio de 2018.


Hoy tenemos la obligación de atender la reclamación de cientos de maestros, empleados y exempleados de varios colegios y academias católicas (peticionarios), los cuales han dedicado gran porción de su vida a la enseñanza, educación y formación de parte de varias generaciones en Puerto Rico. Para ello, el presente caso exige analizar y aclarar varios contornos de nuestro ordenamiento jurídico y atender varias controversias noveles y de alto interés público. A tales fines, nos corresponde analizar lo siguiente: (1) si la Iglesia Católica, Apostólica y Romana en Puerto Rico (Iglesia Católica) ostenta personalidad jurídica; (2) si las divisiones y componentes de ésta poseen personalidad jurídica propia y separada; (3) la procedencia de un embargo en aseguramiento de sentencia y un interdicto preliminar sin la prestación de fianza; (4) si existe vínculo contractual alguno que tenga como efecto que los patronos participantes en un plan de retiros respondan subsidiariamente por éste, y (5) el alcance del Art. 9.08 de la Ley General de Corporaciones de Puerto Rico, infra.

Con eso en mente, procedamos a puntualizar el contexto fáctico y procesal en el cual se desarrolla la presente controversia.

I

El 6 de junio de 2016, los peticionarios, correspondientes a la Academia Perpetuo Socorro, presentaron su demanda inicial en la que sostuvieron que son beneficiarios del Plan de Pensión para Empleados de Escuelas

Católicas (Plan), administrado por el Fideicomiso Plan de Pensión para Empleados de Escuelas Católicas (Fideicomiso).¹ Arguyeron, además, que el Fideicomiso les notificó sobre la terminación del Plan y la eliminación de sus beneficios de retiro. Ante eso, argumentaron que poseen derechos adquiridos sobre el Plan, los cuales no pueden ser eliminados retroactivamente. Asimismo, éstos solicitaron en la demanda varios remedios provisionales, a saber, un embargo en aseguramiento de sentencia y un interdicto preliminar. Posteriormente, se presentaron demandas análogas, solicitando los mismos remedios, por empleados de la Academia San José y la Academia San Ignacio, las cuales fueron consolidadas por el Tribunal de Primera Instancia.²

 Evaluada la solicitud de los peticionarios, el foro primario denegó los remedios provisionales. Ese dictamen fue oportunamente recurrido al Tribunal de Apelaciones, el cual, de igual forma, denegó otorgar los remedios solicitados. Inconformes, los peticionarios acudieron ante nos. En esa ocasión, este Tribunal acogió el recurso presentado y

¹El Plan de Pensión para Empleados de Escuelas Católicas (Plan) que funge como eje central de esta controversia, comenzó a operar en el 1979. La Superintendencia de Escuelas Católicas (Superintendencia), ese mismo año, constituyó el Fideicomiso Plan de Pensión para Empleados de Escuelas Católicas (Fideicomiso) para fines de que éste operara el Plan y agrupar a los cuarenta y dos colegios y academias que participarían del mismo.

²Las demandas incluyeron como demandados a la Iglesia Católica, la Arquidiócesis de San Juan, la Superintendencia, la Academia Perpetuo Socorro, la Academia San José, la Academia San Ignacio y el Fideicomiso.

emitimos una Sentencia, revocando al foro apelativo intermedio. Véase, Acevedo Feliciano, et al. v. Iglesia Católica, Apostólica y Romana, et al., res. el 18 de julio de 2017, CC-2016-1053. A esos efectos, dictaminamos que procedía otorgar el remedio de interdicto preliminar. De igual modo, concluimos que de los documentos del Plan surgen varias cláusulas que atienden la responsabilidad de los patronos participantes para con los beneficiarios del mismo. Íd. págs. 9-10. Es decir, dispusimos que entre el Fideicomiso y los patronos participantes existe un vínculo obligacional subsidiario para con los beneficiarios. Por medio de esa relación, del Fideicomiso no contar con los fondos necesarios para cumplir con sus responsabilidades, serían los patronos participantes los obligados a cumplir.

A raíz de esa conclusión, y al existir controversia sobre cuáles demandados en el pleito ostentaban personalidad jurídica, ordenamos al foro primario a celebrar una vista, a los fines de determinar quién sería responsable de continuar con los pagos de las pensiones, en virtud del interdicto preliminar. Es decir, si esa responsabilidad recaía en "las correspondientes Academias o la Iglesia". Acevedo Feliciano, et al. v. Iglesia Católica, Apostólica y Romana, et al., supra, pág. 12.

Devuelto el caso al Tribunal de Primera Instancia, éste celebró la vista ordenada. En su correspondiente Resolución, ese foro determinó que el único demandado con personalidad jurídica propia era la Iglesia Católica. Ello, pues ni la

Academia San José ni la Academia San Ignacio habían sido debidamente incorporados. A su vez, determinó que la Academia Perpetuo Socorro le fue revocado su certificado de incorporación el 4 de mayo de 2014. Luego de varios trámites procesales, el foro primario le concedió a la Iglesia Católica un término de veinticuatro horas para consignar la suma de \$4.7 millones y le apercibió que, de incumplir con su Orden, procedería a ordenar el embargo de sus cuentas bancarias. Inconformes con ese proceder, el mismo día, los recurridos acudieron ante el Tribunal de Apelaciones vía *certiorari* y en *Auxilio de Jurisdicción* el cual efectivamente ordenó la paralización de los procedimientos ante el Tribunal de Primera Instancia.

Así las cosas, luego de ponderados los argumentos de las partes, el foro apelativo intermedio emitió una Sentencia en la cual revocó en su totalidad la Resolución emitida por el foro primario. En primer término, determinó que la Iglesia Católica es un ente inexistente en Puerto Rico. A esos efectos, dispuso que los diferentes componentes de las entidades que constituyen la Iglesia Católica en Puerto Rico ostentan personalidades jurídicas propias y separadas uno de los otros. En ese sentido, concluyó, que tanto la Orden de embargo como la de interdicto preliminar, eran inoficiosas, toda vez que se dirigen en contra de un ente inexistente.

Por otra parte, el Tribunal de Apelaciones determinó que no procedía trasladar directamente a los patronos

individualmente la obligación de pagar la pensión que recibían los empleados, puesto que esa era responsabilidad estrictamente del Fideicomiso.

Asimismo, el foro apelativo intermedio concluyó que la Orden de embargo y el interdicto preliminar eran improcedentes, pues los peticionarios no habían prestado la fianza requerida por las Reglas de Procedimiento Civil.

Por último, sostuvo que la Academia Perpetuo Socorro poseía personalidad jurídica, ya que logró renovar su certificado de incorporación en el 2017, a pesar de que el mismo había sido cancelado el 16 de abril de 2014. De esa forma, razonó que se le debía reconocer personalidad jurídica retroactiva a los actos llevados a cabo durante ese tiempo, dado que actuó dentro del término de tres años dispuesto en el Art. 9.08 de la Ley General de Corporaciones de Puerto Rico, 14 LPRa sec. 3708.3.

Por consiguiente, los peticionarios acuden ante nos señalando como errores las conclusiones de derecho antes mencionadas. Contando con el beneficio de la comparecencia de las partes procedemos a disponer del recurso ante nuestra consideración.³ Veamos.

³Durante el trámite del presente caso, se presentaron ante la Secretaría de este Tribunal varias solicitudes de intervención o para comparecer como *amicus curiae*. Los solicitantes fueron las Diócesis de Caguas, Arecibo, Mayagüez, Fajardo-Humacao y Ponce. No obstante, concluimos que los intereses de esas instituciones han estado debidamente representados por la parte recurrida. Por tal motivo, declaramos sin lugar las mismas.

II

A.

Con tal de disponer adecuadamente de la controversia plasmada ante nos, resulta importante explicar el contexto jurídico e histórico por el cual se le reconoce personalidad jurídica a la Iglesia Católica en Puerto Rico. La relación entre España, la Iglesia Católica y Puerto Rico es una de carácter *sui generis*, dadas las particularidades de su desarrollo y contexto histórico. Sabido es que, para la época durante la cual Puerto Rico era una colonia española, la Iglesia Católica formaba, *de facto y de jure*, parte del Estado. Por tal razón, la Iglesia Católica estaba sumamente inmiscuida en las relaciones jurídicas en las que el Estado se involucraba. Ahora bien, posterior a la Guerra Hispanoamericana, Puerto Rico fue cedido a los Estados Unidos, acto que fue concretizado con la firma del Tratado de París. En ese sentido, y según ha expuesto este Tribunal:

Puerto Rico pasó a formar parte del esquema constitucional de Estados Unidos como resultado de la Guerra Hispanoamericana. Mediante el Tratado de París de 1898, la soberanía de Puerto Rico fue cedida a los Estados Unidos —Art. II, Tratado de París, L.P.R.A., Tomo 1— y se estableció que los derechos de los habitantes de la Isla serían definidos por el Congreso. *Íd.*, Art. IX. De suerte que desde inicios de nuestra relación con Estados Unidos, la manera en la cual la Constitución Federal aplicaría a Puerto Rico fue objeto de intensos debates. ELA v. Northwestern Selecta, 185 DPR 40, 61 (2012).⁴

⁴Para una actualización de las diversas posturas en ese debate, véase G.A. Gelpí, The Constitutional Evolution of Puerto Rico and other U.S Territories (1898-Present), 1ra ed., Colombia, Ed. Nomos S.A., 2017.

En virtud del referido Tratado, además, se le reconoció a la Iglesia Católica la personalidad jurídica que ésta ostentaba previo a la cesión de Puerto Rico a los Estados Unidos. En otras palabras, el "Tratado de París, mantuvo la personalidad jurídica de la Iglesia". J.J. Monge Gómez, La permisibilidad de lo "impermissible": La Iglesia sobre el Estado, 41 Rev. Jur. U. Inter. PR 629, 633-634 (2007). Lo anterior se desprende del Art. 8 del Tratado el cual reza como sigue:

Queda por lo tanto declarado que esta renuncia o cesión, según el caso, a que se refiere el párrafo anterior, en nada puede mermar la propiedad, o los derechos que correspondan, con arreglo a las leyes, al poseedor pacífico, de los bienes de todas clases de las provincias, municipios, establecimientos públicos o privados, corporaciones civiles o eclesiásticas, o de cualesquiera otras colectividades que tienen personalidad jurídica para adquirir y poseer bienes en los mencionados territorios renunciados o cedidos, y los de los individuos particulares, cualquiera que sea su nacionalidad. Tratado de Paz entre Estados Unidos de América y el Reino de España (Tratado de París), art. 8, 10 de diciembre de 1898, EE.UU.-España, 30 Stat. 1754 (1898), T.S. 343.

Nótese que no se hace referencia directa a la Iglesia Católica, sino que se hace alusión a corporaciones eclesiásticas. Ahora bien, el Tribunal Supremo de los Estados Unidos estableció que la palabra "eclesiásticas" en el precitado artículo se refería estrictamente a la Iglesia Católica, puesto que era la única organización eclesiástica existente en Puerto Rico al momento de firmar el Tratado de París. Específicamente, en su análisis, el Tribunal Supremo federal determinó lo siguiente:

The Roman Catholic Church has been recognized as possessing legal personality by the treaty of Paris, and its property rights solemnly safeguarded. In so doing the treaty has merely followed the recognized rule of international law which would have protected the property of the church in Porto [sic] Rico subsequent to the cession. This juristic personality and the church's ownership of property had been recognized in the most formal way by the concordats between Spain and the papacy, and by the Spanish laws from the beginning of settlements in the Indies. Such recognition has also been accorded the church by all systems of European law from the fourth century of the Christian era. Ponce v. Roman Catholic Apostolic Church, 210 U.S. 296, 323-324 (1908).

A pesar de ello, el foro apelativo intermedio entendió que cada división de la Iglesia Católica en Puerto Rico equivale a la creación de una persona jurídica distinta y separada y no reconoció la personalidad jurídica de la Iglesia Católica. Ello, a base de una sustitución del estado de derecho local por el Derecho Canónico, cuyo ámbito en la controversia ante nos, se limita a regir las relaciones y los procesos internos de la Iglesia Católica. Véase, Marianne Perciaccante, The Courts and Canon Law, 6 Cornell J.L. & Pub. Pol'y 171 (1996).

En consecuencia, el Tribunal de Apelaciones erradamente entró a analizar los argumentos de los recurridos respecto a la cláusula constitucional que establece la separación de Iglesia y Estado. Ello pues, según los recurridos, se deben respetar las determinaciones internas de la Iglesia Católica, en cuanto a cómo administrar sus instituciones. Ante la naturaleza contractual de la controversia ante nos, no les asiste la razón.

Interpretando la referida cláusula constitucional, el Tribunal Supremo de los Estados Unidos estableció lo siguiente:

The "establishment of religion" clause of the First Amendment means at least this: Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to go to or to remain away from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or non-attendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a state nor the Federal Government can, openly or secretly, participate in the affairs of any religious organizations or groups and vice versa. Everson v. Bd. of Ed. of Ewing Twp., 330 U.S. 1, 15-16 (1947). Véase además, Academia San Jorge v. J.R.F., 110 DPR 193 (1980).

De igual modo, a base de esa misma disposición, el máximo foro federal ha invalidado actuaciones judiciales estatales que desembocan en una intromisión indebida de parte de esos tribunales sobre asuntos de organización o disputas internas (intrachurch dispute) o "materias de doctrina y fe" de la iglesia. Véanse, Jones v. Wolf, 443 U.S. 595 (1979); Serbian E. Orthodox Diocese for U. S. of Am. & Canada v. Milivojevich, 426 U.S. 696 (1976). Por ello, el Tribunal Supremo federal ha avalado lo denominado como el "neutral principles of law approach". Jones v. Wolf, supra, págs. 602-603. Bajo ese análisis, los tribunales pueden dirimir ciertas controversias de la Iglesia, como por ejemplo derecho sobre

propiedad, siempre y cuando la adjudicación no tome en consideración ni indague materias de doctrina y fe. Íd., págs. 602-603. Ello, sin ir en contravención de la cláusula constitucional sobre separación de Iglesia y Estado. Como corolario de lo anterior, ese foro ha expresado que "[the First] Amendment therefore commands civil courts to decide church property disputes without resolving underlying controversies over religious doctrine. This principle applies with equal force to church disputes over church polity and church administration". Serbian E. Orthodox Diocese for U. S. of Am. & Canada v. Milivojevich, supra, pág. 710.

Adviértase que, en el caso de autos, nos encontramos ante obligaciones civiles voluntariamente contraídas, no impuestas por el Estado. En ese sentido, según expuso este Tribunal en Mercado, Quilichini v. U.C.P.R., 143 DPR 610 (1997):

[D]ebe quedar claro que[,] aunque una de las partes en el litigio de autos es una institución educativa que reclama la no intervención de los tribunales por estar involucradas reclamaciones que podrían conducir a dilucidar asuntos de índole religiosa, podemos y debemos distinguir los distintos planteamientos ante nuestra consideración. Específicamente, en esta parte de la discusión, solamente examinamos el planteamiento de incumplimiento contractual. En ese sentido, no existe duda en cuanto a la autoridad que tiene un tribunal civil para intervenir en la interpretación de un contrato "libremente negociado y acordado" entre dos (2) entes privados. Díaz v. Colegio Nuestra Sra. del Pilar, 123 DPR 765 (1989). La intervención del tribunal intenta hacer cumplir la voluntad de las partes y vindicar sus intereses contractuales. En Díaz v. Colegio Nuestra Sra. del Pilar, supra,

aclaremos que la participación del Estado a través de los tribunales en disputas contractuales no es penetrante e incisiva en la operación de una institución educativa católica al punto de constituir una carga sustancial al libre ejercicio del culto ni promover el establecimiento de cualquier religión, según proscriben la Primera Enmienda de la Constitución de Estados Unidos y el Art. II, Sec. 3 de la Constitución del Estado Libre Asociado, L.P.R.A., Tomo 1. Por lo tanto, siempre que la dilucidación de la disputa contractual no requiera pasar juicio sobre materias de doctrina, de fe o de organización eclesiástica interna, los tribunales civiles podrán ejercer jurisdicción. Íd., págs. 626-627.

Conforme a lo pautado, resulta imperativo concluir que este Tribunal se encuentra en igual posición en el presente caso. Nótese, en primer lugar, que es claro que en el caso de autos no se encuentran en controversia "materias de doctrina y fe" de la Iglesia Católica. Lejos de enfrentarnos a asuntos puramente internos (intrachurch dispute), ciertamente la controversia ante nuestra consideración está enmarcada en asuntos externos de la Iglesia Católica, en su rol como patrono, frente a los empleados peticionarios, en una disputa de índole puramente contractual. Y es que cuando los tribunales nos enfrentamos ante controversias seculares, como la que nos ocupa, no podemos otorgarles entera deferencia a las decisiones internas de ésta, por no ser una controversia de organización interna o materia de doctrina y fe. Perciaccante, supra, págs. 171-172 y 178. Máxime, cuando actuar de esa forma constituiría en sí misma una violación a la cláusula constitucional que establece la separación de Iglesia y Estado. Íd., pág. 172; Serbian E. Orthodox Diocese

for U. S. of Am. & Canada v. Milivojevich, supra, págs. 708-710.

Tampoco hay espacio para imputar una violación a la garantía de la Primera Enmienda de la Constitución Federal por la cual toda persona tiene el derecho de ejercer libremente su religión sin que sea obstaculizado, restringido o coartado por el gobierno, la cual aplica a los estados en virtud de la Decimocuarta Enmienda de la Constitución Federal. Everson v. Board of Education, supra. Según explicado, no estamos ante una regulación o interferencia del Gobierno que pretenda imponer una carga sustancial a determinada religión. Nos explicamos.

Primero, la controversia civil planteada ante nos versa sobre acuerdos que la parte recurrida contrajo de forma voluntaria con los maestros demandantes. Segundo, esos acuerdos están sustentados en unas normas de Derecho Civil y Corporativo de aplicación general. Tercero, la parte recurrida no demostró que esas leyes constituían una carga sustancial en el ejercicio de su religión. Véase, Holt v. Hobbs, 135 S.Ct. 853, 857-859 (2015); Burwell v. Hobby Lobby Stores, Inc., 134 S.Ct. 2751, 2760-2762 (2014). Muy distinto sería que el Gobierno de Puerto Rico interfiriera con las normas internas de reclutamiento de ministros o sacerdotes de alguna o todas las iglesias, porque como bien dictaminó el Tribunal Supremo federal, constituiría una interferencia indebida con las normas internas de las iglesias. Véase, Hosana-Tabor Evangelical Lutheran Church and School v. EEOC,

565 U.S. 171 (2012). Por el contrario, aquí estamos ante una controversia puramente contractual regida por el derecho local, entre partes privadas. Es decir, la personalidad jurídica que le reconocemos a la Iglesia Católica no incide sobre la garantía constitucional antes mencionada, pues esa determinación en nada interfiere sustancialmente con su organización interna o alguna "materia de doctrina y fe". Con nuestro proceder, meramente aclaramos la capacidad jurídica de la Iglesia Católica en Puerto Rico para con sus responsabilidades civiles frente a personas externas a ella.

En segundo lugar, la controversia en este caso, y distinto a como fue apreciada por el Tribunal de Apelaciones, no requiere que evaluemos o calificuemos como correctas o incorrectas las determinaciones internas o la "organización eclesiástica interna" de la Iglesia Católica-independientemente como opte por hacerla-, sino si la referida organización es capaz de conceder o negar, por si sola, personalidad jurídica independiente a una o varias de las estructuras internas. Veamos.

Contrario a lo concluido por el foro apelativo intermedio, resulta innegable que cada ente creado que opere separado y con un cierto grado de autonomía a la Iglesia Católica es en realidad una fragmentación de un sólo ente poseedor de personalidad jurídica. J. Gelpí Barrios, Personalidad jurídica de la Iglesia en Puerto Rico, 95 Rev. Esp. Der. Canónico 395, 403 y 410 (1977); A. Colón Rosado, Relation Between Church and State in Puerto Rico, 46 Rev.

Jur. Col. Ab. 51, 54-57 (1985). En otras palabras, las entidades creadas como consecuencia de cualquier configuración interna de la Iglesia Católica no equivalen automáticamente a la formación de entes con personalidades jurídicas distintas y separadas en el ámbito del Derecho Civil. Ello, puesto que más bien son meras fragmentaciones indivisibles de la personalidad jurídica que posee la Iglesia Católica.

La contención de que la Iglesia Católica está autorizada a obviar el Derecho Corporativo local y puede establecer entes con personalidad jurídica por decreto o bula papal, desde Roma, es —para todo efecto práctico— el reconocimiento de una religión oficial o privilegiada en Puerto Rico. Eso está vedado por la Primera Enmienda de la Constitución de los Estados Unidos y el Art. II, Sec. 3 de la Constitución de Puerto Rico. Véanse, Everson v. Board of Education, supra; Academia San Jorge v. J.R.T., supra.

Ante lo expuesto, resulta incuestionable que la Iglesia Católica goza y ostenta de personalidad jurídica propia en Puerto Rico. Por ello, a diferencia de otras instituciones religiosas, a ésta no le es requerido el llevar a cabo un acto formal de incorporación con tal de poseer capacidad jurídica. Como cuestión de hecho, esa realidad se recoge en el Registro de Corporaciones del Departamento de Estado de Puerto Rico.⁵ Así, en la medida que las entidades creadas por

⁵Certificado del Departamento de Estado, Apéndice del *certiorari*, págs. 787-789.

la Iglesia Católica funjan como *alter egos* o entidades *doing business* as de ésta, sin someterse independientemente a un proceso ordinario de incorporación (como en su momento lo hizo la Academia Perpetuo Socorro) constituirán meras fragmentaciones indivisibles de la Iglesia Católica, sin personalidad jurídica propia. Ante ese cuadro, el Tribunal de Apelaciones erró al suplantar el derecho vigente expuesto por normas no vinculantes.

B.

Como es sabido, una de las características medulares de las corporaciones es que las mismas poseen personalidad jurídica propia, separada y distinta a la de sus incorporadores y accionistas. Véase, C.E. Díaz Olivo, Corporaciones: Tratado sobre Derecho Corporativo, Colombia, [s. Ed], 2016, págs. 2 y 45; M. Muñoz Rivera, Ley de Corporaciones de Puerto Rico: Análisis y Comentarios, 1ra ed., San Juan, Ed. Situm, 2015, pág. 7. Esa personalidad jurídica es duradera hasta tanto la corporación se disuelva o se extinga. Miramar Marine, et al. v. Citi Walk, et al., 198 DPR 684, 691 (2017). En lo relevante a la controversia ante nos, el Art. 9.08 de la Ley General de Corporaciones de Puerto Rico, supra, dispone ciertas instancias en las cuales, a pesar de la disolución o extinción de una corporación, la misma tendrá personalidad jurídica para ciertos propósitos.

El precitado artículo adopta en Puerto Rico lo que es conocido como los survival statutes. Miramar Marine, et al. v. Citi Walk, et al., supra, pág. 693. El mismo tiene como

propósito el culminar adecuada y completamente el proceso de liquidación de una corporación. Íd. Es por ello que, como se desprende del mismo texto del referido artículo, se le provee personalidad jurídica a corporaciones extinguidas con el propósito de que éstas puedan continuar con sus litigios pendientes y atender aquellas reclamaciones judiciales instauradas dentro de los tres años siguientes a su disolución o extinción. Sin embargo, el mismo artículo aclara que "[n]o podrá continuar la personalidad jurídica con el propósito de continuar los negocios para los cuales se creó dicha corporación". Ley General de Corporaciones de Puerto Rico, supra. Véase además, 16A Fletcher Cyc. Corp., secs. 8112.3 y 8117 (2012). Es decir, la personalidad jurídica de una corporación liquidada o extinguida es limitada, puesto que no se le reconocerá la misma para fines de continuar con sus negocios, como si nunca hubiera sido extinguida o liquidada. Sin embargo, lo anterior no equivale a poder demandar a una corporación extinguida o liquidada dentro de los tres años siguientes a su extinción por actos llevados a cabo dentro de ese mismo término. De una interpretación de ese artículo se revela que la causa de acción ejercitada tuvo que haber surgido durante la existencia de la corporación que se intenta demandar. De ese modo, el referido artículo brinda un término para que una parte afectada pueda instar un pleito contra la corporación, a pesar de que la misma haya dejado de existir.

A la luz de lo anterior, resolvemos que el foro apelativo intermedio erró en reconocer la personalidad jurídica de la

Academia Perpetuo Socorro. Según expusimos, el Art. 9.08 de la Ley General de Corporaciones de Puerto Rico, supra, provee un término de tres (3) años posterior a la extinción de una corporación para ejercitar causas de acciones y derechos que hayan surgido durante la vigencia de ésta. A la luz de los hechos expuestos, es evidente que la causa de acción en cuestión surgió en el 2016, con el anuncio del Fideicomiso en cuanto al cese del Plan y el impago de las pensiones. Por lo tanto, no procedía reconocerle personalidad jurídica a la Academia Perpetuo Socorro, toda vez que las actuaciones que se reclaman fueron efectuadas con posterioridad a la revocación del certificado de incorporación de ésta.

III

Según fue expuesto, los peticionarios señalan que la sentencia recurrida erróneamente determinó que no existía fuente obligacional entre ellos y su patrono sobre el pago de las pensiones. Ello, dado que el único vínculo obligacional presente en la controversia era estrictamente entre los pensionados y el Fideicomiso. Esa conclusión resulta contraria a nuestro mandato en Acevedo Feliciano, et al. v. Iglesia Católica, Apostólica y Romana, et al., supra. En aquella ocasión establecimos con claridad la relación obligacional entre las partes y el efecto jurídico de la misma. Así, la actuación del Tribunal de Apelaciones resulta errónea, toda vez que es incongruente con nuestro mandato previo. Véase, Colón, et al. v. Frito Lays, 186 DPR 135, 151 (2012).

En esa ocasión, este Tribunal determinó que en el Plan existían varias cláusulas que responsabilizaban a los patronos con las obligaciones del Fideicomiso. Íd., págs. 9-10. A raíz de ello, ordenamos al Tribunal de Primera Instancia a que celebrara una vista, con tal de determinar cuáles patronos poseían personalidad jurídica independiente y serían los responsables por pagar. En ese sentido, expresamos lo siguiente:

A la vez, e independientemente de la legalidad de la terminación del plan, del Plan de Pensiones surgen varias cláusulas que versan sobre la responsabilidad de los patronos participantes para con los beneficiarios, a saber: 1) el Artículo 2 (B), donde los patronos **garantizan** su contribución de los fondos necesarios para la operación del plan, 2) los Artículos 4 (B) y 8 (B.1) donde se enfatiza una garantía de pago de por lo menos sesenta (60) meses, 3) el Artículo 7 (E), donde se establece que los patronos que terminen su participación en el plan son responsables de amortizar el pasivo acumulado no financiado, y 4) el Artículo 15 (B), donde se enfatiza que el patrono que se retira del Plan es responsable de los **beneficios adquiridos** de sus empleados mientras participó. Todo esto requiere examinar la responsabilidad que incurrieron los patronos al pactar el Plan de Pensiones, y si ésta se extiende más allá de la figura del fideicomiso que establecieron. Acevedo Feliciano, et al. v. Iglesia Católica, Apostólica y Romana, et al., supra, págs. 9-11 (escolios omitidos).

Por tal motivo, y por los fundamentos expuestos en nuestra Sentencia previa, la cual advino final y firme, concluimos que el foro apelativo intermedio erró al actuar contrario a nuestro mandato. Ello, dado que en aquella ocasión ya este Tribunal concluyó que el vínculo obligacional entre las partes era existente según se desprendía de varias partes del Plan. Por tal razón, actuó correctamente el foro

primario al ceñirse a lo dispuesto por este Tribunal en Acevedo Feliciano, et al. v. Iglesia Católica, Apostólica y Romana, et al., supra, a los fines de celebrar una vista, para determinar cuál parte ostentaba personalidad jurídica para propósitos de cumplir con la obligación que ya este foro determinó existente.

IV

A.

El remedio de embargo en aseguramiento de sentencia busca asegurar la efectividad de la sentencia que en su día se dicte. Ramos, et al. v. Colón, et al., 153 DPR 534 (2001). Por ello, las Reglas de Procedimiento Civil obligan a los tribunales a exigir la prestación de una fianza con tal de otorgar ese remedio. 32 LPRA Ap. V, R. 56.4. No obstante, existen varias excepciones a la prestación de esa fianza. En lo pertinente a la controversia presente, una de las excepciones dispone que "[u]n remedio provisional sin la prestación de fianza podrá concederse en cualquiera de los casos siguientes: (a) si aparece de documentos públicos o privados, según definidos por ley y firmados ante una persona autorizada para administrar juramento, que la obligación es legalmente exigible . . .". 32 LPRA Ap. V, R. 56.3. La definición de lo que constituye un documento público o privado debe gozar de una interpretación amplia y expansiva. J.A. Cuevas Segarra, Tratado de Derecho Procesal Civil, 2da ed., San Juan, Pubs. JTS, 2011, T. V, pág. 1607. Por tal razón, la gama de documentos admisibles para eximir a una

parte de tener que prestar fianza es sumamente amplia. A tales efectos, consta en el expediente abundante prueba documental que demuestra la exigibilidad de la obligación en cuestión, a saber: Manual informativo para patronos participantes, Apéndice del certiorari, págs. 564-566; Manual informativo para empleados, íd. págs. 567-569; Escritura de fideicomiso, íd. págs. 545-563; Plan de Pensiones de las Escuelas Católicas de la Arquidiócesis de San Juan, íd. págs. 516-538; Minuta de la reunión del Fideicomiso del 26 de abril de 2010, íd. pág. 680, y Minuta de la reunión del Fideicomiso del 13 de septiembre de 2010, íd. pág. 690.

B.

De otra parte, el interdicto preliminar tiene como función "mantener el status quo mientras se dilucida el pleito". Mun. Fajardo v. Srio. Justicia, 187 DPR 245, 255 (2012). Para la concesión de este remedio la parte solicitante debe, además de cumplir con los criterios establecidos en la Regla 57.3 de las Reglas de Procedimiento Civil, 32 LPRA Ap. V, R. 57.3, prestar una fianza, como regla general. Según el Doctor Cuevas Segarra, "la imposición de una fianza previa constituye un requisito esencial que no debe ceder ante ningún supuesto, **salvo circunstancias extraordinarias en donde requerir tal prestación conllevaría un fracaso de la justicia**". (Énfasis suplido) Cuevas Segarra, op. cit., pág. 1726. De igual forma opina el Profesor Echevarría Vargas. J.A. Echevarría Vargas, Procedimiento


civil puertorriqueño, San Juan, [ed. de autor], 2012, pág. 393. Ante ese cuadro, nos encontramos ante circunstancias excepcionales las cuales hacen imperativo reconocer en nuestro ordenamiento tal excepción. Por tanto, no podemos avalar el razonamiento del Tribunal de Apelaciones el cual nos conduciría a que no esté disponible para un peticionario la concesión de un remedio interdictal para evitar un fracaso de la justicia si no posee la fuerza del dinero. Esa lógica debilitaría la efectividad del Derecho en una sociedad democrática y cerraría las puertas a los tribunales por consideraciones puramente económicas a los que, precisamente, necesitan un remedio económico urgente.

A esos efectos, resulta claro que exigir la prestación de una fianza en este caso implicaría un fracaso a la justicia. Nos explicamos. Aquí, la parte peticionaria reclama el pago de una pensión que resulta incontrovertible que ha dejado de ser sufragada. Como consecuencia de ese incumplimiento, los peticionarios sufren un daño, a raíz de la falta de flujo de ingresos y las consecuencias claras y palpables que atentan contra su salud, seguridad y bienestar en una etapa de retiro. Así lo reconocimos y expusimos en la Sentencia de Acevedo Feliciano, et al. v. Iglesia Católica, Apostólica y Romana, et al., supra, págs. 8-9. Ante la realidad de que los peticionarios expusieron situaciones concretas y particularizadas de cómo la privación del pago de la pensión ha tenido un impacto significativo en sus vidas, resultaría un contrasentido jurídico exigir la

prestación de una cuantiosa fianza para que los demandados continúen el pago de la pensión que los peticionarios reclaman.

v

Por los fundamentos que anteceden, se expide el recurso de *certiorari* y se revoca la sentencia del Tribunal de Apelaciones a los extremos abordados en esta Opinión. En consecuencia, se sostiene y se mantiene en todo vigor el dictamen contenido en la Resolución emitida por el Tribunal de Primera Instancia el 16 de marzo de 2018, al igual que todas las medidas adoptadas por el foro de instancia y, por tanto, se devuelve el caso a ese foro para la continuación de los procedimientos ulteriores, cónsono con lo pautado en esta Opinión.



Luis F. Estrella Martínez
Juez Asociado

EN EL TRIBUNAL SUPREMO DE PUERTO RICO

Yalí Acevedo Feliciano, et
al.

Peticionarios

v.

Iglesia Católica, Apostólica
y Romana, et al.

Recurridos

CC-2018-0475 *Certiorari*

Sonia Arroyo Velázquez, et
al.

Peticionarios

v.

Iglesia Católica, Apostólica
y Romana, et al.

Recurridos

Elsie Alvarado Rivera, et al.

Peticionarios

v.

Iglesia Católica, Apostólica
y Romana, et al.

Recurridos

SENTENCIA
(Regla 50)

San Juan, Puerto Rico, a 11 de junio de 2018.

Por los fundamentos que anteceden, se expide el recurso de *certiorari* y se revoca la sentencia del Tribunal de Apelaciones a los extremos abordados en esta Opinión. En

consecuencia, se sostiene y se mantiene en todo vigor el dictamen contenido en la Resolución emitida por el Tribunal de Primera Instancia el 16 de marzo de 2018, al igual que todas las medidas adoptadas por el foro de instancia y, por tanto, se devuelve el caso a ese foro para la continuación de los procedimientos ulteriores, cónsono con lo pautado en esta Opinión.

Notifíquese inmediatamente por teléfono y por correo electrónico.

Así lo pronunció, manda el Tribunal y certifica el Secretario del Tribunal Supremo. La Juez Presidenta Interina señora Rodríguez Rodríguez y el Juez Asociado señor Colón Pérez disienten con opiniones escritas. La Jueza Presidenta Oronoz Rodríguez no intervino.



Juan Ernesto Dávila Rivera
Secretario del Tribunal Supremo



EN EL TRIBUNAL SUPREMO DE PUERTO RICO

Yalí Acevedo Feliciano et al.

Peticionarios

v.

Iglesia Católica, Apostólica
y Romana et al.

Peticionario

Sonia Arroyo Velázquez, et
al.

Peticionarios

v.

Iglesia Católica, Apostólica
y Romana et al.

Elsie Alvarado Rivera, et al.

v.

Iglesia Católica, Apostólica
y Romana et al.

Núm. CC-2018-0475

Opinión disidente emitida por la Juez Asociada señora
Rodríguez Rodríguez

San Juan, Puerto Rico, a 11 de junio de 2018.

Una vez más, "con la iglesia
hemos dado, Sancho".¹

Por entender que el curso de acción adoptado por una
Mayoría de los integrantes de este Tribunal violenta el

¹ *Diócesis De Arecibo v. Srio. Justicia*, 191 D.P.R. 292, 329 (2014) (Rodríguez Rodríguez, J., Op. Disidente) (citando a M. de Cervantes Saavedra, *Don Quijote de la Mancha*, (Ed. IV Centenario), Madrid, Ed. Alfaguara, 2004, en la pág. 60.

principio constitucional sobre separación de Iglesia y Estado consagrado tanto en la Constitución del Estado Libre Asociado de Puerto Rico como en la Constitución de los Estados Unidos de América, al reconfigurar - *de facto* y *de jure* - la organización eclesiástica interna y jerárquica de la Iglesia Católica, Apostólica y Romana, **disiento enérgicamente.**

I.

La controversia medular ante nuestra consideración tuvo su origen luego de una *Sentencia* emitida por este Foro, el 18 de julio de 2017. Véase *Acevedo Feliciano, et al. v. Iglesia Católica, Apostólica y Romana, et al.*, res. 18 de julio de 2017, CC-2016-1053. La *Sentencia* que emitimos en ese momento revisó una *Resolución y Orden* del Tribunal de Primera Instancia que, a su vez, denegó una solicitud de interdicto preliminar y embargo en aseguramiento de sentencia presentada por los demandantes. El foro primario había concluido, como cuestión de derecho, que los daños alegados en la demanda eran económicos y por lo tanto reparables, por lo que no procedía el interdicto solicitado. El foro apelativo intermedio se negó a revisar ese dictamen.

Traído a nuestra consideración esa controversia, expedimos el auto y revocamos. Concluimos que los demandantes, beneficiarios de un Plan de Pensiones, habían sufrido un daño irreparable al verse "despojados de su necesitada fuente de ingreso." En vista de ello, se declaró *ha lugar* la demanda de interdicto preliminar presentada por Yalí Acevedo Feliciano y los demás maestros y maestras

demandantes (en conjunto, peticionarios). En virtud de ese dictamen, este Foro ordenó la continuación de los pagos de las pensiones reclamadas. De igual forma, se ordenó al foro primario celebrar una vista evidenciaria para determinar si las entidades demandadas tenían personalidad jurídica y, consiguientemente, eran responsables por el pago de las pensiones en cuestión mientras se dilucidaban los méritos del caso. Véase *Acevedo Feliciano, et al. v. Iglesia Católica, Apostólica y Romana, et al.*, res. 18 de julio de 2017, CC-2016-1053, en la pág. 13.

W
Acatando el mandato por parte de este Foro, el Tribunal de Primera Instancia celebró la vista correspondiente y, luego de considerar la evidencia presentada, los escritos sometidos por las partes y el derecho vigente, resolvió que "las iglesias-escuelas demandadas, así como la Arquidiócesis de San Juan y la Superintendencia de Escuelas Católicas de San Juan, no ostentan personalidad jurídica propia por formar parte de la Iglesia Católica, Apostólica y Romana, como ente con personalidad jurídica propia, así reconocido por nuestro estado de derecho actual". *Resolución del Tribunal de Primera Instancia (Civil Núm. SJ-2016-CV-0131)*, 16 de marzo de 2018, en la pág. 8. Para arribar a dicha conclusión, el foro primario analizó, en esencia, el artículo 8, párrafo 2 del Tratado de París del 10 de diciembre de 1898 y las expresiones del Tribunal Supremo de los Estados Unidos en *Municipality of Ponce v. Catholic Church in Porto Rico*, 210 U.S. 296 (1908).

Según la interpretación del foro primario -suscrita hoy por una mayoría de este Tribunal- el Tribunal Supremo de los Estados Unidos dictaminó que dicho artículo del Tratado presuntamente reconoció una personalidad jurídica propia e independiente a la Iglesia Católica, Apostólica y Romana (Iglesia Católica) en Puerto Rico. Por las razones que se exponen más adelante en este disenso, esa interpretación de la decisión emitida por el Tribunal Supremo federal carece de fundamentos jurídicos e históricos y es del todo incompatible con la doctrina constitucional moderna sobre la separación de Iglesia y Estado y el Código de Derecho Canónico.

A la luz de dicho análisis sobre la personalidad jurídica de la Iglesia Católica, el Tribunal de Primera Instancia ordenó que se continuara "con la emisión de pagos a los demandantes conforme al Plan de pensiones, mientras se dilucida este pleito". Resolución del Tribunal de Primera Instancia (Civil Núm. SJ-2016-CV-0131). Ante el incumplimiento de la Iglesia Católica, el 27 de marzo de 2018, el foro primario le ordenó, en un término de veinticuatro (24) horas, consignar la cantidad de \$4,700,000 como medida para asegurar el pago de las pensiones de los demandantes. De igual forma, le apercibió que su incumplimiento resultaría en una orden de embargo de sus cuentas bancarias.

Insatisfecha, ese mismo día, la Iglesia Católica acudió al Tribunal de Apelaciones mediante *certiorari* y una moción de auxilio de jurisdicción. En respuesta a esta última, el

foro apelativo intermedio ordenó preventivamente la paralización de los procedimientos ante el foro primario. Tras recibir los respectivos alegatos de las partes en el pleito, el 30 de abril de 2018, el Tribunal de Apelaciones emitió una sentencia mediante la cual revocó en su totalidad la determinación del Tribunal de Primera Instancia.

En lo pertinente a la controversia sobre la personalidad jurídica de la Iglesia Católica, dicho foro razonó que, conforme al Derecho Canónico y al estado de Derecho vigente en torno a los principios de separación de Iglesia y Estado, "no existe en la Isla una estructura que agrupe bajo una sola autoridad a todas las diócesis y a la que sus obispos estén subordinados". *Sentencia del Tribunal de Apelaciones, KLCE-2018-00413, 30 de abril de 2018, en la pág. 29.* Al interpretar las secciones 368 y 369 del Código de Derecho Canónico, el foro apelativo intermedio enfatizó que una diócesis es una porción del pueblo de Dios, cuyo cuidado se le encomienda al Obispo y que, con la cooperación del presbiterio, "constituye una Iglesia particular, en la cual verdaderamente está presente y actúa la Iglesia de Cristo una santa, católica y apostólica". *Id.* en la pág. 30. Es decir, conforme al ordenamiento canónico, "la estructura jerárquica de la religión católica no cuenta con ninguna otra autoridad con capacidad de representar a toda la Iglesia Católica en Puerto Rico, que no sea el propio Obispo de Roma, como cabeza universal de la Iglesia, Católica, Apostólica y Romana". *Id.* en la pág. 31.

Cónsono con este pronunciamiento, el Tribunal de Apelaciones sostuvo que la decisión del Tribunal Supremo de los Estados Unidos en *Municipality of Ponce* debía interpretarse tomando en consideración la realidad y el contexto histórico de la época cuando se resolvió este caso. Para el foro apelativo intermedio, en el momento en que se emitió la opinión en cuestión, en Puerto Rico sólo existía "una sola diócesis (la Diócesis de Puerto Rico), por lo que, en la práctica, existía entre la Iglesias Católica y la diócesis una misma identidad o conceptualización". *Id.* en la pág. 36. En fin, el Tribunal de Apelaciones resolvió que el Tribunal Supremo federal no hizo más que reconocer el derecho vigente antes de la cesión del territorio de Puerto Rico a los Estados Unidos y, de ninguna forma, esto se debería interpretar como el reconocimiento de una personalidad jurídica propia de la Iglesia Católica en Puerto Rico; pues, lo contrario, constituiría una forma de "intervenir en la estructura interna de la Iglesia [y] en su funcionamiento u organización". *Id.* en la pág. 37.

Así las cosas, el Tribunal de Apelaciones concluyó que la orden de embargo y el interdicto preliminar no procedían, puesto que estaban dirigidas a un ente inexistente. De otra parte, el foro apelativo intermedio resolvió que: (1) los patronos participantes del plan de retiro no estaban obligados a pagar individualmente la pensión que recibían sus empleados; (2) la orden de embargo y el interdicto preliminar no procedían dado que la parte peticionaria no había prestado


la fianza correspondiente, y (3) la Academia del Perpetuo Socorro poseía personalidad jurídica propia por razón de haber renovado su certificado de incorporación en el 2017 y, por ende, se le debía reconocer dicha personalidad de forma retroactiva.²

Inconforme, el 14 de mayo de 2018, la Iglesia Católica presentó ante este Tribunal una *Moción en Auxilio de Jurisdicción y/o Trámite expedito* y una petición de *certiorari* mediante las cuales, en síntesis, solicitaban la paralización de los procedimientos y la revocación de la sentencia dictada por el Tribunal de Apelaciones. Aún sin disponer de estos recursos, el 21 de mayo de 2018, la representación legal del Fideicomiso Plan de Pensiones para Empleados de Escuelas Católicas (Fideicomiso) presentó una *Moción Informativa* ante este Foro en la cual planteó que la Academia del Perpetuo Socorro, el 18 de mayo de 2018, había incoado oportunamente una moción de reconsideración ante el foro apelativo intermedio. Así las cosas, una mayoría de los integrantes de este Tribunal ordenó a todas las partes en el presente pleito expresarse sobre la referida moción informativa; en particular, en torno a si el recurso ante nuestra consideración era prematuro. En horas de la tarde del

² Debo mencionar que el Juez Rivera Colón emitió un voto disidente en el cual expresó estar conforme con la determinación de la mayoría de los integrantes del Panel en cuanto a que la Iglesia Católica no tenía personalidad jurídica independiente. Sin embargo, **disintió del dictamen** por entender, correctamente a mi juicio, que la sentencia mayoritaria entró a dilucidar, impropiamente, asuntos sobre los méritos del presente caso que **no estaban** ante su consideración y, por ende, se excedió en su función revisora.

24 de mayo de 2018, en cumplimiento con nuestra orden, las partes comparecieron y expusieron sus argumentos sobre el asunto en cuestión.

Ese mismo día, y ya entrada la noche, una mayoría de los integrantes de este Tribunal consideró los escritos presentados y resolvió que la parte peticionaria no fue notificada conforme a derecho de la presentación de la moción de reconsideración ante el Tribunal de Apelaciones. De esta manera, sin más, se proveyó *no ha lugar* a las mociones de desestimación presentadas y, paso seguido, se paralizaron los procedimientos ante los foros recurridos. Esto tuvo el efecto de ordenar a la Iglesia Católica continuar la emisión de los pagos conforme al Plan de Pensiones y cumplir con lo dispuesto en las resoluciones y órdenes del Tribunal de Primera Instancia, dictadas los días 16 y 26 de marzo de 2018, respectivamente. Por último, se le concedió el brevísimo término de diez (10) días para que la Iglesia Católica y demás recurridos mostraran causa por la cual no se debía revocar la sentencia del foro apelativo intermedio.

 El 1 de junio de 2018, la parte peticionaria presentó una *Urgente Moción de Desacato y Otros Extremos* mediante la cual solicitó que se declarara a la Iglesia Católica incurso en desacato, se ordenara la eliminación de sus alegaciones en el caso y se autorizara el diligenciamiento de la orden de embargo emitida por el foro primario. Aún sin disponer de dicha moción, el 4 de junio de 2018, las partes recurridas presentaron sus respectivas mociones en cumplimiento de orden.

Así las cosas, durante el día de hoy, una mayoría de los integrantes de este Foro emite una opinión, bajo el procedimiento expedito de la Regla 50 de nuestro Reglamento mediante la cual reorganiza inopinadamente la estructura interna de la Iglesia Católica en Puerto Rico. Al así proceder, da al traste con las protecciones constitucionales de la absoluta separación de Iglesia y Estado contenidas en la Constitución del Estado Libre Asociado de Puerto Rico y en la Constitución de los Estados Unidos, según establecidas en su jurisprudencia interpretativa, respectivamente. Dado que este Tribunal se arrogó jurisdicción para atender el presente caso, tengo el deber ineludible de expresarme en torno a los méritos de la controversia principal planteada y lo equivocado que resulta el dictamen que hoy se suscribe.

II.

Como cuestión de umbral, debo dejar muy claro que mi postura en esta Opinión Disidente de ninguna manera implica que estoy pasando juicio, o comprometiendo mi criterio, sobre los méritos del presente caso y la validez del reclamo de los maestros y maestras de las escuelas católicas en torno a la legalidad de la terminación del Plan de Retiro. En todo momento, las determinaciones de este Tribunal y los foros inferiores han surgido en el contexto exclusivo de una acción de interdicto preliminar y embargo en aseguramiento de sentencia. No albergo duda alguna, como sostuvo una mayoría de los integrantes de este Tribunal en la *Sentencia del 18 de julio de 2017*, que en esta etapa temprana de los

procedimientos "la balanza de los intereses se inclina hacia las peticionarias". *Acevedo Feliciano, et al. v. Iglesia Católica, Apostólica y Romana, et al.*, res. 18 de julio de 2017, CC-2016-1053, en la pág. 12. Ciertamente, como ya resolvió este Tribunal y señalamos anteriormente, durante la vigencia del presente pleito los maestros y maestras "despojados de su necesitada fuente de ingreso [] han sufrido daños irreparables". *Id.* en las págs. 11-12. Ahora bien, la controversia que sí está ante la consideración de este Tribunal, y que surge de nuestro dictamen previo, es **contra quién** es y será oponible el reclamo monetario millonario que solicitan los peticionarios. En la respuesta a esta interrogante estriba, precisamente, mi **diferencia irreconciliable** con la Mayoría.

Tomando esto como punta de lanza, procederé a delinear las razones por las cuales estimo que la Opinión mayoritaria se inmiscuye inadecuadamente en el funcionamiento de la Iglesia Católica al imponerle una personalidad jurídica que no ostenta en el ámbito del derecho privado. Asimismo, considero que la decisión que hoy emite una mayoría, en la práctica, podría acarrear la inejecutabilidad de la sentencia que, en su día, pudiese dar fin al reclamo de los peticionarios; reclamo que hoy se somete a un suspenso deplorable.

A.

La Sección 3 del Artículo II de la Constitución del Estado Libre Asociado de Puerto Rico, L.P.R.A., Tomo 1,

establece que, "[n]o se aprobará ley alguna relativa al establecimiento de cualquier religión ni se prohibirá el libre ejercicio de culto religioso. Habrá completa separación de la iglesia y el estado". De otra parte, la Constitución de los Estados Unidos dispone claramente que, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." U.S. Const. amend. I.

De entrada, resulta preciso destacar que nuestra cláusula constitucional -distinto a su contraparte federal- expresamente ordena "completa separación de la Iglesia y el Estado". A nivel federal, esa separación -cual aspiración e inspiración de las cláusulas religiosas- se ha formulado mediante un reconocimiento de la existencia de dos esferas de acción separadas que se remontan al pensamiento secular de Thomas Jefferson y James Madison.³ Las otras dos cláusulas relacionadas con el reconocimiento de la libertad de culto y la prohibición al establecimiento de una religión contenidas en ambas constituciones previenen actuaciones del Estado que puedan tender a: (1) promover una religión particular o (2) limitar su ejercicio. De ahí que en el pasado este Tribunal

³ Véase Laurence Tribe, *American Constitutional Law*, en la pág. 819 (Foundation Press 1979). Véase además, John Ragosta, "Federal Control: Jefferson's Vision in Our Times," en *Religious Freedom: Jefferson's Legacy, America's Creed* (Charlottesville: University of Virginia Press, 2013), en las págs. 185-86, 188; *Watson v. Jones*, 80 U.S. 679 (1871).

haya reconocido que, tanto a nivel federal como a nivel estatal, existe una tensión entre ambas cláusulas que ha resultado en una amplia jurisprudencia que procura armonizar las mismas. Véase *Mercado, Quilichini v. U.C.P.R.*, 143 D.P.R. 610, 635 (1997); *Diócesis De Arecibo v. Srio. Justicia*, 191 D.P.R. 292, 308 (2014) (sentencia) (citando a *School Dist. Of Abington Tp., Pa. v. Schempp*, 374 U.S. 203 (1963)).

En cuanto la cláusula sobre separación de Iglesia y Estado de nuestra Constitución, hemos afirmado que la misma exige un reconocimiento de una jurisdicción para la Iglesia distinta y separada de la del Estado. Esto, en aras de que las actuaciones de ambos entes no interfieran entre sí. Véase *Mercado, Quilichini*, 143 D.P.R. en la pág. 634. Cónsono con ello, hemos determinado que el mandato constitucional de separación de Iglesia y Estado impide que los tribunales civiles pasemos juicio "sobre materias de doctrina, de disciplina, de fe o de organización eclesiástica interna". *Amador v. Conc. Igl. Univ. De Jesucristo*, 150 D.P.R. 571, 579-80 (2000) (énfasis suplido).

2
A lo largo de los años, las denominadas "cláusulas religiosas", tanto en el ámbito federal como en el ordenamiento jurídico puertorriqueño, han constituido la base para el desarrollo de normas y estándares adjudicativos que, a su vez, han servido de guía para atajar planteamientos en torno a la interrelación entre el Estado, la religión y la iglesia. En el presente caso, queda claro que la controversia no implica una posible violación a la libertad de culto, así

como tampoco supone el favorecimiento de una religión por parte del Estado. Más bien, es la determinación de este Tribunal la que incide directamente en los principios que informan la organización, funcionamiento, jerarquía y estructura de la Iglesia Católica en Puerto Rico.

La opinión mayoritaria, al abordar este asunto, se enfoca en la naturaleza del reclamo de los demandantes, advirtiendo que "nos encontramos ante obligaciones civiles voluntariamente contraídas y no impuestas por el Estado".⁴ *Opinión*, en la pág. 10. Así, indica que lo resuelto en *Mercado, Quilichini* es dispositivo, en cuanto a la autoridad de los tribunales civiles para dilucidar disputas contractuales que "no requiera[n] pasar juicio sobre materias de doctrina de fe o de organización eclesiástica interna". *Id.* (citando a *Mercado, Quilichini v. U.C.P.R.*, 143 D.P.R. en la pág. 635 (1997)). Luego de indicar que este Foro se encuentra en la misma posición que en *Mercado, Quilichini* y

ML

⁴ Conviene distinguir, pues, entre la naturaleza sustantiva de la controversia ante nuestra consideración y los efectos del dictamen que hoy suscribe una mayoría para resolverla. Si bien es cierto que estamos ante un reclamo de índole contractual, la determinación respecto a **quién es oponible** dicho reclamo, que para la Mayoría sería la Iglesia Católica, resulta en una clara violación a la cláusula de separación de Iglesia y Estado. En otras palabras, no estamos ante un caso en el que la controversia requiere evaluar si una actuación estatal violenta alguna de las cláusulas religiosas. Interesantemente, en este caso la actuación estatal se concreta en la **etapa de la resolución** de la controversia por parte de este Tribunal al atribuirle -por la vía judicial- personalidad jurídica a la Iglesia Católica en el ámbito del Derecho Privado. Ello, en contravención a las distintas disposiciones del Código de Derecho Canónico que rigen la estructura y la organización de esa entidad religiosa con carácter universal.

mediante un análisis claramente deshilvanado, la Mayoría concluye que las otras entidades demandadas en el presente caso son "en realidad una fragmentación de un sólo ente poseedor de personalidad jurídica": la Iglesia Católica. *Opinión*, en las págs. 10-11.

En el contexto particular de la prohibición constitucional al establecimiento de una religión, en el caso *Lemon v. Kurtzman*, 403 U.S. 602 (1971) el Tribunal Supremo federal estableció un esquema tripartito de análisis para determinar si una legislación o práctica estatal constituye un establecimiento indebido de la religión. Ese esquema - conocido comúnmente como el *Lemon Test*- requiere que los tribunales examinen: (1) si la legislación o actuación persigue un propósito secular, (2) si de alguna forma promueve o inhibe la religión, o (3) si constituye una intromisión excesiva del Estado en asuntos religiosos. *Lemon v. Kurtzman*, 403 U.S. 602, 612-13 (1971); *Asoc. Academias y Col. Cristianos v. E.L.A.*, 135 D.P.R. 150 (1994) (adoptando y aplicando el esquema); véase además *Diócesis De Arecibo v. Srio. Justicia*, 191 D.P.R. 292, 310 (2014) (sentencia).

El profesor Efrén Rivera Ramos, al discutir este esquema de análisis y su adopción y aplicación por este Foro, se hace eco de las expresiones de la ex jueza del Tribunal Supremo federal Sandra Day O'Connor y explica que, "el principio es que la actuación gubernamental no debe endosar la Religión, ni en su propósito ni en su efecto". Efrén Rivera Ramos, *Estado, Religión Y Derecho: Marco Jurídico*, 84 Rev. Jur.

U.P.R. 537, 541 (2015). Para propósitos prácticos, éste concluye que el principio general enunciado en *Lemon* y su progenie incluye las siguientes exigencias:

(1) [Q]ue el Estado no debe privilegiar a ninguna religión, ni debe privilegiar la Religión en general; (2) que el Estado no debe inmiscuirse en los asuntos internos de la Religión, y (3) que el Estado no debe permitir que la Religión se inmiscuya en los asuntos de gobierno, o encomendarle asuntos de Gobierno a alguna religión. *Id.* (énfasis suplido).

La segunda exigencia tiene su origen en decisiones del Tribunal Supremo federal mediante las cuales se reconoció una modalidad de la violación a la prohibición constitucional al establecimiento de una religión a través de una actuación indebida por parte de los tribunales civiles de justicia. A esto se le ha denominado en la jurisprudencia federal y estatal estadounidense como el "church autonomy doctrine" que es, para todos los efectos, un corolario de la separación de Iglesia y Estado que encarna la Primera Enmienda federal.⁵

Como se adelantó, si bien en el pasado hemos reconocido matices de esta doctrina al interpretar las cláusulas religiosas de nuestra Constitución, particularmente el mandato de separación de Iglesia y Estado, hemos sido cautelosos en su aplicación y hemos evitado adoptarla de manera contundente. Véase *Amador v. Conc. Igl. Univ. De*

⁵ Para un examen detallado de esta doctrina, véase *Construction and Application of Church Autonomy Doctrine*, 123 A.L.R. 5th 385 (2004). Véase además Michael A. Helfand, *Religion's Footnote Four: Church Autonomy As Arbitration*, 97 Minn. L. Rev. 1891 (2013), para una discusión sobre dicha doctrina, su evolución y su relación con los demás estándares de adjudicación para las denominadas "cláusulas religiosas".

Jesucristo, 150 D.P.R. 571, 579-80, (2000); *Mercado, Quilichini v. U.C.P.R.*, 143 D.P.R. 610, 635 (1997); *Díaz v. Colegio Nuestra Sra. del Pilar*, 123 D.P.R. 765 (1989); *Agostini Pascual v. Iglesia Católica*, 109 D.P.R. 172 (1979).

Ahora bien, el Tribunal Supremo de los Estados Unidos decidió una serie de casos en los años cincuenta, sesenta y setenta que delimitan los contornos del "church autonomy doctrine" y, hasta cierto punto, han servido de guía para este Tribunal al momento de dirimir controversias en las que se plantea una intromisión indebida del Estado en asuntos de la Iglesia. Véase *Jones v. Wolf*, 443 U.S. 595 (1979); *Serbian E. Orthodox Diocese for U. S. of Am. & Canada v. Milivojevich*, 426 U.S. 696, 708 (1976) ("The fallacy fatal to the judgment of the [state supreme court] is that it rests upon an impermissible rejection of the decisions of the highest ecclesiastical tribunals of this hierarchical church upon the issues in dispute, and impermissibly substitutes its own inquiry into church polity and resolutions based thereon of those disputes."); *Maryland & Virginia Eldership of the Churches of God v. Church of God of Sharpsburg, Inc.*, 396 U.S. 367, 369 (1970) (Brennan, J., Op. Concurrente) ("To permit civil courts to probe deeply enough into the allocation of power within a church so as to decide where religious law places control over the use of church property would violate the First Amendment in much the same manner as civil determination of religious doctrine."); *Presbyterian Church in U.S. v. Mary Elizabeth Blue Hull Mem'l Presbyterian Church*,

393 U.S. 440 (1969); *Kedroff v. St. Nicholas Cathedral of Russian Orthodox Church in N. Am.*, 344 U.S. 94, 116 (1952) ("[A] spirit of freedom for religious organizations, an independence from secular control or manipulation, in short, power to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine.").

De la gama de la jurisprudencia federal antes mencionada conviene enfatizar la decisión de *Presbyterian Church in U.S.*, mediante el cual se resolvió que:

First Amendment values are plainly jeopardized when church property litigation is made to turn on the resolution by civil courts of controversies over religious doctrine and practice. If civil courts undertake to resolve such controversies in order to adjudicate the property dispute, the hazards are ever present of inhibiting the free development of religious doctrine and of implicating secular interests in matters of purely ecclesiastical concern. Because of these hazards, the First Amendment enjoins the employment of organs of government for essentially religious purposes, the Amendment therefore commands civil courts to decide church property disputes without resolving underlying controversies over religious doctrine. Hence, States, religious organizations, and individuals must structure relationships involving church property so as not to require the civil courts to resolve ecclesiastical questions. *Presbyterian Church in U.S. v. Mary Elizabeth Blue Hull Mem'l Presbyterian Church*, 393 U.S. 440, 449 (1969) (citas omitidas) (énfasis suplido).⁶

⁶ Aunque esta decisión, y las demás antes citadas, surgen en el contexto particular de la capacidad de una institución religiosa para adquirir propiedad privada, la metodología adoptada por el Tribunal Supremo federal informa lo que entendemos debe disponer de la controversia en el presente caso. Y es que, en la decisión que hoy toma la Mayoría, se determina quién es la Iglesia al margen de lo que la propia Iglesia sostiene. De hecho, y como se discute más adelante, el efecto práctico de lo decidido por la Opinión mayoritaria supone una intromisión indebida, no sólo en la organización de la Iglesia, sino también en la capacidad adquisitiva y la

Además de las decisiones del Tribunal Supremo federal, la "church autonomy doctrine" ha sido avalada y aplicada por las distintas cortes federales y estatales. Véase, e.g. *Se. Pennsylvania Synod of the Evangelical Lutheran Church in Am. v. Meena*, 19 A.3d 1191, 1196 (Pa. Commw. Ct. 2011) ("If the civil courts are to inquire into all these matters, the whole subject of the doctrinal theology, the usages and customs, the written laws, and fundamental organization of every religious denomination may, and must, be examined into with minuteness and care, for they would become, in almost every case, the criteria by which the validity of the ecclesiastical decree would be determined in the civil court."); *McKelvey v. Pierce*, 173 N.J. 26, 800 A.2d 840 (2002); *Bryce v. Episcopal Church in the Diocese of Colorado*, 289 F.3d 648 (10th Cir. 2002).

Considero que conforme a la discusión que antecede, es mandatorio concluir que el dictamen de la mayoría viola el principio de separación de Iglesia y Estado al inmiscuirse en la definición misma de quién es la Iglesia Católica para efectos de determinar su personalidad jurídica. La Mayoría sustituye el criterio sobre este asunto de la propia Iglesia Católica, por el suyo. Ello, a mi juicio, en clara contravención del mandato de nuestra Constitución y la de los Estados Unidos.

titularidad sobre bienes inmuebles de distintas entidades que han sido despojadas de personalidad jurídica propia por este Tribunal y que figuran como codemandadas en este pleito.

Antes bien, y con el fin de suplementar el análisis tan exiguo e inconexo contenido en la Opinión mayoritaria sobre la cláusula de separación de Iglesia y Estado, considero prudente e intelectualmente sensato abordar los aspectos de la organización eclesiástica interna y jerárquica de la Iglesia Católica que se ven adversamente afectados por el proceder mayoritario. Para ello, resulta indispensable examinar aquellos preceptos del Código de Derecho Canónico, del Tratado de París y de los Concordatos de 1851 y 1859 que explican la jerarquía y *modus operandi* de la Iglesia Católica y, además, develan el trasfondo histórico y jurídico de dicha institución religiosa en Puerto Rico. Veamos.

III.

A.

El Derecho Canónico se concibe como la estructura jurídica de la Iglesia Católica y constituye el sistema de relaciones jurídicas que unen a los fieles y los sitúan dentro del cuerpo social de la Iglesia Católica. Véase en general Daniel Cenalmor y Jorge Miras, *El Derecho de la Iglesia: Curso básico de Derecho canónico* (1ra ed., Pamplona, Ed. Eunasa, 2004). En este sentido, como bien señaló el Tribunal de Apelaciones, su fin inmediato es "establecer y garantizar el orden social justo en la Iglesia, ordenando y conduciendo a sus súbditos, a través de dicho orden a la consecución del bien común". *Sentencia del Tribunal de Apelaciones, KLCE-2018-00413, 30 de abril de 2018, en la pág. 15 (citando a A.*

Bernández Cantón et al., *Derecho Canónico*, 2da ed., Pamplona, Ed. Eunasa, 1975, en las págs. 75-79.)

Para propósitos del presente caso, resulta imperativo señalar que, conforme al Código de Derecho Canónico (CDC), "[l]a Iglesia Católica y la Sede Apostólica son personas morales por la misma ordenación divina". CDC 113, sec. 1. Cónsono con esto, en el ordenamiento canónico "además de personas físicas, hay también personas jurídicas, que son sujetos en derecho canónico de las obligaciones y derechos congruentes con su propia índole". *Id.* en la sec. 2. Esto responde al hecho práctico de que "las corporaciones y fundaciones constituidas por la autoridad eclesiástica competente . . . dentro de los límites que se les señalan, cumplan en nombre de la Iglesia . . .". CDC 116, sec. 1.

Estas normas generales cobran mayor sentido cuando se analizan las disposiciones contenidas en el Libro II del Pueblo de Dios en torno a las iglesias particulares y sus agrupaciones. Adviértase que "[e]l concepto de Iglesia particular no es canónico sino teológico." Javier Hervada, *Elementos de Derecho Constitucional Canónico* (Madrid 2014) en la pág. 274. Esta sección del CDC establece que las iglesias particulares "en las cuales, y desde las cuales existe la Iglesia católica una y única, son principalmente las diócesis". CDC 368. En atención a ello, como bien señaló el Tribunal de Apelaciones, este ordenamiento expone que:

La diócesis es una porción del pueblo de Dios, cuyo cuidado pastoral se encomienda al Obispo con la cooperación del presbiterio, de manera que, unida a su pastor y congregada por él en el Espíritu Santo

mediante el Evangelio y la Eucaristía, constituya una Iglesia particular, en la cual verdaderamente está presente y actúa la Iglesia de Cristo **una santa, católica y apostólica**. CDC 369 (énfasis suplido).

Este principio se efectúa en su sentido más práctico porque aquella porción del pueblo de Dios que "constituye una diócesis u otra Iglesia particular debe quedar circunscrita dentro de un territorio determinado, de manera que comprenda a todos los fieles que habitan en él". CDC 373. Así, la erección de las iglesias particulares "[c]orresponde tan sólo a la suprema autoridad . . . las cuales una vez que han sido legítimamente erigidas, gozan en virtud del derecho mismo de personalidad jurídica". CDC 373. Las diócesis son los órganos de gobierno local cuya jurisdicción queda definida por virtud de su demarcación territorial. Fernando Della Rocca, *Canon Law*, sec. 88, en la pág. 198. Véase además CDC 515 sec. 3 ("La parroquia legítimamente erigida tiene personalidad jurídica en virtud del derecho mismo."); Jorge de Otaduy, *La personalidad civil de las entidades organizativas de la Iglesia (Referencia particular a la parroquia)*, IUS CANONICUM, XXIX, n. 58 (1989) en las págs. 503-526.

Los expertos en temas de Derecho Canónico explican la organización de la Iglesia Católica y de sus iglesias particulares, afirmando que éstas últimas, "en sí mismas son Iglesias, porque, aun siendo particulares en ellas se hace presente la Iglesia Universal con todos sus elementos esenciales". Cenalmor y Miras, *supra*, en la pág. 271 (énfasis suplido). Esta misteriosa implicación recíproca entre ambas

queda ilustrada en la siguiente afirmación: "el todo no es, sin más, la suma de las partes, ni las partes una unidad parcial, simple resultado de la división del todo, sino que el todo está a la vez, opera y existe en cada una de las partes" *Id.* (citas omitidas) (énfasis suplido).

Este análisis cobra relevancia si se entiende que la Iglesia Católica tiene capacidad para adquirir, retener, administrar y enajenar bienes temporales. Comentan los académicos que, "[n]o existe un patrimonio eclesiástico único bajo la titularidad directa de la Iglesia Universal, sino multitud de patrimonios con diversos titulares y fines". *Id.* en la pág. 503. No obstante, para su administración "rigen unos principios generales que tienden a unificar en cierto modo todos los bienes eclesiásticos, ordenándoles al servicio de unos mismos fines, bajo la autoridad suprema del Romano Pontífice y con régimen jurídico común". *Id.* (énfasis suplido).

Para fines de la controversia ante nuestra consideración, esto quiere decir que la Iglesia Católica, como ente jurídico en sí, no existe propiamente al amparo del Derecho Canónico, excepto sólo bajo el entendimiento de la Iglesia Universal, que es el Pueblo de Dios, cuya autoridad suprema en la tierra es el Obispo de Roma. Cuando hablamos de la Iglesia Católica en Puerto Rico no es más que una manera coloquial de referirse a la Iglesia Universal que existe en cada una de las demás jurisdicciones del mundo. A su vez, la Arquidiócesis de San Juan y las demás diócesis e iglesias

parroquiales en Puerto Rico no son "la suma de las partes, ni las partes una unidad parcial" sino que son ese todo que "está a la vez, opera y existe en cada una de las partes". Cenalmor y Miras, supra, en la pág. 271. La definición de lo que es, y no es la Iglesia le corresponde hacerla en puridad a dicha institución y no a los tribunales civiles. No puede ser de otra forma; lo contrario sería pasar juicio sobre la organización eclesiástica interna y la jerarquía de la Iglesia Católica, en clara contravención de la total separación entre Iglesia y Estado. Véase *Presbyterian Church in U.S. v. Mary Elizabeth Blue Hull Mem'l Presbyterian Church*, 393 U.S. 440, 449 (1969). Desafortunadamente, la Opinión de la Mayoría obvia o ignora estos asuntos.

Esta conclusión resulta aún más contundente cuando se considera bajo la lupa de la llamada "situación especial" de personalidad jurídica de la Iglesia Católica en Puerto Rico, según el Tratado de París, los Concordatos de 1851 y 1859, el caso federal de *Municipality of Ponce* y los estudios de los académicos que han abordado la temática relacionada con la personalidad de la Iglesia. Veamos.

B.

El trasfondo histórico y jurídico de la Iglesia Católica en la Isla nos remonta a los tiempos del dominio del Imperio español.⁷ Para fines de la presente controversia, el acuerdo

⁷ Como dato histórico, mediante la Bula *Romanus Pontifex* de 1511, promulgada por el Papa Julio II, se erigieron en el Nuevo Mundo las primeras tres diócesis. Éstas fueron: Santo Domingo, Concepción de la Vega, -ambas en La Española- y San

que ilustra la relación entre la Iglesia Católica, España y Puerto Rico al momento de la invasión y eventual cesión del territorio puertorriqueño a los Estados Unidos es el Concordato de 1851 (Concordato) entre la Reina Isabel II y la Santa Sede, representada por el Sumo Pontífice, Pío IX.

En 1851, luego de arduas negociaciones, el Reino de España y la Santa Sede firmaron el Concordato para sistematizar sus relaciones, así como para regular la organización administrativa de la Iglesia Católica en todo el Reino de España. Ello fue necesario en virtud del deterioro que las relaciones entre Iglesia Católica y el Estado español habían sufrido durante las primeras décadas del siglo XIX y la franca desorganización administrativa de la Iglesia. Durante esa primera parte del siglo, el Estado español había despojado a la Iglesia Católica, "en la persona de su clero secular y de sus comunidades religiosas de varones y mujeres, de todos los bienes eclesiásticos", bien para convertirlos en bienes nacionales o para ingresar el importe de la venta de estos a las arcas del gobierno español. Juan R. Gelpí Barrios, *Personalidad jurídica de la Iglesia en Puerto Rico: Vigencia del Concordato español de 1851 a través del tratado*

Juan Bautista, que luego pasó a llamarse la Diócesis de Puerto Rico. No fue sino hasta 1924 cuando se erigió la segunda, la Diócesis de Ponce. En la segunda parte del siglo XX se erigieron tres diócesis: Arecibo en 1960, Caguas en 1964 y Mayagüez en 1976. La última se erigió en 2008, la Diócesis de Humacao. Véanse, Samuel Silva Gotay, *La Iglesia Católica de Puerto Rico, en el Proceso Político de Americanización, 1898-1930* (Publicaciones Gaviota 2012); Gerardo Alberto Hernández-Aponte, *La Iglesia Católica en Puerto Rico ante la invasión de Estados Unidos de América. Lucha, sobrevivencia y estabilización: (1898-1921)* (Rio Piedras 2013).

de París, 95 Rev. Esp. Der. Canónico 395, 408 (1977); Federico Suárez, Génesis del Concordato de 1851, <http://dadun.unav.edu/handle/10171/13928>. Véase además, Francisco Tomás y Valiente, *Manual de Historia del Derecho Español*, (Madrid 2012) en las págs. 411-414, 613-619. Esta realidad generó innumerables litigios y reclamaciones que intentaban revertir las acciones del Estado. El Concordato buscó zanjar dicha situación.

Del referido Concordato, y en lo que concierne la controversia ante nuestra consideración, los artículos 40 y 41 resultan de particular relevancia. En el primero de éstos se reconoce que los bienes y rentas enajenados a la Iglesia, y enumerados en artículos anteriores, "pertenecen en propiedad a la Iglesia, y en su nombre se disfrutarán y administrarán por el clero." Véase, <https://www.uv.es/correa/troncal/concordato1851> Este artículo manifiesta "de manera concluyente la personalidad jurídica de la Iglesia que le faculta para reclamar todos los bienes que estaban en litigio al momento de pactarse, puesto que el Estado le reconoce propietaria de ellos, aclarando que todo usufructo y administración, ha de entenderse a nombre de la Iglesia". Gelpi, supra, en la pág. 409.

De otra parte, el artículo 41 declaraba lo siguiente:

Además, la Iglesia tendrá el derecho de adquirir por cualquier título legítimo, y su propiedad en todo lo que posee ahora o adquiera en adelante será solemnemente respetada. Por consiguiente, en cuanto a las antiguas y nuevas fundaciones eclesiásticas, no podrá hacerse ninguna supresión o unión sin la intervención de la autoridad de la Santa Sede, salvas las facultades

que competen a los obispos, según el Santo Concilio de Trento.

Véase <https://www.uv.es/correa/troncal/concordato1851>

El profesor Gelpí Barrios, al analizar este artículo nos indica, con razón, que éste era muy importante dado que la Iglesia Católica tenía "de forma independiente en todos los dominios españoles, una personalidad civil reconocida y garantizada por el propio Estado, para adquirir, por cualquier título legítimo y poseer en todo tiempo, toda clase de bienes temporales". Gelpí, *supra*.

De hecho, en atención a lo dispuesto en el artículo precitado se redactó el artículo 38 del Código Civil español de 1889, vigente en Puerto Rico hasta al cambio de soberanía en 1998. Ese artículo disponía que:

Las personas jurídicas pueden adquirir y poseer bienes de todas clases, así como contraer obligaciones y ejercitar acciones civiles o criminales, conforme a las leyes y reglas de su constitución.

La iglesia se registrará en este punto por lo concordado entre ambas potestades; y los establecimientos de instrucción y beneficencia por lo que dispongan las leyes especiales. *Id.* (Énfasis suplido.)

MM
Al incorporar el Código Civil el principio de personalidad jurídica de la Iglesia reconocido en el Concordato, el Estado español "convirtió los Concordatos entre la Iglesia y la Corona de España, en Ley civil, para los efectos de adquirir y poseer bienes de todas clases, contraer obligaciones y ejercitar acciones civiles y criminales" *Id.*⁸

⁸ Debo mencionar -como dato curioso- que la Memoria explicativa que acompañó el Concordato de 1851 reseñó que la reorganización de los entes eclesiásticos que formó parte del

Luego del Concordato de 1851, las Cortes nacionales aprobaron la Ley del 4 de noviembre de 1859 mediante la cual se sancionó la Corona autorizando al Gobierno para concluir un convenio con la Santa Sede. Eso resultó en el Concordato de 1859 que, en unión con el Concordato de 1851, resultó en que "quedase totalmente consolidada la personalidad jurídica de la Iglesia y su derecho de propiedad sobre los bienes que adquiriese o le fueran restituidos". Gelpí Barrios, *supra*, en la pág. 410.

El ordenamiento jurídico reseñado en los párrafos que anteceden era aquel vigente al momento de la Guerra Hispanoamericana que culminó con el Tratado de París del 10 de diciembre de 1898 (Tratado) y la cesión de Puerto Rico a los Estados Unidos. Es decir, tanto los Concordatos de 1851 y 1859, como las enmiendas al Código Civil español tuvieron vigencia durante el periodo restante de la soberanía española en la Isla. Ahora bien, el Tratado incorporó y reconoció ciertos aspectos del estado de Derecho español vigente al momento del cambio de soberanía. En lo pertinente a la controversia ante nuestra consideración, el Tratado declaró que:

Queda por lo tanto declarado que esta renuncia o cesión, según el caso, a que se refiere el párrafo anterior, en nada puede mermar la propiedad, o los

texto del Concordato no incluye a "las Iglesias de América, ya porque la desorganización introducida en las Iglesias de la Península apenas ha alcanzado allí, ya también porque todo lo que afecta [a] aquellos lejanos países debe tratarse de una manera especial". Juan Pérez Alhama, *La Iglesia y el Estado español: Estudio histórico-jurídico a través del Concordato de 1851*, (Instituto de Estudios Políticos, Madrid 1967), Apéndice, en la pág. 526 (énfasis suplido).

derechos que corresponden, con arreglo a las leyes, al poseedor pacífico de los bienes de todas clases de las provincias, municipios, establecimientos públicos o privados, corporaciones civiles o eclesiásticas o de cualesquiera otras colectividades que tienen personalidad jurídica para adquirir y poseer bienes en los mencionados territorios renunciados o cedidos, y los de los individuos particulares, cualquiera que sea su nacionalidad. Tratado de Paz entre Estados Unidos de América y el Reina de España, Art. 8, 10 de diciembre de 1989, EE. UU.-España, 30 Stat. 1754 (1898), T.S. 343 (énfasis suplido).

Como se mencionó, el Tribunal Supremo de los Estados Unidos interpretó este artículo del Tratado en *Municipality of Ponce v. Catholic Church in Porto Rico*, 210 U.S. 296 (1908). Dada la importancia de ese dictamen, estimo necesario reproducir en su totalidad ciertas secciones de dicha opinión para proceder con un análisis completo de su alcance. Justo luego de citar el artículo 8 del Tratado, el foro federal razonó que:

This clause is manifestly intended to guard the property of the church against interference with, or spoliation by, the new master, either directly or through his local governmental agents. There can be no question that the ecclesiastical body referred to, so far as Porto Rico was concerned, could only be the Roman Catholic Church in that island, for no other ecclesiastical body there existed. *Id.* en la pág. 311.

De igual forma, el Tribunal Supremo de los Estados Unidos interpretó los Concordatos de 1851 y 1859 y el "reconocimiento corporativo" por parte del gobierno estadounidense de la Iglesia Católica, incluyendo su Sumo Pontífice,⁹ y resolvió que:

⁹ "The corporate existence of the Roman Catholic Church, as well as the position occupied by the papacy, have always been

The Roman Catholic Church has been recognized as possessing legal personality by the treaty of Paris, and its property rights solemnly safeguarded. In so doing the treaty has merely followed the recognized rule of international law which would have protected the property of the church in Porto Rico subsequent to the cession. This juristic personality and the church's ownership of property had been recognized in the most formal way by the concordats between Spain and the papacy, and by the Spanish laws from the beginning of settlements in the Indies. Such recognition has also been accorded the church by all systems of European law from the fourth century of the Christian era. *Id.* en las págs. 323-24

De entrada, no se puede perder de perspectiva que todo el análisis del foro federal se da en el contexto del Derecho Internacional Público. Sus expresiones al hacer referencia a la "existencia corporativa" de la Iglesia Católica surge específicamente con relación al reconocimiento del Sumo Pontífice y la Santa Sede. Es decir, estas expresiones no se pueden interpretar como un "reconocimiento especial" de personalidad jurídica en sí por tratarse de la Iglesia Católica en Puerto Rico, sino más bien como un reconocimiento de la peculiaridad de ésta y de cómo no se trataba de una entidad incorporada propiamente conforme a las leyes de Derecho Corporativo vigentes en los Estados Unidos para aquella época.

La mención explícita del Derecho Internacional Público, las leyes del Reino de España y todos los demás sistemas legales en Europa para validar la "personalidad jurídica" de

recognized by the government of the United States. . . . The Holy See still occupies a recognized position in international law, of which the courts must take judicial notice." *Id.* en la pág. 318 (énfasis suplido).

la Iglesia Católica, razonablemente sólo puede implicar que ésta se refiere a un solo ente religioso a nivel mundial: la Iglesia Universal del pueblo de Dios. Precisamente, el profesor José Julián Álvarez en su tratado de derecho constitucional apunta que una de las consecuencias de la Opinión del Tribunal Supremo federal fue "que la Iglesia Católica nunca tuviera la necesidad de incorporarse, como debieron hacer otras entidades religiosas." José Julián Álvarez González, *Derecho Constitucional Puertorriqueño* (2009) en la pág. 1192.

Las investigaciones realizadas por el profesor Gelpí Barrios, las cuales ya se han citado extensamente, apoyan esta explicación y se alejan de la interpretación acomodaticia de la Opinión mayoritaria que ni tan siquiera cita directamente este trabajo que, curiosamente, sirvió como fundamento principal para su errada conclusión en torno a tan importante controversia. Luego de analizar el trasfondo histórico, jurídico y social que llevaron a los Concordatos de 1851 y 1859 y el Tratado de París, el profesor Gelpí Barrios explica que:

Al tiempo de la cesión, solamente había en Puerto Rico una diócesis. En la actualidad existen cinco: la archidiócesis de San Juan y las diócesis de Ponce, Arecibo, Caguas y Mayagüez. Cada diócesis es una fragmentación de un solo ente poseedor de personalidad jurídica. Cada una de ellas goza del mismo *status* legal correspondiente a la diócesis original de Puerto Rico, es decir, a la Iglesia católica romana de Puerto Rico.

Ninguna de ellas ha nacido gracias al acto de incorporación tal y como lo exige el Derecho de Puerto Rico, sino, por la acción de la Santa Sede, que tiene efectos legales civiles desde el momento en que el documento de erección de la nueva

jurisdicción territorial es ejecutada por la autoridad competente. Gelpí Barrios, *supra*, en la pág. 410 (énfasis suplido).

Vale reconocer que estas expresiones del Profesor son una traducción al español de un artículo publicado por el fenecido Obispo de Ponce, Fremiot Torres Oliver, el 28 de mayo de 1976, titulado *Juridical Personality of the Roman Catholic Churchs in Puerto Rico*, 15 Rev. Der. P.R. 307 (1975) ("Each diocese is a fragmentation of one entity possessing juristic personality, and each enjoys the same legal status as the original Diocese of Puerto Rico, referred to in the above quoted opinion as "The Roman Catholic Church in Puerto Rico".") Véase además Aníbal Colón Rosado, *Relations Between Church and State in Puerto Rico*, 23 Rev. Der. P.R. 53 (1983). Si algo se puede concluir de estas expresiones, que son más que una interpretación -no vinculante- de un académico y Obispo sobre el caso de *Municipality of Ponce* y la historia de nuestro antiguo pasado colonial español, es que la organización interna y jerárquica de la Iglesia Católica ha cambiado en Puerto Rico desde que esta isla caribeña pasó a pertenecer a los Estados Unidos. Valga destacar también, que en 1903 "la Diócesis de Puerto Rico [se separó] de la Provincia Eclesiástica de Santiago de Cuba, y [se] constituyó en diócesis sujeta directamente a la Santa Sede, lo cual dio a Puerto Rico, dentro del derecho eclesiástico, plena independencia eclesiástica, como cualquier otro país latinoamericano." Samuel Silva Gotay, *La Iglesia Católica de Puerto Rico, en el Proceso Político*

de Americanización, 1898-1930, (Publicaciones Gaviota 2012) en las págs. 184-185. Ello colocó a la Iglesia Católica puertorriqueña "en pie de igualdad con las iglesias de Norte, Centro y Sur América" *Id.* en la pág. 185.

La llamada "fragmentación" de la Diócesis de Puerto Rico no puede interpretarse como una rotura de la personalidad jurídica de la Iglesia Universal del pueblo de Dios, como parece sostener la Mayoría. Más que nada, de lo que se trata es de la fundación de nuevas diócesis como vehículo que posibilita hacer "más eficiente el trabajo pastoral". *Id.* en la pág. 282. Es decir, para llevar a cabo la labor de evangelización. Nuevamente, la conclusión en contrario de la Opinión mayoritaria es claramente errónea.

La Iglesia Católica "opera y existe" en la Arquidiócesis de San Juan y las restantes cinco (5) diócesis. Cenalmor y Miras, *supra*, en la pág. 271. Con lo cual, cada uno de estos entes son en sí la Iglesia Católica y no las partes de una unidad parcial que forman una sola entidad como concluye la Mayoría. Cada comunidad diocesana tiene atribuida la "riqueza misteriosa" de la Iglesia Católica. *Id.* Resolver como propone la Mayoría, una vez más, violentaría la separación entre Iglesia y Estado por inmiscuirse este Tribunal en la definición y conceptualización de dicha religión. La mayoría nos está decidiendo "quién es" la Iglesia Católica Apostólica y Romana, determinación que, como hemos visto, sólo compete a la Iglesia Católica misma y no al Estado a través de este Foro. Véase, *Maryland & Virginia*

Eldership of the Churches of God, supra, en la pág. 369. Lo cierto es que las instituciones dentro de la Iglesia Católica en Puerto Rico que poseen personalidad jurídica son la Arquidiócesis de San Juan y las cinco (5) diócesis. Además, en lo que atañe la reclamación en el presente pleito, no se puede perder de vista que algunos de los patronos demandados, como por ejemplo la Academia del Perpetuo Socorro, ostentan personalidad jurídica propia e independiente en el ámbito del Derecho Privado al haberse incorporado conforme a las exigencias del Derecho Corporativo y el Departamento de Estado.¹⁰

IV.

A pesar de entender que el análisis que antecede es suficiente para despejar toda duda sobre el desatino del proceder mayoritario, considero necesario examinar, si bien brevemente, las implicaciones prácticas de la determinación de la mayoría y las consecuencias de imponerle a una entidad

¹⁰ La Opinión de la mayoría no atiende este asunto, al limitarse a indicar que el certificado de incorporación de esa institución había sido revocado en el 2014. Confusamente, posteriormente en la Opinión se contempla, -haciendo referencia específica a la Academia del Perpetuo Socorro- la posibilidad de que algunas entidades se sometan a un proceso ordinario de incorporación. En cuanto a esto, resulta importante señalar que el Departamento de Estado restableció la incorporación de la Academia del Perpetuo Socorro y, en consecuencia, su personalidad jurídica se retrotrajo a la fecha de su incorporación original. Véase Carlos Díaz Olivo, *Corporaciones* (Publicaciones Puertorriqueñas, 1999) en la pág. 43. Además de esta inadvertencia por parte de la mayoría, algunas de las instituciones educativas que se mencionan en la Opinión ni siquiera figuran como parte en este pleito. Específicamente, a lo largo de la Opinión se alude al "Colegio San Ignacio", cuando la parte demandada es la "Academia San Ignacio", una institución educativa completamente distinta.

religiosa una personalidad jurídica que no ostenta y que, para propósitos de su organización interna, es inexistente.

En primer lugar, conviene llamar la atención al hecho de que la Opinión mayoritaria revoca de manera tácita años de jurisprudencia establecida por este Tribunal, mediante la cual la Arquidiócesis de San Juan y demás cinco (5) diócesis han figurado como partes en distintos litigios. Si consideramos una de las primeras decisiones de este Foro en la cual la Diócesis de Puerto Rico formó parte, se desprende que, hasta hoy, la personalidad y el estatus jurídico de esa institución había sido reconocido por este Foro. En *Iglesia Católica Apostólica Romana v. El Pueblo*, 11 D.P.R. 485 (1906), este Tribunal atendió una demanda en la cual la Iglesia Católica solicitaba que el Gobierno de la Isla le devolviese unos bienes de las Comunidades Religiosas de Frailes Dominicos y Franciscanos que habían sido suprimidos e incautados en 1838. En el pleito, el Gobierno de Puerto Rico cuestionó la potestad de la Iglesia Católica para adquirir propiedad. En este contexto, este Tribunal atendió el asunto de la capacidad legal del Obispo para instar la demanda en cuestión y, en lo pertinente, expuso que:

Otro tanto es de decirse respecto [a] la personalidad del Obispo Católico de Puerto Rico para llevar la representación de la Iglesia Católica en el presente litigio. Los obispos llevan la representación de la iglesia en sus respectivas Diócesis con arreglo [a] los cánones de la Iglesia Católica y esta representación les [fue] especialmente reconocida por los concordatos en todo cuanto se refería [a] la entrega de los bienes [a] los Obispos y [a] su permutación en la forma acordada entre ambas potestades. Iglesia Católica

Apostólica Romana, 11 D.P.R. en la pág. 10 (énfasis suplido).

Ciertamente, estas expresiones son consistentes con la interpretación del caso *Municipality of Ponce* y el análisis expuesto en los acápites II y III de esta opinión. Luego de esta decisión, en diversas ocasiones, este Tribunal ha atendido controversias por vía de las cuales le ha reconocido personalidad jurídica a la Arquidiócesis de San Juan y las cinco (5) otras Diócesis. Esto, demostrando un entendimiento sobre la organización eclesiástica interna y jerárquica de la Iglesia Universal de pueblo de Cristo. Véase *Diócesis de Arecibo v. Srío. De Justicia*, 191 D.P.R. 292 (2014); *Diócesis de Mayagüez v. Junta de Planificación*, 147 D.P.R. 471 (1999); *Díaz v. Colegio Nuestra Sra. Del Pilar*, 123 D.P.R. 765 (1989); *Academia San Jorge v. Junta de Relaciones de Trabajo*, 110 D.P.R. 193 (1980); *Agostini Pascual v. Iglesia Católica, Diócesis de Ponce*, 109 D.P.R. 172 (1979); *Vélez Colón v. Iglesia Católica, Apostólica y Romana, Diócesis de Arecibo*, 105 D.P.R. 123 (1976); *Camacho v. Iglesia Católica, Apostólica y Romana, Diócesis de San Juan v. Registrador*, 95 D.P.R. 511 (1968); *Iglesia Católica, Apostólica y Romana Diócesis de Ponce*, 72 D.P.R. 353 (1951). Como se anticipó, avalar la Opinión mayoritaria conlleva a dar por no puestas todas estas decisiones.

Además, los efectos prácticos de la decisión que hoy emite una mayoría ponen en manifiesto la liviandad y simpleza del análisis empleado y se perfilan como un obstáculo

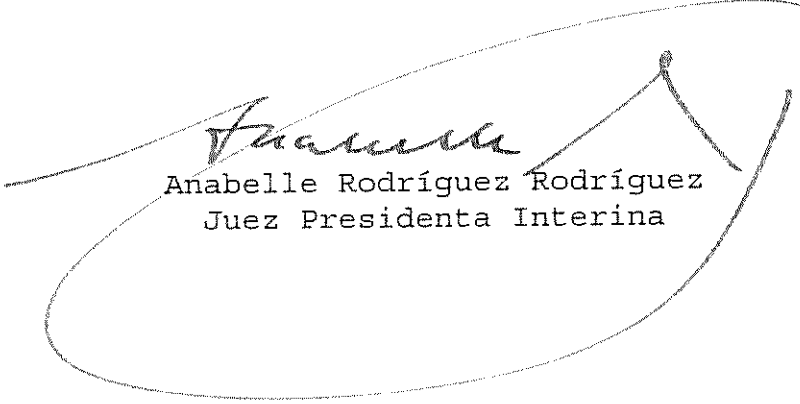
adicional en la resolución final del presente pleito y, consiguientemente, el cobro por parte de los demandantes de las cuantías que reclama. En esencia, el dictamen suscrito, al atribuirle improcedentemente personalidad jurídica a la Iglesia Católica, despoja de personalidad jurídica independiente a las otras entidades demandadas y, consecuentemente, releva a éstas del cumplimiento con las obligaciones que asumieron en torno a los demandantes y que son el objeto de este pleito. A esos efectos, nótese que la orden de embargo decretada, según contenida en la Resolución que hoy una mayoría "sostiene y mantiene en todo vigor" dispone lo siguiente:

Se ordena, en virtud de ello, al alguacil de este Tribunal que proceda a embargar bienes y dineros de la Santa Iglesia Católica Apostólica y Romana en una cantidad de \$4,700,000 para responder por el pago de las pensiones de los demandantes, incluyendo bonos, valores, vehículos de motor, obras de arte, equipos, muebles, cuentas, bienes inmuebles y cualquier otro bien perteneciente a la Santa Iglesia Católica Apostólica y Romana, y cualquiera de sus dependencias, que esté ubicado en Puerto Rico

M Resulta insostenible concebir que dicha orden sea, en efecto, ejecutable. ¿Cómo han de identificarse los bienes a ser embargados? ¿Importa su titularidad? ¿Hay algún orden de prelación entre tanta generalidad? ¿Qué ocurre con las otras entidades demandadas? ¿Carecen de personalidad jurídica a pesar de estar incorporadas? ¿Procede la desestimación de las causas de acción incoadas en su contra? ¿Qué ocurrirá con los bienes de las diócesis que han solicitado intervención en este pleito y al día de hoy no son parte? ¿Serán despojadas

de éstos sin un debido proceso de ley? ¿Son embargables todos los bienes de otras entidades religiosas, tal y como égidias, centros de cuidado y otras instituciones educativas?

Las interrogantes son muchas y la falta de respuestas evidencia que el dictamen suscrito por una mayoría de los integrantes de este Foro carece de profundidad, seriedad y el rigor intelectual que una controversia de tan alto interés público amerita. Por todo lo cual, dejaría sin efecto el embargo decretado al ser éste inejecutable y estar dirigido a una entidad que carece de personalidad jurídica propia y, para todos los efectos, no existe en Derecho.



Anabelle Rodríguez Rodríguez
Juez Presidenta Interina

EN EL TRIBUNAL SUPREMO DE PUERTO RICO

Yalí Acevedo Feliciano y Otros

Peticionarios

vs.

Iglesia Católica Apostólica y
Romana y Otros

Recurridos

CC-2018-475

Certiorari

Sonia Arroyo Velázquez y Otros

Peticionarios

vs.

Iglesia Católica Apostólica y
Romana y Otros

Recurridos

Elsie Alvarado Rivera y Otros

Peticionarios

vs.

Iglesia Católica Apostólica y
Romana y Otros

Recurridos

Opinión disidente emitida por el Juez Asociado SEÑOR COLÓN PÉREZ.

En San Juan, Puerto Rico a 11 de junio de 2018.

Omnes viae Roman ducunt.

Hay algunos que dicen que "todos los caminos conducen a Roma"; histórica expresión atribuible al sistema eficiente de calzadas romanas que existía en tiempos de los emperadores, y

que le garantizaba, al que siguiera su ruta, el acceso a la capital de uno de los mayores imperios que el mundo ha conocido: Roma. Y es precisamente allí, a Roma, sede de la *Iglesia Católica, Apostólica y Romana* donde una mayoría de este Tribunal -- a través de un dictamen que, como mínimo, será muy difícil de ejecutar -- ha enviado a un grupo de maestros y maestras de diversos colegios católicos del país a reclamar su derecho a un retiro digno, del cual ellos y ellas aparentan ser merecedores. Por no estar de acuerdo con este lamentable proceder, que valida un litigio mal llevado, y que -- al final del día -- dejará desprovista de remedios a la clase magisterial que hoy toca nuestra puerta, enérgicamente disentimos.

En esa dirección, no validaremos con nuestro voto un dictamen en extremo superficial, carente de un análisis profundo sobre las diversas dimensiones de las controversias ante nuestra consideración, en el cual una mayoría de este Tribunal, dejando a un lado todos los precedentes que atienden temas similares al que hoy nos ocupa, opta por reconocerle personalidad jurídica a un concepto abstracto y de carácter universal como lo es el término *Iglesia Católica, Apostólica y Romana*. Al así hacerlo, los compañeros Jueces y Juezas que forman parte de la mayoría obvian en su análisis que la *Iglesia Católica, Apostólica y Romana*, por su función, propósito e idiosincrasia requiere estar presente en todos los rincones del globo terráqueo. Su misión, como la de toda iglesia, es expandirse en todos los lugares del mundo que se

le permita. De ahí, la complejidad que resulta poder determinar quiénes, en controversias como las que hoy nos ocupan, y que ocurren en nuestra jurisdicción, son los llamados a responder.

Por ello, en el presente caso -- previo a emitir cualquier tipo de dictamen -- era necesario estudiar con detenimiento la estructura organizacional de la Iglesia Católica, de forma tal que se pudiese determinar, con particular precisión, cuáles de sus entidades verdaderamente tienen personalidad jurídica y, en consecuencia, quiénes son aquellas partes verdaderamente llamadas a responder al grupo de maestros y maestras que incoó la causa de epígrafe. Ya que una mayoría de este Tribunal no realizó el mencionado estudio -- y toda vez que estamos ante un litigio que posee todos los elementos necesarios para ser revisado por el Tribunal Supremo de los Estados Unidos -- a través de esta Opinión Disidente, procedemos a así hacerlo. Corresponde ahora que el Alto Foro Judicial Federal, si así lo solicitan las partes aquí afectadas, rectifique el error cometido por este Tribunal, por tratarse de un asunto de particular importancia en el tema de la separación de Iglesia y Estado. Veamos.

I.

Los hechos medulares no están en controversia. El 6 de junio de 2016, sesenta y seis (66) maestros y maestras de la Academia del Perpetuo Socorro (en adelante, "maestros y maestras demandantes") presentaron una demanda de interdicto preliminar y permanente, sentencia declaratoria,

incumplimiento de contrato, y daños y perjuicios en contra de la *Iglesia Católica, Apostólica y Romana* de Puerto Rico, la Arquidiócesis de San Juan, la Superintendencia de Escuelas Católicas de San Juan, la Academia del Perpetuo Socorro y el Fideicomiso para el Plan de Pensiones para Empleados de Escuelas Católicas (en adelante, "Fideicomiso"). Ello, porque el referido Fideicomiso anunció el cese del plan de pensiones del cual éstos y éstas por años se beneficiaban.

Posteriormente, otro grupo de maestros y maestras de la Academia San José y la Academia San Ignacio de Loyola presentaron demandas análogas. Junto con la demanda, los mencionados empleados también solicitaron un interdicto preliminar y un embargo en aseguramiento de sentencia. En particular, alegaron que la paralización de los pagos les causó un daño irreparable contra sus derechos adquiridos y solicitaron al Tribunal que ordenara la continuación de la prestación de la pensión y el embargo de haberes de la *Iglesia Católica, Apostólica y Romana* hasta la suma de \$4,444,419.95, ello para asegurar la sentencia que, en su día, pudiese estar emitiendo el foro primario. Mediante *Resolución* del 15 de julio de 2016, el Tribunal de Primera Instancia consolidó este caso con el originalmente presentado por la Academia del Perpetuo Socorro.

Así las cosas, examinados los planteamientos de todas las partes, el Tribunal de Primera Instancia denegó otorgar el interdicto preliminar solicitado. Dicha determinación fue confirmada por el Tribunal de Apelaciones, lo que motivó que

la mencionada controversia culminara ante nuestra consideración. En aquella ocasión, mediante Sentencia de 18 de julio de 2017, este Foro resolvió que procedía la solicitud de interdicto preliminar presentada por los maestros y maestras demandantes. Así pues, le ordenamos al Tribunal de Primera Instancia la celebración de una vista para determinar quién o quiénes estaban obligados a continuar el pago de las pensiones objeto de este litigio. Para ello, el foro primario debía dilucidar quiénes de los demandados tenían personalidad jurídica.

En virtud de la orden emitida por este Foro, las partes presentaron varios escritos ante el Tribunal de Primera Instancia. Los maestros y maestras demandantes alegaron que la Academia del Perpetuo Socorro, la Academia San José y la Academia San Ignacio de Loyola carecían de personalidad jurídica por ser dependencias de la Arquidiócesis de San Juan, quien también carecía de personalidad jurídica. Esto último, porque la Arquidiócesis de San Juan es una subdivisión de la *Iglesia Católica, Apostólica y Romana* quien es la única institución con personalidad jurídica.

Por su parte, la Academia del Perpetuo Socorro indicó que tenía personalidad jurídica por estar inscrita como corporación sin fines de lucro.¹ El Fideicomiso, la Arquidiócesis de San Juan y la Superintendencia de Escuelas Católicas de San Juan, aunque presentaron varios escritos al

¹ Además, señaló que su certificado de incorporación fue revocado por el Departamento de Estado el 4 de mayo de 2014. No obstante, se reinstaló su incorporación y se retrotrajo su personalidad jurídica a la fecha de incorporación original, el 2 de febrero de 1968.

Tribunal, en esa etapa de los procedimientos, no se expresaron sobre el aspecto de personalidad jurídica.

En su escrito, el Fideicomiso informó que había presentado una petición de quiebras ante la Corte de Quiebras para el Distrito de Puerto Rico. La Arquidiócesis de San Juan y la Superintendencia de Escuelas Católicas de San Juan, por otro lado, presentaron una moción ante el foro primario en la que informaron sobre la presentación de una petición de traslado (*notice of removal*) en la Corte de Distrito de los Estados Unidos para el Distrito de Puerto Rico. Ello, por considerar que la reclamación objeto del presente litigio estaba relacionada a la petición de quiebra presentada por el Fideicomiso.

Así pues, examinados los escritos presentados por las partes, el Tribunal de Primera Instancia dictó *Sentencia Parcial*. En ésta, en vista de la petición de quiebra presentada ante la Corte de Quiebras para el Distrito de Puerto Rico, ordenó la paralización de los procedimientos en el presente caso y el archivo administrativo del mismo sin perjuicio. Sin embargo, posteriormente la Corte de Quiebras para el Distrito de Puerto Rico desestimó la petición de quiebra.

Enterados de ello, el 16 de marzo de 2018, la Arquidiócesis de San Juan y la Superintendencia de Escuelas Católicas de San Juan presentaron, ante la Corte de Distrito de los Estados Unidos para el Distrito de Puerto Rico, un aviso de desistimiento de su petición de traslado y, en

consecuencia, solicitaron que el caso se devolviera al foro estatal. Dicho escrito fue notificado a todas las partes en el pleito.

Acto seguido, el 19 de marzo de 2018 los maestros y maestras demandantes presentaron ante el Tribunal de Primera Instancia una moción informativa en la cual notificaron a dicho foro que la Arquidiócesis de San Juan y la Superintendencia de Escuelas Católicas de San Juan presentaron ante el mencionado ente federal un aviso de desistimiento de la petición de traslado. Ese mismo día, el Tribunal de Primera Instancia emitió una Orden mediante la cual dejó sin efecto la paralización del pleito por razón de la petición de quiebra.

Posteriormente, en cumplimiento con la orden emitida por este Foro, el Tribunal de Primera Instancia celebró una vista evidenciaria para determinar si la *Iglesia Católica, Apostólica y Romana*, la Arquidiócesis de San Juan, la Superintendencia de Escuelas Católicas de San Juan, la Academia del Perpetuo Socorro, la Academia San José y la Academia San Ignacio de Loyola tenían personalidad jurídica. Celebrada la referida vista evidenciaria, el foro primario emitió una *Resolución* mediante la cual determinó que la Arquidiócesis de San Juan, la Superintendencia de Escuelas Católicas de San Juan y los mencionados Colegios, carecían de personalidad jurídica. Ello pues, las mismas son dependencias de la *Iglesia Católica, Apostólica y Romana*, que cuenta con personalidad jurídica en virtud del Tratado de París. Así,

ordenó a la *Iglesia Católica, Apostólica y Romana* el pago de la pensión a los empleados demandantes, conforme al Plan de Pensiones, mientras se resolvía el presente litigio.

Inconformes con la referida determinación, la Arquidiócesis de San Juan y la Superintendencia de Escuelas Católicas de San Juan presentaron, ante el foro primario, una *Moción sobre nulidad de Resolución y solicitud para que se considere moción de desestimación por falta de jurisdicción*. En la misma, argumentaron que la referida *Resolución* se emitió sin jurisdicción, pues la Corte de Distrito de los Estados Unidos para el Distrito de Puerto Rico no había emitido una orden devolviendo el caso al Tribunal de Primera Instancia. El foro primario declaró *no ha lugar* la referida moción de desestimación.

Insatisfechas aún, la Arquidiócesis de San Juan y la Superintendencia de Escuelas Católicas de San Juan presentaron una moción de reconsideración y una moción para que se fijara la fianza conforme a lo dispuesto por la Regla 56.3 de Procedimiento Civil, 32 LPRA Ap. V. R. 56.3. En oposición, los maestros y maestras demandantes alegaron que, mediante sus acciones, y al presentar una moción dispositiva el 13 de febrero de 2018, la *Iglesia Católica, Apostólica y Romana* renunció voluntariamente a la solicitud de traslado. Asimismo, solicitaron que se prohibiera a la *Iglesia Católica, Apostólica y Romana*, a la Academia del Perpetuo Socorro, a la Academia San José y a la Academia San Ignacio de Loyola comparecer de forma separada por ser dependencias

de la *Iglesia Católica, Apostólica y Romana*. Por último, requirieron que se ordenara la consignación de los fondos restantes del Fideicomiso.

Vistos los referidos documentos, el Tribunal de Primera Instancia emitió una *Resolución* mediante la cual ordenó a la *Iglesia Católica, Apostólica y Romana* a consignar, en un plazo de veinticuatro (24) horas, la suma de \$4,700,000 en el Tribunal. Además, advirtió a la *Iglesia Católica, Apostólica y Romana* que, de incumplir con la referida orden, procedería a embargar sus cuentas bancarias.

Oportunamente, y en desacuerdo con las referidas *Resoluciones* emitidas por el foro primario, la Arquidiócesis de San Juan acudió al Tribunal de Apelaciones mediante una *Moción en auxilio de jurisdicción* y petición de *certiorari*. En su recurso, la Arquidiócesis de San Juan alegó que el Tribunal de Primera Instancia erró: (1) al emitir una *Resolución* cuándo carecía de jurisdicción para hacerlo por, en ese momento, estar pendiente una solicitud de traslado a la Corte de Distrito de los Estados Unidos para el Distrito de Puerto Rico; (2) al no desestimar la demanda al amparo del *Foreign Sovereign Immunities Act* por falta de jurisdicción sobre la materia; (3) al no desestimar la demanda por falta de jurisdicción sobre la persona de la *Iglesia Católica, Apostólica y Romana*; (4) al emitir un *interdicto preliminar* sin imponer una fianza al amparo de la Regla 57.4 de Procedimiento Civil, 32 LPR Ap. V, R. 57.4; (5) al resolver que la Arquidiócesis de San Juan no tenía personalidad

jurídica independiente de la *Iglesia Católica, Apostólica y Romana*; (6) al determinar que la Academia del Perpetuo Socorro tenía personalidad jurídica; y, (7) al ordenar la consignación de 4.7 millones de dólares, que equivale un interdicto permanente, sin la celebración de vista y/o la presentación de prueba sobre las cantidades.

Estudiados los alegatos de todas las partes, el Tribunal de Apelaciones dictó Sentencia. Al así hacerlo, resolvió, en primer lugar, que aunque se había presentado una moción de traslado a la Corte de Distrito de los Estados Unidos para el Distrito de Puerto Rico, la que posteriormente fue desestimada, al momento en que el Tribunal de Primera Instancia emitió la *Resolución* objeto de revisión, la conducta desplegada por la Arquidiócesis de San Juan y la Superintendencia de las Escuelas Católicas de San Juan, quienes solicitaron el traslado, reflejan que estos renunciaron al remedio del traslado al foro federal. Por lo tanto, a juicio del Tribunal de Apelaciones, el foro primario no carecía de jurisdicción para emitir la *Resolución* en controversia.

En cuanto al reclamo sobre falta de jurisdicción sobre la materia, el foro apelativo intermedio determinó que no procedía el mismo, pues era evidente que la demanda instada por los maestros y maestras demandantes estaba dirigida a la *Iglesia Católica, Apostólica y Romana* por acciones alegadamente incurridas por la misma en Puerto Rico.

Establecido lo anterior, al amparo del Tratado de París y el Código de Derecho Canónico, el Tribunal de Apelaciones determinó que la *Iglesia Católica, Apostólica y Romana* carecía de personalidad jurídica. No obstante, dicho foro sostuvo que, dentro de la estructura organizacional de la Iglesia, las diócesis, las parroquias, las órdenes religiosas, entre otras organizaciones, sí tenían personalidad jurídica. El Tribunal de Apelaciones sentenció que ello, en parte, se debía a que en Puerto Rico no existía una estructura mayor que agrupase bajo una sola autoridad a todas las diócesis. Cada diócesis representaba, de manera autónoma, a la *Iglesia Católica, Apostólica y Romana* en su respectiva circunscripción.

De otra parte, sobre la Arquidiócesis de San Juan el Tribunal de Apelaciones determinó que, al igual que todas las diócesis en Puerto Rico, ésta tenía personalidad jurídica. Ello, pues el nivel de autoridad de una Arquidiócesis es el mismo que el de cualquier diócesis. La diferencia estriba, según ilustra el foro apelativo intermedio, en que una Arquidiócesis es denominada de tal forma por ser una diócesis de gran tamaño y población.

En cuanto a la Academia del Perpetuo Socorro, el Tribunal de Apelaciones razonó que se trataba de un colegio adscrito a la Parroquia Nuestra Señora del Perpetuo Socorro por lo que estaba cubierta por la personalidad jurídica de la Parroquia. Ello era así, a pesar de que la Academia del Perpetuo Socorro estaba registrada como corporación sin fines

de lucro, al amparo del Art. 9.08 de la Ley de Corporaciones, 14 LPRC sec. 3708.

Asimismo, el foro apelativo intermedio determinó que la Academia San José, al ser una escuela parroquial, estaba adscrita a la Parroquia San José, por lo que quedaba cubierta bajo la personalidad jurídica de la referida Parroquia.

Ahora bien, en cuanto a la Academia San Ignacio de Loyola, el Tribunal de Apelaciones determinó que era una escuela adscrita a la Orden de la Compañía de Jesús en Puerto Rico, Inc., mejor conocida como la Orden Jesuita. Esta última tenía personalidad jurídica conforme a lo dispuesto por el Tratado de París, por lo que, a juicio del Tribunal de Apelaciones, la referida Academia estaba cubierta por la personalidad jurídica de la Orden de la Compañía de Jesús en Puerto Rico, Inc.

Por otro lado, en cuanto al remedio concedido en virtud de la Regla 57.4 de Procedimiento Civil, *supra*, el interdicto preliminar y el derecho de obligaciones y contratos, el foro apelativo intermedio razonó que la obligación de los patronos -- entiéndase la Arquidiócesis de San Juan, la Superintendencia de Escuelas Católicas de San Juan, la Academia del Perpetuo Socorro, la Academia San José y la Academia San Ignacio de Loyola -- se implantó bajo la figura del Fideicomiso. Siendo ello así, no se les puede imputar a éstos -- mediante el remedio provisional del interdicto preliminar -- el pago de la pensión directamente a los demandantes. El remedio sólo procedía contra quien el

derecho le asignaba esa obligación. Así pues, el Tribunal de Apelaciones determinó que lo que procedía era obligar a los patronos participantes a continuar haciendo las aportaciones a las que se comprometieron, en virtud del contrato del Plan de Pensiones. A juicio del foro apelativo intermedio, dichas sumas de dinero deberían ser consignadas en el tribunal, ante el estado de insolvencia del Fideicomiso. De ese fondo, se podrían continuar haciendo los pagos a los maestros y maestras demandantes, por concepto de su pensión de retiro.²

Por último, en cuanto a la imposición de fianza conforme a lo dispuesto por la Regla 56.3 de Procedimiento Civil, *supra*, el Tribunal de Apelaciones determinó que el Tribunal de Primera Instancia aplicó incorrectamente la referida Regla. El foro apelativo intermedio razonó que la excepción dispuesta por el inciso (c) de la Regla 56.3 de Procedimiento Civil, *supra*, es de aplicación al conceder un remedio en aseguramiento de sentencia, no al conceder un interdicto preliminar, y el mismo sólo procedía una vez emitida una sentencia final. Por considerarse la referida Resolución un dictamen interlocutorio, en palabras del foro apelativo intermedio, la autorización del remedio extraordinario sin prestación de fianza fue incorrecta.

² En el caso particular de la Academia San Ignacio de Loyola y la Academia San José, al no tener personalidad jurídica individual, sino por medio de sus parroquias, no se les puede imponer la obligación de cumplir con el remedio provisional. Dicha obligación, residiría sobre la Parroquia San José y la Orden de la Compañía de Jesús en Puerto Rico, Inc., pero estos no han sido traídos al pleito. Estos son partes indispensables sin los cuales no se puede emitir un remedio para los reclamantes.

No conforme con la determinación del Tribunal de Apelaciones, el 14 de mayo de 2018 los maestros y maestras demandantes, beneficiarios del Plan de Pensiones, recurrieron ante nos mediante *Moción en auxilio de jurisdicción y/o solicitud de trámite expedito* y petición de *certiorari*. En dichos escritos, en esencia, alegaron que el foro apelativo intermedio erró al revocar el dictamen del Tribunal de Primera Instancia. En particular, adujeron que el Tribunal de Apelaciones erró al resolver que la *Iglesia Católica Apostólica y Romana* no tenía personalidad jurídica; al modificar el remedio provisional en aseguramiento de sentencia; y al dejar sin efecto la concesión del remedio sin prestación de fianza.

No obstante, el 22 de mayo de 2018, compareció ante nos el Fideicomiso mediante moción informativa en la que nos indicó que la Academia del Perpetuo Socorro había presentado una oportuna moción de reconsideración ante el Tribunal de Apelaciones el 18 de mayo de 2018, entiéndase cuatro (4) días después de presentada la *Moción en auxilio de jurisdicción y/o solicitud de trámite expedito* ante esta Curia, la cual privaba de jurisdicción a este Tribunal para atender la causa de epígrafe. Examinado dicho escrito, este Tribunal le concedió a todas las partes en el litigio un (1) día para que se expresaran sobre la referida moción informativa, en específico sobre si procedía o no desestimar el recurso ante nuestra consideración por ser prematuro.

Recibidas las comparecencias de todas las partes, una mayoría de este Tribunal determinó que la notificación de la referida moción de reconsideración a los beneficiarios del Plan de Pensiones fue una incorrecta por haberse enviado la misma a una dirección de correo electrónico de los abogados de los maestros y maestras demandantes distinta a la dispuesta en el Registro Único de Abogados y Abogadas del Tribunal Supremo, por lo que se dio por no puesta la misma. Así pues, se declaró *ha lugar la Moción en auxilio de jurisdicción y/o solicitando tramite expedito y petición de certiorari*, y se le concedió a los recurridos un término de diez (10) días para mostrar causa por la que este Tribunal no debía revocar la sentencia emitida por el Tribunal de Apelaciones.³

³ De dicho curso de acción disintimos y consignamos las siguientes expresiones:

El Juez Asociado señor Colón Pérez disiente del curso de acción seguido por una Mayoría de este Tribunal en el presente caso, y se reitera en que, en estricto derecho, procede desestimar, sin más, la causa de epígrafe. Ello pues, éste es de la opinión que, de manera análoga a lo resuelto por este Tribunal en *Municipio de Rincón v. Velázquez Muñoz*, 192 DPR 989 (2015), debemos otorgarle deferencia al foro apelativo intermedio para que examine y resuelva la moción de reconsideración que tiene en estos momentos ante su reconsideración, la cual fue oportunamente presentada por la Academia del Perpetuo Socorro Inc., una de las partes en el litigio. **Ello incluye, entre otras cosas, el determinar si la referida moción de reconsideración fue presentada y notificada adecuadamente a todas las partes envueltas en el caso de marras.**

A su juicio, la mera presentación de una moción en auxilio de jurisdicción ante este Foro, la cual no ha sido atendida, no priva de jurisdicción al Tribunal de Apelaciones para atender una moción de reconsideración que ha sido presentada en tiempo, y, en consecuencia, de pasar juicio sobre la corrección de la misma, así como de su dictamen previo. Como cuestión de hecho, el 22 de mayo de 2018, el foro apelativo intermedio -- entendiendo sobre la moción de reconsideración en cuestión --ordenó a las partes expresarse en torno a la misma.

Cumpliendo con lo ordenado, todas las partes comparecieron ante nos. Con el beneficio de las referidas comparecencias, una mayoría de este Tribunal -- de forma errada y atropellada -- revoca la sentencia emitida por el foro apelativo intermedio y resuelve que la *Iglesia Católica, Apostólica y Romana* tiene personalidad jurídica y, por ende, es la llamada a responderle a la clase magisterial que hoy acude ante nos. De ese lamentable proceder, como mencionamos anteriormente, disentimos. Nos explicamos.

II.

A. Jurisdicción

Como es sabido, la jurisdicción es la autoridad que tiene un tribunal para adjudicar los casos y controversias ante su consideración. Véase, Regla 3.1 de Procedimiento Civil, 32 LPRA Ap. V., R. 3.1. Es norma reiterada que los tribunales debemos ser celosos guardianes del ejercicio de nuestra jurisdicción y que, para poder ejercitar válidamente dicha autoridad, debemos poseer jurisdicción sobre la materia y sobre las personas involucradas en el litigio. *Oficina de Asuntos Monopolísticos del Departamento de Justicia v. Jiménez Galarza*, 2017 TSPR 194, DPR (2017); *Medina Garay v. Medina Garay*, 161 DPR 806, 817 (2004); *Shuler v. Shuler*, 157 DPR 707, 718 (2002). **Un dictamen sin jurisdicción sobre la persona o sobre la materia es nulo.** *Constructora Estelar, S.E. v. Aut. Edif. Pub.*, 183 DPR 1, 22-23 (2011); *Vázquez v.*

A dichas expresiones, se nos unió la compañera Juez Asociada señora Rodríguez Rodríguez.

López, 160 DPR 714 (2003); *Bco. Santander PR v. Fajardo Farms Corp.*, 141 DPR 237, 244 (1996); *Vázquez v. ARPE*, 128 DPR 513, 537 (1991).

Así pues, cuestionada su jurisdicción, es deber ministerial de todo tribunal el examinar y evaluar con rigurosidad el señalamiento, pues éste incide directamente sobre el poder mismo para adjudicar una controversia. En esa dirección, conviene recordar aquí que los tribunales no tienen discreción para asumir jurisdicción allí donde no la hay. Véase, *Virella v. Proc. Esp. Rel. Fam.*, 154 DPR 742, 759 (2001); *Maldonado v. Pichardo*, 104 DPR 778, 782 (1976); *Martínez v. Junta de Planificación*, 109 DPR 839, 842 (1980).

Sobre este particular, en reiteradas ocasiones hemos señalado que, como regla general, un tribunal tiene jurisdicción sobre toda persona que se encuentre domiciliada dentro de límites geográficos de Puerto Rico. 32 LPRA Ap. V, R. 3.1. Ahora bien, hemos reconocido, como excepción a la referida norma, que los tribunales pueden tener jurisdicción sobre personas ausentes dentro de sus límites territoriales si voluntariamente se someten a su jurisdicción mediante un acto sustancial que lo integre al pleito o si éste tiene contactos mínimos con el foro. *Shuler v. Shuler*, *supra*, pág. 719; *Qume Caribe, Inc. v. Srio. de Hacienda*, 153 DPR 700, 711 (2001); *Márquez v. Barreto*, 143 DPR 137, 143 (1997).

Como se sabe, el mecanismo para adquirir jurisdicción sobre la parte demandada es el emplazamiento. Este mecanismo,

dispuesto por la Regla 4 de Procedimiento Civil, 32 LPRA Ap. V, R. 4, es el vehículo procesal mediante el cual el Tribunal adquiere jurisdicción sobre la persona, pues a través del mismo se le notifica a la parte demandada del inicio de un procedimiento judicial en su contra. *Torres Zayas v. Montano Gómez*, 2017 TSPR 202, ___ DPR ___, (2017); *Rivera Báez v. Jaume*, 157 DPR 562, 575 (2002); *Medina Garay v. Medina Garay*, *supra*, pág. 818. La falta de diligenciamiento del emplazamiento, conforme a lo dispuesto por la Regla 4 de Procedimiento Civil, *supra*, -- ya sea personalmente o por edicto -- priva al Tribunal de jurisdicción sobre la parte demandada. *Rivera Hernández v. Comtec Comm.*, 171 DPR 695, 714 (2007); *Medina Garay v. Medina Garay*, *supra*, pág. 818. De ahí, la necesidad de cumplir estrictamente con todos los requisitos del emplazamiento dispuestos por la referida Regla, pues es así, y solo así, que el tribunal podrá adquirir jurisdicción sobre las partes en el pleito. *Quiñones Román v. CIA ABC*, 152 DPR 367, 374 (2000); *Chase Manhattan Bank v. Polanco Martínez*, 131 DPR 530, 535 (1992); *Medina Garay v. Medina Garay*, *supra*, pág. 819.

B. Las partes

Como hemos indicado en ocasiones anteriores, el concepto parte va enlazado al de jurisdicción sobre la persona. Cónsono con ello, hemos sentenciado que la parte demandante se somete voluntariamente a la jurisdicción del tribunal con la presentación de la demanda y la parte demandada se trae al


tribunal mediante un correcto emplazamiento. *Sánchez Rivera v. Malavé Rivera*, 192 DPR 854, 872-873 (2015); *Acosta v. ABC, Inc.*, 142 DPR 927 (1997); *Rivera v. Jaume*, *supra*, pág. 575.

Ahora bien, además de lo antes dicho, para que un pleito pueda tramitarse adecuadamente, ambos, la parte demandante y la parte demandada, deben tener capacidad jurídica. Este concepto comprende la capacidad de obrar y la personalidad jurídica. Véase R. Hernández Colón, *Practica Jurídica de Puerto Rico: Derecho Procesal Civil*, 6ta ed., San Juan, LexisNexis de Puerto Rico, 2017, sec. 1101, pág. 144.

La capacidad de obrar es la facultad de una persona para gobernar los derechos y las obligaciones de los que es titular. *Alvareztorre Muñiz v. Sorani Jiménez*, 175 DPR 398, 418 (2009); *Asoc. de Res. Est. Cidra v. Future Dev.*, 152 DPR 54, 67 (2000); *Laureano Pérez v. Soto*, 141 DPR 77, 89 (1996). Así pues, una persona que carece de capacidad de obrar no tiene la capacidad para comparecer en un juicio. *Íd.*

De otra parte, la personalidad jurídica es la capacidad para ser sujeto de derechos y obligaciones. *Alvareztorre Muñiz v. Sorani Jiménez*, *supra*, pág. 418; *Asoc. de Res Est. Cidra v. Future*, *supra*, en la pág. 66; *Laureano Pérez v. Soto*, *supra*, pág. 89. Al respecto, en el pasado hemos sentenciado que, la capacidad para ser parte de un pleito es una manifestación de la personalidad jurídica. *Alvareztorre Muñiz v. Sorani Jiménez*, *supra*, pág. 418; *Asoc. de Res Est. Cidra v. Future*, *supra*, en la pág. 66; *Laureano Pérez v. Soto*, *supra*, pág. 89.

En el caso de las corporaciones sitas en nuestro país, conviene recordar aquí que nuestro ordenamiento legal le reconoce personalidad jurídica en virtud de lo dispuesto en la Ley General de Corporaciones de Puerto Rico, 14 LPRA sec. 3501 et seq. Sobre el particular, el Art. 29 del Código Civil establece que "la capacidad civil de las corporaciones, compañías y asociaciones, se regulará por las leyes que las hayan reconocido o creado". 31 LPRA sec. 103. Dicho reconocimiento de personalidad jurídica les permite a estas entidades "adquirir y poseer bienes de todas clases, así como contraer obligaciones y ejercitar acciones civiles o criminales, conforme a las leyes y reglas de su constitución". 31 LPRA sec. 104.

 Por último, y en lo relacionado a las corporaciones u organizaciones sin fines de lucro, es menester señalar que una vez estas son reconocidas como tal, mediante la expedición de su certificado de incorporación, las mismas también gozan de personalidad jurídica y, entre otras cosas, pueden demandar y ser demandadas. 14 LPRA sec. 3505. Una vez incorporada la organización sin fines de lucro, los socios o accionistas no responden en su carácter personal por actos de la misma.

C. Partes Indispensables

Establecido lo anterior, resulta necesario añadir a nuestro análisis aquellas expresiones de este Tribunal que, en virtud de la protección constitucional que impide que

persona alguna sea privada de su propiedad o de su libertad sin un debido proceso de ley, le exigen a todo demandante, al momento de entablar cualquier pleito judicial, el incluir en el mismo a todas las partes que pudiesen verse afectadas por el dictamen que, en su día, pudiese emitir el foro judicial. *Bonilla Ramos v. Dávila Medina*, 185 DPR 667 (2012); *Sánchez v. Sánchez*, 154 DPR 645 (2001); *Cepeda Torres v. García Ortiz*, 132 DPR 698 (1993).

Cónsono con lo anterior, la Regla 16.1 de Procedimiento Civil requiere que, "las personas que tengan un interés común sin cuya presencia no pueda adjudicarse la controversia, se [hagan] partes y se [acumulen] como demandantes o demandadas, según corresponda. Cuando una persona que deba unirse como demandante rehúse hacerlo, podrá unirse como demandada". 32 LPR Ap. V., R. 16.1.

En ese sentido, como ya señalamos, se considera parte indispensable en un pleito aquella de la que no se puede prescindir, puesto que la adjudicación sin su presencia supondría que las cuestiones litigiosas no puedan resolverse correctamente, pues sus derechos serían afectados. *López García v. López García*, 2018 TSPR 57, ___ DPR ___ (2018); *Deliz et als. v. Igartúa et als.*, 158 DPR 403, 432 (2003); *Cepeda Torres v. García Ortiz*, 132 DPR 698, 704 (1993). Es decir, "el tercero ausente [tiene] un interés en el pleito que convierte su presencia en un requisito indispensable para impartir justicia completa o de tal orden que impida la confección de un decreto sin afectarlo". Hernández Colón, *op.*

cit., pág. 166. Dicho interés no se trata de cualquier interés en el pleito, sino que tiene que ser uno real e inmediato, de tal naturaleza que, sin su presencia, impida la confección de un remedio adecuado. *López García v. López García, supra*; *Romero v. S.L.G.*, 164 DPR 721, 733 (2005). *Pérez v. Morales Rosado*, 172 DPR 216, 223 (2007); Véase, además, J.A. Cuevas Segarra, *Tratado de Derecho Procesal Civil*, San Juan, Pubs. J.T.S. 2011, T. II, pág. 691; Hernández Colón, *op. cit.*, pág. 166.

Ahora bien, la determinación de si procede o no la acumulación de una parte indispensable depende de las circunstancias particulares que se presenten en cada caso. *Romero v. S.L.G.*, *supra*, pág. 732. Consecuentemente, el tribunal debe hacer un análisis cuidadoso de distintos factores como el tiempo, lugar, modo, alegaciones, prueba, clase de derechos, intereses en conflicto, resultado y formalidad. Cuevas Segarra, *op. cit.*, pág. 695.

Por último, es menester recordar que, la falta de parte indispensable constituye una defensa irrenunciable que puede presentarse en cualquier momento durante el proceso. Incluso, los foros apelativos, pueden y deben levantar *motu proprio* la falta de parte indispensable en un pleito, ya que ésta afecta la jurisdicción del tribunal. *García Colón v. Sucn. González*, 178 DPR 527 (2010); *López García v. López García, supra*; *Romero v. S.L.G.*, *supra*. Por tal razón, la sentencia que se emita en ausencia de parte indispensable es nula. *López García v. López García, supra*; *García Colón v. Sucn.*

González, *supra*, pág. 550; *Unisys Puerto Rico, Inc. v. Ramallo Bros. Printing, Inc.*, 128 DPR 842, 859 (1991).

Dicho ello, corresponde examinar si realmente la *Iglesia Católica, Apostólica y Romana* es un ente con personalidad jurídica, y, en consecuencia, si es o no parte en el presente caso. Procedemos a así hacerlo.

D. La Iglesia Católica, Apostólica y Romana

1.

Como se sabe, la *Iglesia Católica, Apostólica y Romana* es católica porque es universal, se extiende por todo el mundo y es apostólica porque es misionera, "anuncia el Evangelio a todos los hombres y todas las mujeres". Véase, Papa Francisco, Audiencia General del miércoles, 17 de septiembre de 2014.⁴ "La Iglesia no tiene cierres, es enviada a todo el mundo, a toda la humanidad." Íd. En virtud de su universalidad, ha sido propagada a todos los rincones del globo terráqueo, incluyendo a Puerto Rico.

En nuestro caso, la *Iglesia Católica, Apostólica y Romana*, Diócesis de Puerto Rico, se creó allá para el 1511, mediante la Bula *Romanus Pontifex* en la que se autorizó a fundar tres diócesis en las colonias españolas de aquel momento, entre ellas la de Puerto Rico. E. D. Dussel, *Historia general de la Iglesia en América Latina*, CEHILA Ed., 1995, T. IV, pág. 43. Según la historia, y como consecuencia

⁴Papa Francisco, Audiencia General del miércoles, 17 de septiembre de 2014, https://w2.vatican.va/content/francesco/es/audiencias/2014/documents/papa-francesco_20140917_udienza-generale.html (última visita, 6 de junio de 2018).

del crecimiento poblacional que se dio a finales de siglo, ya para el siglo XVIII la Diócesis de Puerto Rico habría sufrido diversos cambios. José Manuel García Leduc, *¡La Pesada Carga! Iglesia, Clero y Sociedad en Puerto Rico (S. XIX) Aspectos de su Historia*, Ed. Puerto, 2009. Dichos cambios tuvieron efectos significativos sobre la configuración de la Iglesia, mas no requirieron el que se erigiera una nueva diócesis. Los cambios se limitaron a la creación de nuevas parroquias. *Íd.* pág. 28.

Años más tarde, como consecuencia de la Guerra Hispanoamericana, el tratamiento a la *Iglesia Católica, Apostólica y Romana* cambió sustancialmente. Ello, pues, con la cesión de Puerto Rico a los Estados Unidos se instituyen en el País las doctrinas constitucionales estadounidenses de separación Iglesia y Estado, y de libertad religiosa, lo que tuvo el efecto de que, a partir de ese momento, la Diócesis de Puerto Rico no contara con la protección de las autoridades civiles al igual que bajo la corona española. Véase, Aníbal Colón Rosado, *Relations Between Church and Puerto Rico*, 42 Rev. C. Abo. PR 51, 51-52 (1985); J. Gelpí Barrios, *Personalidad jurídica de la Iglesia Católica en Puerto Rico*, 95 Rev. Esp. Der. Canónico 395, 411 (1977).

Lo anterior motivó que, eventualmente, se presentara ante el Tribunal Supremo de los Estados Unidos una controversia sobre la capacidad de la Diócesis de Puerto Rico para poseer propiedades. Al evaluar la referida controversia, en *Municipality of Ponce v. Roman Catholic Apostolic Church*

in *Porto Rico*, 210 US 296 (1908), el Alto Foro Judicial Federal, amparado en el Tratado de París del 10 de diciembre de 1898, le reconoció personalidad jurídica a la *Iglesia Católica, Apostólica y Romana*, Diócesis de Puerto Rico, para realizar ciertos actos. Para fundamentar su decisión, el Tribunal Supremo de los Estados Unidos hizo referencia al Art. 8 del Tratado de París el cual, en esencia, dispone lo siguiente:

[I]t is hereby declared that the relinquishment or cession, as the case may be, to which the preceding paragraph refers, cannot in any respect impair the property of all kinds, of provinces, municipalities, public or private establishments, ecclesiastical or civic bodies, or any other associations having legal capacity to acquire and possess property in the aforesaid territories renounced or ceded, or of private individuals, of whatever nationality such individuals may be. Tratado de París, Art. 8, par. 2 (1898).

Así pues, el Alto Foro Judicial Federal interpretó que el cuerpo eclesiástico al que se refería el Tratado de París, sólo podía ser la *Iglesia Católica, Apostólica y Romana*, entiéndase la Diócesis de Puerto Rico.⁵ *Íd. pág. 31*; José

⁵ Asimismo, en dicho caso el Alto Foro Judicial de los Estados Unidos reconoció que el Tratado de París lo que hizo fue seguir la norma sobre el reconocimiento de personalidad jurídica a la *Iglesia, Católica, Apostólica y Romana* en el Derecho Internacional, en virtud del Concordato de 16 de marzo de 1851. Al respecto, el Tribunal Supremo de los Estados Unidos expresó:

The Roman Catholic Church has been recognized as possessing legal personality by the treaty of Paris, and its property rights solemnly safeguarded. In so doing the treaty has merely followed the recognized rule of international law which would have protected the property of the church in *Porto Rico* subsequent to the cession. This juristic personality and the church's ownership of property had been recognized in the most formal way by the concordats between Spain and the papacy, and by the Spanish laws from the beginning of settlements in the Indies. Such recognition has also been accorded the church by all systems of European law from the fourth century of the Christian era. *Ponce v. Roman Catholic Apostolic Church, supra*, 323-24.

Johel Monge Gómez, *La Permisibilidad De Lo "Impermisible": La Iglesia Sobre El Estado*, 41 Rev. Jur. U.I.P.R. 629, 633-34 (2007).

Ahora bien, lo cierto es que, desde entonces, la estructura organizacional de la *Iglesia Católica, Apostólica y Romana* en el País ha cambiado. La Diócesis de Puerto Rico, de ser sólo una, se convirtió en seis (6) Diócesis, a saber: la Arquidiócesis de San Juan, la Diócesis de Arecibo, la Diócesis de Ponce, la Diócesis de Mayagüez, la Diócesis de Fajardo-Humacao y la Diócesis de Caguas. Al respecto, el Obispo de Ponce para el año 1975, Fremiot Torres Oliver, explicó:

At the time of the cession only one diocese existed in Puerto Rico. At present there are five: the archdiocese of San Juan and the dioceses of Ponce, Arecibo, Caguas and Mayaguez. Each diocese is a fragmentation of one entity possessing juristic personality, and each enjoys the same legal status as the original Diocese of Puerto Rico, referred to in [Municipality of Ponce v. Catholic Church in Puerto Rico] opinion as ((The Roman Catholic Church in Puerto Rico)). Rev. F. Torres Oliver, *Juridical*

Ahora bien, sobre la personalidad jurídica de la *Iglesia Católica, Apostólica y Romana* el Concordato de 1851 establecía que:

[L]a Iglesia tendría el derecho de adquirir por cualquier título legítimo, y su propiedad en todo lo que posee ahora o adquiriera en adelante será solemnemente respetada. Por consiguiente, en cuanto a las antiguas y nuevas fundaciones eclesiásticas, no podrá hacerse ninguna supresión o unión sin la intervención de la autoridad de la Santa Sede, salvo las facultades que competen a los obispos, según el santo concilio de Trento. Concordato de 16 de marzo de 1851, Art. 41.

Así también, en el Art. 43 del Concordato de 1851 establecía que "[t]odo lo demás perteneciente a personas o cosas eclesiásticas, sobre lo que se provee en los artículos anteriores, será dirigido y administrado según la disciplina de la Iglesia canónicamente vigente", entendiéndose el Código de Derecho Canónico.

Personality of the Church in Puerto Rico, 15 Rev. Der. P.R. 307, 308 (1975).⁶

Dicho de otro modo, la Diócesis de Puerto Rico -- que en *Municipality of Ponce v. Catholic Church in Puerto Rico*, *supra*, es nombrada como la *Iglesia Católica, Apostólica y Romana* y, como tal, se le reconoció personalidad jurídica -- ha dejado de existir. Ésta se ha dividido en una arquidiócesis y cinco (5) distintas diócesis, para un total de seis (6), y a cada una le corresponde una parte de lo que fue la Diócesis de Puerto Rico original. Por lo tanto, cada Diócesis y la Arquidiócesis tienen personalidad jurídica propia, conforme se le reconoció a la Diócesis original.⁷

2.

Cónsono con dicha interpretación, el Código de Derecho Canónico -- el cual establece la estructura interna de la *Iglesia Católica, Apostólica y Romana* -- dispone que son las Iglesias Particulares, entiéndase, las arquidiócesis, las diócesis y las parroquias, las entidades que, dentro del esquema organizacional de la Iglesia, verdaderamente tienen personalidad jurídica.

⁶Al momento de redactarse el mencionado artículo de la Revista Jurídica no existía todavía la Diócesis de Fajardo-Humacao, la cual incluimos en nuestro análisis.

⁷ Así claramente se recoge en el artículo *Personalidad Jurídica de la Iglesia Católica en Puerto Rico*, del señor Juan Gelpí Barrios. En específico, el señor Gelpí Barrios expresa en el artículo lo siguiente:

Cada diócesis es una fragmentación de un solo ente poseedor de personalidad jurídica. Cada una de ellas goza del mismo status legal correspondiente a la diócesis original de Puerto Rico, es decir, a la Iglesia católica romana de Puerto Rico. Gelpí Barrios, *supra*, pág. 410.

El anterior dato es omitido en la Opinión que hoy emite el Tribunal.

Así pues, el Código de Derecho Canónico establece que, la "Iglesia Católica y la Sede Apostólica son personas morales por la misma ordenación divina". Código de Derecho Canónico, Canon 113 sec. 1. No obstante, aunque la Iglesia es un ente moral, es decir abstracto e intangible, en el referido Código claramente se establece que "[e]n la Iglesia, además de personas físicas, hay también personas jurídicas, que son sujetos en derecho canónico de las obligaciones y derechos congruentes con su propia índole". Código de Derecho Canónico, Canon 113 sec. 2. **Es decir, la Iglesia Católica, Apostólica y Romana, como un todo, no es una persona jurídica, pero en ella sí existen personas jurídicas.**

Sobre este particular, el Canon 116 del Código de Derecho Canónico, en su sección 1, establece que:

Son personas jurídicas públicas las corporaciones y fundaciones constituidas por la autoridad eclesiástica competente para que, dentro de los límites que se les señalan, cumplan en nombre de la Iglesia, a tenor de las prescripciones del derecho, la misión que se les confía mirando al bien público; las demás personas jurídicas son privadas. Código de Derecho Canónico, Canon 116 sec. 1.

En ese sentido, es a través de las Iglesias Particulares -- que son principalmente las diócesis y las parroquias - que existe la Iglesia Católica. Código de Derecho Canónico, Canon 368. "La diócesis es una porción del pueblo de Dios, cuyo cuidado pastoral se encomienda al Obispo con la cooperación del presbiterio, de manera que, unida a su pastor y congregada por él en el Espíritu Santo mediante el Evangelio y la Eucaristía, constituya una Iglesia particular...". *Íd.*

Canon 369. Esa "porción del pueblo de Dios" que constituye una diócesis queda circunscrita dentro de un territorio específico. *Íd.* Canon 369. El Obispo Diocesano es quien gobierna la Iglesia Particular y es quien representa la diócesis en todos los negocios jurídicos de la misma. Código de Derecho Canónico, Canon 393. Lo anterior, incluye también la Arquidiócesis, que es llamada así por ser la diócesis con mayor población dentro de ciertos límites geográficos.

Ahora bien, las arquidiócesis no tienen una categoría superior a las demás diócesis. Como ya mencionamos, una arquidiócesis es una diócesis circunscrita a un territorio de mayor población. Así pues, el Arzobispo es el Obispo de la Arquidiócesis. Este no tiene mayor autoridad que un Obispo Diocesano. Véase, Código de Derecho Canónico, Canon 435-438.

De otra parte, conviene mencionar aquí que, de ser necesario, "puede erigirse dentro de un mismo territorio, Iglesias Particulares distintas por razón del rito de los fieles o por otra razón semejante". Código de Derecho Canónico, Canon 372. "Corresponde tan solo a la suprema autoridad el erigir Iglesias Particulares, las cuales una vez han sido legítimamente erigidas, gozan en virtud del derecho mismo de personalidad jurídica." *Íd.* Canon 373.

Es decir, dentro del territorio de las diócesis podrán erigirse otras Iglesias Particulares -- entiéndase, parroquias -- y éstas también gozarán de personalidad jurídica. El Canon 513 del Código de Derecho Canónico así lo

indica de manera expresa: "la parroquia legítimamente erigida tiene personalidad jurídica en virtud del derecho mismo".

A su vez, podrán erigirse también órdenes religiosas y otras organizaciones, que el Código de Derecho Canónico nombran como institutos religiosos. "Los institutos, las provincias y las casas, como personas jurídicas que son de propio derecho, tienen capacidad de adquirir, poseer, administrar y enajenar bienes temporales, a no ser que esta capacidad quede excluida o limitada por las constituciones".

Código de Derecho Canónico, Canon 634 sec. 1. Entre estos institutos religiosos se encuentran aquellos que tienen como propósito la educación, es decir, las escuelas católicas. "Se entiende por escuela católica aquella que dirige la autoridad eclesiástica competente o una persona jurídica eclesiástica pública...". Código de Derecho Canónico, Canon 803 sec. 1.

De otra parte, es menester aclarar que, como norma general, en Europa, como en los Estados Unidos, se ha formulado legislación que facilita la libertad de culto y que simultáneamente les reconoce personalidad jurídica a las entidades religiosas conforme a su estructura interna. Véase, *Facilitating Freedom of Religion or Belief: A Deskbook* (T. Lindholm et al. ed.), New York, 2004. En particular, sobre la *Iglesia Católica, Apostólica y Romana* de manera general se puede adoptar una de dos posturas: (1) reconocer la personalidad jurídica en virtud del Derecho Civil mediante legislación o (2) reconocer eficacia civil a las personas jurídicas eclesiásticas al amparo de la legislación canónica.

Lourdes Ruano Espina, *La personalidad jurídica civil de las fundaciones canónicas en España*, 15 *Ius Canonicum* 155, 157 (2015). Esta última, el reconocimiento de la eficacia civil a las personas jurídicas formuladas por la *Iglesia Católica, Apostólica y Romana* es, a nuestro juicio, más acorde y respetuosa de la libertad de culto. *Id.* Es por ello que entendemos que, al hablar de personalidad jurídica, se deben seguir los lineamientos entablados en a su Código de Derecho Canónico. Interpretar lo contrario, es una intervención indebida sobre cómo se estructura la *Iglesia Católica, Apostólica y Romana*, y sobre cómo se organiza para la toma de decisiones.

E. La Cláusula de Establecimiento y la Libertad de Culto

Recordemos que la Primera Enmienda de la Constitución de los Estados Unidos prohíbe el establecimiento de una religión por parte del Estado y garantiza la libertad de culto. *Emda. I. Const. EE. UU., LPRA, Tomo 1.* Asimismo, la Constitución del Estado Libre Asociado de Puerto Rico establece que "no se aprobará ley alguna relativa al establecimiento de cualquier religión ni se prohibirá el libre ejercicio del culto. Habrá completa separación de Iglesia y Estado". *Art. II, Sec. 3, Const. ELA., LPRA, Tomo 1.*

Cónsono con lo anterior, en nuestra jurisdicción, se prohíbe que el Estado incurra en actividades que constituyan el patrocinio de una religión, entiéndase el brindar apoyo económico a una entidad religiosa o el intervenir en sus

actividades religiosas. *Díaz v. Colegio Nuestra Sra. del Pilar*, 123 DPR 765, 780 (1989); *Board of Educ. Of Kiryas Joel Village School Dist. V. Grumet*, 512 US 687, 704 (1994); *Walz v. Tax Comm'n of City of New York* 397 US 664, 673 (1970). Para que una intervención con la cláusula de establecimiento se considere válida, debe superar el siguiente escrutinio: (1) que la conducta o ley impugnada tenga un propósito secular; (2) que su efecto primario no sea el promover o inhibir la religión; (3) que no conlleve la posibilidad de provocar una intromisión excesiva del gobierno en asuntos religiosos. *Colegio Nuestra Sra. del Pilar*, *supra*; *Lemon v. Kurtzman*, 403 US 602 (1971). Véase, además, *Diócesis de Arecibo v. Srio. Justicia*, 191 DPR 292, 311 (2014).

~~*~~ Ahora bien, el derecho a la libertad de culto no es uno absoluto. La libertad religiosa está limitada por la facultad del Estado para proteger la paz, la moral y el orden público. *Mercado, Quilichini v. UCPR*, 143 DPR 610, 636, (1997); *Sucn. de Victoria v. Iglesia Pentecostal*, 102 DPR 20, 22 (1974). Véase, además, *Diócesis de Arecibo v. Srio. Justicia*, *supra*, pág. 365.

En aquellos casos en que el Estado, con su conducta, tienda a limitar la libertad de culto, la parte que impugna la actuación del Estado es quien tiene la obligación de demostrar que la misma le impone una carga sustancial al ejercicio de la libertad de culto. *Asoc. Academias y Col. Cristianos v. E.L.A.*, 135 DPR 150, 161 (1994); *Díaz v. Colegio Nuestra Sra. del Pilar*, *supra*, pág. 779. Véase,

además, *Diócesis de Arecibo v. Srio. Justicia, supra*, pág. 309. Ello implica, entre otras cosas, demostrar que la actuación gubernamental no es general porque va dirigida únicamente a la entidad religiosa y sus asuntos internos. Véase, *Díaz v. Colegio Nuestra Sra. del Pilar, supra*; *Asoc. Academias y Col. Cristianos v. E.L.A., supra*; *Mercado, Quilichini v. U.C.P.R., supra*. Una vez la parte que impugna la actuación del Estado demuestre que la conducta no es de carácter neutral, el tribunal deberá examinar si la misma supera el escrutinio estricto. En ese sentido el Tribunal deberá determinar si (1) el Estado tiene un interés apremiante; (2) la acción del Estado tiene como fin ese interés, y (3) no hay alternativas menos onerosas para lograr dicho interés. *Mercado, Quilichini v. U.C.P.R., supra*. Véase, además, *Lozada Tirado v. Testigos Jehová*, 177 DPR 893 (2010); *Diócesis de Arecibo v. Srio. Justicia, supra*, pág. 310.

Cónsono con lo anterior, en *Díaz v. Colegio Nuestra Sra. del Pilar, supra*, interpretamos que los tribunales no pueden ejercer su jurisdicción para dilucidar disputas sobre derechos de propiedad relativos a una iglesia cuando para hacerlo tengan que pasar juicio sobre materias de doctrina, de disciplina, de fe o de organización eclesiástica interna. Ello, por ser necesaria la interferencia del Estado, a través de los tribunales, en materia que va dirigida al núcleo de la religión misma. Es decir, materia totalmente fuera de la competencia de los tribunales. *Díaz v. Colegio*

Nuestra Sra. del Pilar, supra; Amador v. Conc. Igl. Univ. De Jesucristo, 150 DPR 571, 579-80 (2000). Véase, además, *Agostini Pascual v. Iglesia Católica*, 109 DPR 172 (1979); *Jones v. Wolf*, 443 US 595, 604 (1979).

Por consiguiente, en el ejercicio de nuestra facultad adjudicadora, y al momento de pasar juicio sobre asuntos como los que hoy nos ocupan, "debemos ser particularmente cuidadosos [...] para evitar malograr el delicado equilibrio entre los dos mandatos absolutos conflictivos: el de no establecer religión alguna y el de no inhibir el libre ejercicio del culto religioso". *Díaz v. Colegio Nuestra Sra. del Pilar, supra*, pág. 776. Véase, además, *Mercado, Quilichini v. U.C.P.R., supra*, pág. 638.

Es, pues, a la luz de la normativa antes expuesta, que procedemos a disponer de las controversias traídas ante nuestra consideración.

III.

Como mencionamos anteriormente, en el presente caso, un grupo de maestros y maestras de las escuelas católicas del país presentaron una demanda de interdicto preliminar y permanente, sentencia declaratoria, incumplimiento de contrato, daños y perjuicios contra la *Iglesia Católica, Apostólica y Romana*, la *Arquidiócesis de San Juan*, la *Superintendencia de Escuelas Católicas de San Juan*, la *Academia del Perpetuo Socorro*, la *Academia San José* y la *Academia San Ignacio de Loyola*.

Luego de varios trámites procesales, los cuales al comienzo de este escrito fueron narrados al detalle, este Tribunal determinó que procedía el interdicto preliminar a favor de los maestros y maestras demandantes. No obstante, el foro primario debía dilucidar quiénes, de los demandados, tenían personalidad jurídica para responderle a éstos.

Conforme a lo ordenado, el Tribunal de Primera Instancia resolvió que la Arquidiócesis de San Juan, las Diócesis, los colegios y la Superintendencia de Escuelas Católicas de San Juan carecían de personalidad jurídica para formar parte del presente litigio. Ello, pues las mismas eran dependencias de la *Iglesia Católica, Apostólica y Romana*, que, a su juicio, y en virtud del Tratado de París, era quien contaba con personalidad jurídica para ser demandada. Así pues, el foro primario ordenó a la *Iglesia Católica, Apostólica y Romana* que, mientras se resolvía el pleito, efectuase los pagos de la pensión a los maestros y maestras demandantes, conforme al Plan de Pensiones.

Insatisfechas con el dictamen del Tribunal de Primera Instancia, la Arquidiócesis de San Juan y la Superintendencia de Escuelas Católicas de San Juan presentaron un recurso de certiorari ante el Tribunal de Apelaciones. Dicho foro -- a nuestro juicio correctamente en cuanto a este aspecto -- revocó al Tribunal de Primera Instancia y determinó que, al amparo del Tratado de París y el Código de Derecho Canónico, la *Iglesia Católica, Apostólica y Romana* carecía de personalidad jurídica. No obstante, el Tribunal de

Apelaciones sostuvo que dentro de la estructura organizacional de la Iglesia las diócesis, las parroquias, las órdenes religiosas, entre otras organizaciones, sí tenían personalidad jurídica.

En lo que respecta a la Arquidiócesis de San Juan, el foro apelativo intermedio aclaró que ésta también tenía personalidad jurídica al igual que todas las diócesis en Puerto Rico. En cuanto a la Academia del Perpetuo Socorro, concluyó que ésta también tenía personalidad jurídica, pues está incorporada conforme a lo dispuesto por la Ley de Corporaciones, *supra*.

Ahora bien, en lo referente la Academia San José y la Academia San Ignacio de Loyola sostuvo que éstas carecían de personalidad jurídica. No obstante, dicho foro sentenció que la primera estaba cubierta por la personalidad jurídica de la Parroquia San José -- quien no forma parte de este pleito, ni ha sido traída al mismo -- por ser una escuela parroquial y la segunda estaba adscrita a la Orden de la Compañía de Jesús en Puerto Rico, Inc., -- quien no forma parte de este pleito y tampoco ha sido traído al mismo -- por lo que estaba cubierta por la personalidad jurídica de esta institución religiosa.

Por último, sobre el remedio provisional solicitado por los maestros y maestras demandantes, el Tribunal de Apelaciones razonó que sólo el Fideicomiso estaba llamado a responder directamente ante los beneficiarios del Plan de Pensiones con los bienes que le quedaban. No obstante, la

Arquidiócesis de San Juan, las Diócesis, Parroquias y las escuelas católicas, que eran patronos, sólo estaban obligados a aportar al Plan.

En cuanto a la imposición del remedio sin prestación a fianza, como mencionamos anteriormente, el foro apelativo intermedio dispuso que la misma se hizo contrario a lo requerido por la Regla 56.3 de Procedimiento Civil, *supra*, por lo que la dejó sin efecto.

Inconformes con dicho proceder, los empleados demandantes recurrieron ante nos mediante *Moción de auxilio de jurisdicción y/o Solicitud de trámite expedito* y petición de *certiorari*. Así las cosas, luego de evaluar los planteamientos de todas las partes, una mayoría de este Tribunal revoca la sentencia emitida por el foro apelativo intermedio y resuelve que la *Iglesia Católica, Apostólica y Romana* tiene personalidad jurídica y, por lo tanto, es la llamada a responder al grupo de maestros y maestras de las escuelas católicas que presentó el litigio que hoy nos ocupa. Como ya adelantamos, de ese curso de acción disentimos enérgicamente.

Y es que, como adelantamos en la introducción de esta Opinión Disidente, no validaremos con nuestro voto un dictamen en extremo superficial, carente de un análisis profundo sobre las diversas dimensiones de las controversias ante nuestra consideración, en el cual una mayoría de este Tribunal, de forma contraria a la normativa antes expuesta, opta por reconocerle personalidad jurídica a un concepto

abstracto y de carácter universal como lo es el término *Iglesia Católica, Apostólica y Romana*.⁸

Como ha quedado claramente demostrado, la *Iglesia Católica, Apostólica y Romana* no tiene personalidad jurídica. La personalidad jurídica que hoy una mayoría de este Tribunal erróneamente le concede a la *Iglesia Católica, Apostólica y Romana*, en nuestra jurisdicción, verdaderamente la tiene la arquidiócesis y las cinco (5) diócesis aquí establecidas, a saber: la Arquidiócesis de San Juan, la Diócesis de Arecibo, la Diócesis de Ponce, la Diócesis de Fajardo-Humacao, la Diócesis de Mayagüez y la Diócesis de Caguas. De igual forma, tienen personalidad jurídica las parroquias erigidas dentro de cada una de las diócesis y las órdenes religiosas.

Así ha sido reconocido por este Tribunal en numerosas ocasiones en las que, en distintos pleitos que se han presentado ante nuestra consideración, le hemos reconocido personalidad jurídica a las diócesis de la *Iglesia Católica, Apostólica y Romana* y a sus parroquias. Véase, *Diócesis de Arecibo v. Srio. De Justicia, supra*; *Diócesis de Mayagüez v. Junta de Planificación*, 147 DPR 471 (1999); *Díaz v. Colegio Nuestra Sra. Del Pilar*, 123 DPR 765 (1989); *Academia San*

⁸ Es menester señalar que, al este Tribunal resolver que la Arquidiócesis de San Juan, la Superintendencia de Escuelas Católicas de San Juan, la Academia del Perpetuo Socorro, la Academia San José, (a través de la Parroquia San José) y la Academia San Ignacio de Loyola (a través de la Orden de la Compañía de Jesús en Puerto Rico, Inc., mejor conocida como la Orden Jesuita) carecen de personalidad jurídica en el presente pleito, -- y determinar que sólo la *Iglesia Católica, Apostólica y Romana* tiene tal personalidad --, ha dejado la causa de epígrafe sin partes, ello debido a que la *Iglesia Católica, Apostólica y Romana* realmente subsiste a través de la arquidiócesis, las diócesis, las parroquias erigidas dentro de cada una de las diócesis y las órdenes religiosas.

Jorge v. Junta de Relaciones del Trabajo, 110 DPR 193 (1980); *Agostini Pascual v. Iglesia Católica, Diócesis de Ponce*, 109 DPR 172 (1979); *Vélez Colón v. Iglesia Católica, Apostólica y Romana, Diócesis de Arecibo*, 105 DPR 123 (1976); *Camacho v. Iglesia Católica, Apostólica y Romana, Diócesis de San Juan v. Registrador*, 95 DPR 511 (1968); *Iglesia Católica, Apostólica y Romana Diócesis de Ponce*, 72 DPR 353 (1951). Sin embargo, la Mayoría de este Tribunal parece olvidarlo.

No hay duda alguna que, en el presente caso, fueron demandados la Arquidiócesis de San Juan, el Fideicomiso y la Superintendencia de Escuelas Católicas de San Juan, quienes son partes en el pleito y tienen personalidad jurídica. De igual forma, la Academia del Perpetuo Socorro, quien como tal, cuenta con personalidad jurídica, fue correctamente demandada, y forma parte de este pleito.

Así pues, en la medida en que la Arquidiócesis y los mencionados institutos u organizaciones religiosas que se afectarían por los dictámenes emitidos por el Tribunal de Primera Instancia fueron correctamente traídos al presente pleito, éstos debieron ser considerados partes en el mismo, y, más importante aún, debieron haber tenido la oportunidad, en esta etapa de los procedimientos, de expresarse sobre la reclamación que aquí realizan los maestros y maestras demandantes; así como sobre la naturaleza del remedio provisional que se imponga en lo que el litigio se resuelve finalmente. En la medida en que eso no se hizo -- en la medida en que no se le permitió a la Arquidiócesis y a los

mencionados institutos u organizaciones religiosas ser partes en la causa de epígrafe, expresarse, ser escuchados y participar de los procesos --, la *Resoluciones* y *Ordenes* emitidas por el Tribunal de Primera Instancia, la cuales son objeto de revisión en el caso de marras, y las que a todas luces tendrán un efecto sobre los entes con personalidad jurídica antes mencionados, son nulas en toda su extensión. Ello así, pues las mismas se emitieron en violación al debido proceso de ley que le asiste a las partes de las que no se podía prescindir en el presente litigio, a las partes indispensables. Lo anterior, por sí sólo, y sin duda alguna, sería razón suficiente para disponer de la causa de epígrafe.

Ahora bien, precisa señalar también que, en cuanto a la Academia San José y la Academia San Ignacio de Loyola, quiénes fueron incluidas por los maestros y maestras demandantes en el presente caso, como ha quedado claramente demostrado, éstas carecen de personalidad jurídica. No empece a ello, conforme a la normativa antes expuesta, la Academia San José está cubierta por la personalidad jurídica que tiene la Parroquia San José y, la Academia San Ignacio de Loyola está cubierta por la personalidad jurídica que tiene la orden religiosa, Orden de la Compañía de Jesús en Puerto Rico, Inc. La Parroquia San José, ni la Orden de la Compañía de Jesús en Puerto Rico, Inc., han sido traídas a este pleito, ni forman parte del mismo.

Es decir, el presente caso adolece también de la ausencia de partes indispensables que permitan resolver

adecuadamente las controversias ante nuestra consideración. Así pues, debieron acumularse en el pleito la Parroquia San José, la Orden de la Compañía de Jesús en Puerto Rico, Inc., y todas las diócesis que pudieran ser llamadas a responder por el pago de la pensión, por concepto de retiro, que hoy los maestros y maestras demandantes exigen. Lo anterior, tampoco se hizo.

En fin, ante las claras y crasas violaciones al debido proceso de ley habidas en el presente litigio, así como ante la ausencia de partes indispensables para la correcta adjudicación del mismo, no era ni es necesario -- como hizo el Tribunal de Apelaciones -- pasar juicio sobre los demás señalamientos de error. Procedía, sin más, decretar nulas en toda su extensión las *Resoluciones y Ordenes* emitidas por el Tribunal de Primera Instancia, las cuales son objeto de revisión en el caso de marras, y, en consecuencia, devolver el caso a dicho foro para que -- habiéndose ya determinado quiénes verdaderamente tienen personalidad jurídica en el presente caso -- celebre una nueva vista, de conformidad con lo sentenciado previamente por este Tribunal, para establecer quién o quiénes están obligados a continuar el pago de las pensiones objeto de este litigio en lo que el mismo es resuelto de forma final.

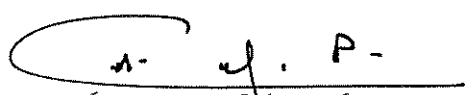
IV.

Para concluir, es menester recordar que, al momento de dictar sentencia, los tribunales debemos asegurarnos de que el remedio que, en su día se emita, sea uno eficaz y capaz de

cumplirse por la parte obligada. Por ello, las interpretaciones en derecho y los remedios provistos a su amparo deben ser posibles de cumplir. El dictamen emitido por este Tribunal presenta muchísimas interrogantes al respecto, a saber: ¿Cómo vamos ejecutar la sentencia? ¿A quién le vamos a exigir el cumplimiento, a una de las diócesis o a todas? De ahora en adelante, ¿cómo vamos adquirir jurisdicción sobre la *Iglesia Católica, Apostólica y Romana*? ¿Bastará el diligenciamiento de un emplazamiento contra una sola de las diócesis para adquirir jurisdicción sobre la *Iglesia Católica, Apostólica y Romana*, o deberán emplazarse a todas las diócesis en nuestra jurisdicción? ¿Se hace extensivo este dictamen a las iglesias de otras denominaciones, como las *Iglesia Metodista, Iglesia Bautista, Iglesia Adventista, Iglesia Episcopal, Iglesia Pentecostal, Iglesia Luterana*, entre otras? Éstas son algunas de las problemáticas que presenta el dictamen que hoy se emite.

V.

Siendo ello así, disentimos del curso de acción seguido por una Mayoría de este Tribunal en el día de hoy. En consecuencia, hubiésemos modificado la Sentencia del Tribunal de Apelaciones, y así modificada, confirmaríamos la misma.


Ángel Colón Pérez
Juez Asociado

APPENDIX P

ESTADO LIBRE ASOCIADO DE PUERTO RICO
TRIBUNAL DE PRIMERA INSTANCIA
SALA SUPERIOR DE SAN JUAN

YALÍ ACEVEDO FELICIANO, JOHN A. WILLIAMS BERMÚDEZ y la Sociedad Legal de Bienes Gananciales compuesta por ambos; JUAN D. ALBARRÁN RODRÍGUEZ; CARMEN M. ALMÓDOVAR OLIVA; MIGUEL E. ALONSO REYES, MARY L. DE GRAUX VILLAFAÑA y la Sociedad Legal de Bienes Gananciales compuesta por ambos; IRAIDA ALVARADO GARCÉS; LUIS APONTE SANTIAGO, LOURDES ISERN y la Sociedad Legal de Bienes Gananciales compuesta por ambos; MILAGROS ARROYO REYES, JOSÉ A. SOLÍS RÍOS y la Sociedad Legal de Bienes Gananciales compuesta por ambos; ENID ÁVILA CARDONA, BORIS CORUJO ORRACA y la Sociedad Legal de Bienes Gananciales compuesta por ambos; ANA AYALA TORRES, RAMÓN ORTIZ y la Sociedad Legal de Bienes Gananciales compuesta por ambos; ESTHER C. BARRERA; GLORIA CARABALLO FIGUEROA, JORGE LUIS LEAVITT y la Sociedad Legal de Bienes Gananciales compuesta por ambos; GLORIA M. CERRA QUIÑONES, JAIME LÓPEZ DÍAZ y la Sociedad Legal de Bienes Gananciales compuesta por ambos; ERNESTO N. CHIESA FIGUEROA, MARÍA E. BÁEZ BELLO y la Sociedad Legal de Bienes Gananciales compuesta por ambos; VILMARIE CHIROLDES CARBIA; MAYRA DAGMAR COLÓN NIEVES; RAMONITA COVAS BERNIER; MARÍA M. CRUZ CASSÉ, JOSÉ F. UMPIERRE RIVERA y la Sociedad Legal de Bienes Gananciales compuesta por ambos; LUZ D. CRUZ RODRÍGUEZ; ANA ROSA CUESTA DEL VALLE; FRANCISCO E. DE LOS SANTOS AQUINO, MARÍA DEL C. ORTIZ NAVARRO y la Sociedad Legal de Bienes Gananciales compuesta por ambos; YOLANDA M. ELIZONDO DEL PINO; VIRGILIO ESPINAL WALLACE, SANTA LEBRÓN FERRERA y la Sociedad Legal de Bienes Gananciales compuesta por ambos; AIDA TERESA FEBRES HERNÁNDEZ, JUAN R. GARCÍA LOUBRIEL y la Sociedad Legal de Bienes Gananciales compuesta por ambos; MARÍA JOSÉ FERNÁNDEZ MAGADÁN; ENEIDA FERNÁNDEZ MORENO; CLARA E. FERNÁNDEZ SISSA; SARITA FONT RODRÍGUEZ, JOSÉ M. CASTRO PAVÍA y la Sociedad Legal de Bienes Gananciales compuesta por ambos; ALFREDO GARCÍA, MARIBEL CASANOVA y la Sociedad Legal de Bienes Gananciales compuesta por ambos; LIZ GARCÍA DÁVILA; VANESSA GARCÍA DÁVILA, HÉCTOR JORGE MONSERRATE y la Sociedad Legal de Bienes Gananciales compuesta por ambos; IVELISSE GARCÍA VEGA, FRANCISCO J. MIRANDA DEL VALLE y la Sociedad Legal de Bienes Gananciales compuesta por ambos; LYMARIS GONZÁLEZ SIERRA, REYNALDO

CIVIL NÚM.: SJ2016CV00131
(consolidado con SJ2016CV00143 y
SJ2016CV00156)

SALÓN DE SESIONES: 904

SOBRE:

ORDEN DE CESE Y DESISTA Y/O
INJUNCTION; SENTENCIA
DECLARATORIA; CUMPLIMIENTO DE
CONTRATO; IMPEDIMENTO POR
ACTOS PROPIOS; DAÑOS Y
PERJUICIOS; ACCIÓN DE CLASE

ORTIZ y la Sociedad Legal de Bienes Gananciales compuesta por ambos; ELBA GUTIÉRREZ SCHMIDT; HÉCTOR JULIÁN LANZÓ ROLDÁN, LYDIA RIVERA FLORES y la Sociedad Legal de Bienes Gananciales compuesta por ambos; JOSÉ MANUEL LEAVITT REY; CARMEN E. LEDESMA MÉNDEZ, CLAUDIO E. ACARÓN BONILLA y la Sociedad Legal de Bienes Gananciales compuesta por ambos; CLARITA LIDIN DE ROM, CARLOS ROM GORIS y la Sociedad Legal de Bienes Gananciales compuesta por ambos; TERESA LÓPEZ GUZMÁN; LIGIA LÓPEZ OLIVER; CHRISTINE M. LUGO QUESADA; CARLIXTA MARTÍNEZ VILORIO, RONNY ECHEVARRÍA y la Sociedad Legal de Bienes Gananciales compuesta por ambos; MILAGROS MATOS ÁLVAREZ, ANTONIO MANUEL TAVERAS y la Sociedad Legal de Bienes Gananciales compuesta por ambos; AWILDA MELÉNDEZ RÍOS, EDWIN SÁNCHEZ MALDONADO y la Sociedad Legal de Bienes Gananciales compuesta por ambos; EDDA I. MELÉNDEZ RIVERA; YEIDY R. OLIVER HERNÁNDEZ; JESÚS ORTIZ GARCÍA, MARTA VILLAMIL RODRÍGUEZ y la Sociedad Legal de Bienes Gananciales compuesta por ambos; DIANA ORTIZ RODRÍGUEZ; NERIROSA OTERO ROMERO, ALBERTO DEL TORO y la Sociedad Legal de Bienes Gananciales compuesta por ambos; CARMEN PRISCILLA PAVÍA CABANILLAS; FRANCISCA RAMÍREZ, LUIS DARÍO TINEO SÁNCHEZ y la Sociedad Legal de Bienes Gananciales compuesta por ambos; MILAGROS RAMOS, ALONSO DE HOYOS y la Sociedad Legal de Bienes Gananciales compuesta por ambos; JUAN M. RAMOS PIZARRO, DORA CARRASQUILLO MÁRQUEZ y la Sociedad Legal de Bienes Gananciales compuesta por ambos; IRAIDA RINALDI RÍOS, FERNANDO QUIÑONES APONTE y la Sociedad Legal de Bienes Gananciales compuesta por ambos; CARLOS JUAN RIVERA PADUA, NOELIA M. TORRES COTTS y la Sociedad Legal de Bienes Gananciales compuesta por ambos; GEORGINA RIVERA RODRÍGUEZ; DIANA ROCHE RODRÍGUEZ RÍOS; ÁNGELA RODRÍGUEZ COLÓN, PEDRO A. DEL VALLE FERRER y la Sociedad Legal de Bienes Gananciales compuesta por ambos; GENOVEVA RODRÍGUEZ ROSA; CARLOS RUIZ PORRATA, SYLVIA RAMOS MOREAU y la Sociedad Legal de Bienes Gananciales compuesta por ambos; CARMEN C. RUIZ REXACH; MARLENE RUIZ RUIZ, JORGE A. SALDARRIAGA BARRAGÁN y la Sociedad Legal de Bienes Gananciales compuesta por ambos; MARÍA VICTORIA SAIZ MARTÍNEZ, RAMIRO JORDÁN SARRIA y la Sociedad Legal de Bienes Gananciales compuesta por ambos; OSCAR SÁNCHEZ DEL CAMPO

DELGADO; DIANA SARDIÑA HERNÁNDEZ, JORGE ESCOBAR y la Sociedad Legal de Bienes Gananciales compuesta por ambos; YOLANDA SEDA BENÍTEZ, MANUEL A. PÉREZ SÁNCHEZ y la Sociedad Legal de Bienes Gananciales compuesta por ambos; ESTRELLA SISSA DE LEÓN; CRISTINA SORIANO; AMELIA SOTOMAYOR DÍAZ; RAMONA STOKES GIMÉNEZ; LUIS DARÍO TINEO SÁNCHEZ, FRANCISCA RAMÍREZ NÚÑEZ y la Sociedad Legal de Bienes Gananciales compuesta por ambos; RITA I. TORO MONSERRATE, MIGUEL A. HERNÁNDEZ FELICIANO y la Sociedad Legal de Bienes Gananciales compuesta por ambos; NOELIA TORRES COTTS, CARLOS J. RIVERA PADUA y la Sociedad Legal de Bienes Gananciales compuesta por ambos; LIANIS Z. VÉLEZ PÉREZ, JULIO RODRÍGUEZ ODUM y la Sociedad Legal de Bienes Gananciales compuesta por ambos; et als.

Demandantes Academia Nuestra Señora del Perpetuo Socorro,

SONIA ARROYO VELÁZQUEZ, JESÚS M. FRANCO VILLAFANE y la Sociedad Legal de Bienes Gananciales compuesta por ambos; HÉCTOR LUIS BÁEZ RODRÍGUEZ; ANA TERESITA BORGES RODRÍGUEZ; ALICIA CASTILLO PEÑA, WILLIAM MANGUAL MARTÍNEZ y la Sociedad Legal de Bienes Gananciales compuesta por ambos; MIRIAM CORTÉS PÉREZ; ELSIE DE JESÚS ROSADO; ISABEL DEL VALLE RIVERA; SARA J. DISDIER CABALLERO; ELENA DURÁN SOBRINO; MARÍA M. ESPINOSA MIRANDA, ARIEL PAGÁN RODRÍGUEZ y la Sociedad Legal de Bienes Gananciales compuesta por ambos; MARLIA FELICIANO SANTANA, CARLOS M. MELÉNDEZ y la Sociedad Legal de Bienes Gananciales compuesta por ambos; AMARILIS FLORES RUIZ; ALFONSO GARCÍA RUIZ y la Sociedad Legal de Bienes Gananciales compuesta por ambos; EVA J. FREIRE, FÉLIX J. LUGO SOTO y la Sociedad Legal de Bienes Gananciales compuesta por ambos; IVETTE FUENTES FEBLES; GLENDA GARCÍA MARTÍNEZ; MARÍA T. GESWALDO MEDINA; SANDRA IVETTE GRAU MORALES, PEDRO R. VILLALTA BERNABE y la Sociedad Legal de Bienes Gananciales compuesta por ambos; IVELISSE LABOY RUIZ, MARK A. NESTE y la Sociedad Legal de Bienes Gananciales compuesta por ambos; MARI ANGELIE LAMBOGLIA VILÁ, JOSÉ F. ADROVER ROBLES y la Sociedad Legal de Bienes Gananciales compuesta por ambos; ANA DORIS LLADÓ SILVA; LESLIE JANETTE LÓPEZ BÁEZ, JUAN CARLOS GONZÁLEZ RODRÍGUEZ y la Sociedad Legal de Bienes Gananciales compuesta por ambos; NILSA LÓPEZ MARCANO; TENSY MACHARGO ENRIQUEZ; Omayra Marrero

SANTIAGO, MIGUEL ÁNGEL LOZADA y la Sociedad Legal de Bienes Gananciales compuesta por ambos; FLORIN M. MARTÍNEZ FONTÁN, ÁNGEL M. DE LA ROSA SCHUCK y la Sociedad Legal de Bienes Gananciales compuesta por ambos; NILDA MARTÍNEZ MÉNDEZ; ELIEZER TULIER POLANCO y la Sociedad Legal de Bienes Gananciales compuesta por ambos; JANICE MERCADO CORUJO, VICENTE ROMÁN ARRIAGA y la Sociedad Legal de Bienes Gananciales compuesta por ambos; NEREIDA MONTES BURGOS, SAMUEL MONGE PÉREZ y la Sociedad Legal de Bienes Gananciales compuesta por ambos; LILLIAN OTERO CABRERA; ALMA PADILLA MORALES; MINU DERBHIS PAGÁN RAMOS, ISMAEL PLACA ESTREMER y la Sociedad Legal de Bienes Gananciales compuesta por ambos; ANA L. PÉREZ PÉREZ; EILEEN PÉREZ REYES, JOSÉ JAVIER SANTOS MIMOSO y la Sociedad Legal de Bienes Gananciales compuesta por ambos; LOURDES PUIG SÁNCHEZ, CARLOS E. CHAPEL PALERM y la Sociedad Legal de Bienes Gananciales compuesta por ambos; AYRICELL QUINTANA MUÑIZ; SONIA M. RAMOS GONZÁLEZ, REINALDO SANTANA y la Sociedad Legal de Bienes Gananciales compuesta por ambos; NILDA RIVAS LABOY, JUAN MEDINA CASTRO y la Sociedad Legal de Bienes Gananciales compuesta por ambos; PEDRO RIVERA ORTIZ; MARGARITA RIVERA ROSADO; WANDA RIVERA VEGA, ERNESTO MALDONADO OJEDA y la Sociedad Legal de Bienes Gananciales compuesta por ambos; EVELYN D. RODRÍGUEZ SOTO; GLADYS J. RODRÍGUEZ SULIVERES; BRENDA RODRIGUEZ TORO DE DAMIANI, NICHOLAS DAMIANI LÓPEZ y la Sociedad Legal de Bienes Gananciales compuesta por ambos; YOLANDA RODRÍGUEZ TORO DE GIL, LUIS A. GIL BORGOS y la Sociedad Legal de Bienes Gananciales compuesta por ambos; JEANETTE ROIG LÓPEZ, JOSÉ A. RIVERA y la Sociedad Legal de Bienes Gananciales compuesta por ambos; EDDIE W. SANTIAGO FIGUEROA; CARMEN J. SANTIAGO HERNÁNDEZ; FE MIGDALIA SANTIAGO PADILLA; CARMEN SANTINI RIVERA; DORA ELISA SOLER MUÑIZ; MAGDA E. TOLEDO RODRÍGUEZ; TAHIRA E. VARGAS GÓMEZ, JOAN VARGAS y la Sociedad Legal de Bienes Gananciales compuesta por ambos; LEONOR VÉLEZ ORTIZ, ISRAEL MENCHACA DOBAL y la Sociedad Legal de Bienes Gananciales compuesta por ambos; YOLANDA VÉLEZ ROSADO, FERNANDO SÁNCHEZ SALDAÑA DOBAL y la Sociedad Legal de Bienes Gananciales compuesta por ambos; BRENDA WHARTON FLORES

Demandantes Academia San José,

ELSIE ALVARADO RIVERA, ISIDORO HERNÁNDEZ y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos;

ESTHER M. ÁLVAREZ MELÉNDEZ, JAVIER O. TORRES y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos; MARGARITA ÁLVAREZ RODRÍGUEZ; LIONEL ARROYO CARRERO; ADA L. ARROYO SÁNCHEZ, JOSÉ A. HERNÁNDEZ NIEVES y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos; ZENAIDA BASORA URRUTIA, HERMES ROMÁN AMADOR y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos; LUIS A. CARRIÓN PÉREZ; SILVIA E. CASIANO TELLADO, GERARDO F. LÓPEZ MUÑOZ y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos; BÁRBARA V. CASIANO VELÁZQUEZ; LUISA M. CASTRO RIVERA, JAIME LUIS GARCÍA GARDA y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos; CARMEN M. CRESPO; ANDRÉS DURÁN CASTAÑOS, VANESSA FIGUEROA GONZÁLEZ y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos; ZONYA ESPINOSA TARNIELLA; DORA FERNÁNDEZ PADILLA; GLADYS M. FIGUEROA GAUTIER, RICHARD ZAMBRANA y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos; AUDILIA FUENTES SANTOS; LOURDES GODÉN GAUD, ELIUD A. SERRANO GONZÁLEZ y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos; JOSSIE A. GONZÁLEZ VENTURA, EDGARDO REYES MORALES y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos; ROSA D. HERNÁNDEZ ROSADO, RICARDO LEBRÓN MALDONADO y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos; JANINE HIDALGO SANTIAGO, HÉCTOR MARTÍNEZ TOSADO y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos; ALICE M. HUYKE SOUFFRONT, CARLOS E. JIMÉNEZ TORRES y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos; OLGA M. JAUME TAPIA, ANTONIO GINÉS MONTALVO y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos; MARÍA L. JULIA JULIA, MIGUEL ÁNGEL RÍOS GERENA y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos; ANA R. JULIA SAVARIT; LINDA LÓPEZ ARRIAGA, JOSÉ REYES ROSARIO y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos; ARLENE LÓPEZ CANCEL; LUIS A. MARTÍNEZ VÁZQUEZ; FELÍCITA MONTAÑEZ FIGUEROA, MIGUEL A. ALBARRÁN REYES y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos; ASMARA MORALES YEPES; CARMEN T. MORRIS ZAMORA; VIVIAN ORTIZ SCHETTINI; MARÍA DE LOS A. PACHECO RODRÍGUEZ, ALFRED DEMEL y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos; YANIRA PADILLA SANTIAGO; ELIEZER PARRILLA MELÉNDEZ, MARÍA GARCÍA MONTAÑEZ y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos; LIZA POLANCO

PAGÁN, WALTER RICARDO BONILLA SANTALIZ y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos; MYRNA QUIJANO GUILLAMA; SONIA RIVERA COLÓN, JORGE ARIEL VÁZQUEZ ROMÁN y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos; IRIS RODRÍGUEZ DELGADO; ÁNGEL F. ROLÓN RIVERA, MARÍA TERESA DEL VALLE y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos; GINETTE ROSADO SÁNCHEZ, EUGENIO RENÉ CHINEA y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos; JAVIER ROSADO TORRES, MARÍA S. URANGO SALCEDO y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos; FANIVEL ROSARIO SANTIAGO; ADELA SABATIER ÁGUILA, RUDY E. MAYOL KAUFFMANN y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos; ANA SIERRA DÍAZ, CÉSAR MANUEL SIERRA RONDÓN y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos; MAYRA E. SOTO GUZMÁN, JOSÉ A. CANDELARIA MALDONADO y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos; NELLY-ANN SUÁREZ PESANTE; ANA M. TIRADO COLÓN, YARIM E. CROS VÁZQUEZ y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos; CLARA L. TIRADO RÍOS, SAMUEL LÓPEZ PÉREZ y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos; AURÍN VALCARCEL CERVERA; MIRTELINA VÁZQUEZ ROBLES, JOSÉ V. TORRES RIVERA y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos; MIRIAM VILLARDEFrancos VERGARA; LOURDES M. ZEGRÍ PRIETO, CARLOS E. RENTAS GIUSTI y la Sociedad Legal de Bienes Gananciales Compuesta por Ambos,

Demandantes Academia San Ignacio de Loyola,

vs.

LA SANTA IGLESIA CATÓLICA APOSTÓLICA EN LA ISLA DE PUERTO RICO (Iglesia Católica) y sus dependencias que incluyen (i) la ARQUIDIÓCESIS DE SAN JUAN, (ii) la SUPERINTENDENCIA DE LAS ESCUELAS CATÓLICAS DE LA ARQUIDIÓCESIS DE SAN JUAN; (iii) la SUPERINTENDENCIA DE LAS ESCUELAS CATÓLICAS DE CAGUAS y (iv) las siguientes escuelas no incorporadas, que se demandan como dependencias de la Iglesia Católica: ACADEMIA DEL PERPETUO SOCORRO; ACADEMIA SAN JOSÉ; ACADEMIA SAN IGNACIO DE LOYOLA; ACADEMIA DEL ESPIRITU SANTO; COLEGIO NUESTRA SEÑORA DE LOURDES, COLEGIO NUESTRA SEÑORA DE BELÉN; COLEGIO NUESTRA SEÑORA DE GUADALUPE; COLEGIO SAGRADO CORAZÓN DE JESÚS; COLEGIO SAN VICENTE DE PAUL; ACADEMIA SAN

JORGE: COLEGIO SANTA CRUZ, COLEGIO CORAZÓN DE MARÍA; ACADEMIA NUESTRA SEÑORA DE LA PROVIDENCIA; COLEGIO LA PIEDAD; ESCUELAS O DEPENDENCIAS DE LA IGLESIA NO INCORPORADAS “X” y “Y”; FIDEICOMISO DEL PLAN DE PENSIÓN PARA EMPLEADOS DE ESCUELAS CATÓLICAS; MONSEÑOR ROBERTO GONZÁLEZ NIEVES, por sí y en su capacidad como Arzobispo de San Juan; ANA CORTÉS CRESPO, por sí en su capacidad como directora de la Superintendencia de las Escuelas Católicas de la Arquidiócesis de San Juan, así como a su Cónyuge y Sociedad Legal de Bienes Gananciales y los siguientes fiduciarios y/o síndicos del Plan de Pensiones del Plan de Retiro de las Escuelas Católicas de la Arquidiócesis de San Juan: Hermana CARMEN GONZÁLEZ; RAÚL NIEVES; ANÍBAL COLÓN ROSA; Padre JUAN SANTA GUZMÁN; RAMÓN GUZMÁN; ÁNGEL GALIÑANES LLORENS; ÁNGEL CASTILLO BURGOS; ROSA FIGUEROA MUNDO; JULIO SÁNCHEZ ORTIZ; RENÉ AVILÉS LÓPEZ; SAMUEL SOTO ALONSO; Padre ENRIQUE CAMACHO; Padre MILTON RIVERA; Padre DAVID VARGAS; JOSÉ PIZÁ; ENRIQUE DÁVILA; ROSA I. PÉREZ; Padre CARLOS QUINTANA; Padre VALERIANO MIGUELES; Padre ARMANDO ÁLVAREZ; RAFAEL L. MORALES; MARÍA S. DE MARXUACH; Monseñor BAUDILIO MERINO; FIDUCIARIOS “XX” y “YY”; Cónyuges y Sociedades Legales de Bienes Gananciales de los fiduciarios y/o Síndicos; “A”, “B” y “C” como personas que pudieran serle responsables a los demandantes bajo cualquier causa de acción concebible tales como incumplimiento o violación de contratos, daños y perjuicios e enriquecimiento injusto.

Demandados.

CUARTA DEMANDA ENMENDADA

AL HONORABLE TRIBUNAL:

COMPARECEN los demandantes de epígrafe, por conducto de la representación legal que suscribe, y respetuosamente exponen, alegan y solicitan:

I. INTRODUCCIÓN

1. Los arriba demandantes son 184 maestros, empleados y exempleados de: (1) Academia Nuestra Señora del Perpetuo Socorro

(“Perpetuo Socorro”) ubicada en Miramar, (2) Academia San José (“San José”), ubicada en Villa Caparra, y (3) Academia San Ignacio de Loyola (“San Ignacio”), ubicada en San Juan todos los cuales son beneficiarios de Plan de Pensión Para Empleados de Escuelas Católicas (el “Plan”) establecido por la Arquidiócesis de San Juan de la Santa Iglesia Católica Apostólica y Romana en la Isla de Puerto Rico (la “Iglesia Católica”) a través de la Superintendencia de las Escuelas Católicas de la Arquidiócesis de San Juan (la “Superintendencia”).

2. El Plan opera por conducto del Fideicomiso Para el Plan de Pensión de las Escuelas Católicas (el “Fideicomiso”) y agrupa a 42 escuelas y entidades, muchas de las cuales, como sucede con Perpetuo Socorro, San José y San Ignacio, no están incorporadas y se demandan como dependencias de la Iglesia Católica.

3. La demanda incluye solamente a aquellos empleados y maestros de las escuelas y dependencias de la Iglesia participantes en el Plan de Pensiones de la Arquidiócesis de San Juan que no están incorporadas y que funcionan como dependencias de la Iglesia Católica. Hasta donde conoce la parte demandante, las escuelas y dependencias de la Iglesia no incorporadas participantes en el Plan de la Arquidiócesis de San Juan son las que se incluyen en el epígrafe del caso. Se incluyen bajo nombres ficticios “X” y “Y” aquellas escuelas o dependencias de la Iglesia no incorporadas participantes en el Plan de Retiro de la Arquidiócesis de San Juan que no hubieran sido correctamente identificadas por la parte demandante.

4. Los demandantes comparecen ante este Tribunal porque, efectivo el 30 de junio de 2016, el Fideicomiso terminó el Plan y eliminó los beneficios adquiridos de los demandantes.

5. Los comparecientes son todos maestros, empleados y exempleados de escuelas católicas adscritas al Plan que tienen derechos adquiridos conforme a sus términos. Todos ellos trabajaron y/o trabajan para escuelas

de la Iglesia Católica que no están incorporadas. Los demandantes plantean que sus derechos adquiridos bajo el Plan no pueden ser eliminados retroactivamente, como pretende la Iglesia Católica. Los demandantes plantean que ellos son empleados de la Iglesia Católica y que esta parte está obligada al pago de sus derechos adquiridos.

6. Además, y como parte de esta Cuarta Demanda Enmendada, los demandantes de las tres (3) escuelas antes descritas comparecen en representación de una clase compuesta por todos los maestros, empleados y exempleados que gozan de derechos adquiridos bajo el Plan y que trabajan para escuelas y dependencias de la Iglesia Católica que no aparecen incorporadas bajo el procedimiento establecido por las leyes de Puerto Rico. Se presenta la acción como un pleito de clase debido a que, por la numerosidad de los participantes en el Plan con derechos adquiridos que laboran para escuelas y dependencias de la Iglesia no incorporadas, resulta impráctico acumular a todos los maestros, empleados y exempleados de dichas escuelas y dependencias. Se excluyen de la clase aquellos maestros, empleados y exempleados adscritos al Plan que figuran como demandantes en acciones separadas presentadas ante los Tribunales de Puerto Rico o el Tribunal de Distrito de los Estados Unidos para el Distrito de Puerto Rico. También se excluyen de la clase aquellos maestros y empleados que laboran para escuelas o dependencias de la Iglesia que hubieran sido incorporadas a tenor del procedimiento establecido por las leyes de Puerto Rico.

7. Todos los demandantes que representan a la clase han trabajado más de diez (10) años para Perpetuo Socorro, San José, San Ignacio y/o la Iglesia Católica y han adquirido derechos bajo el Plan. Según sea aplicable, todos comparecen junto a sus respectivos cónyuges y sociedades legales de bienes gananciales.

8. En su devenir procesal, este pleito comenzó con la radicación de la demanda el 6 de junio de 2016 a poco seguido por la celebración de una

vista de injunction preliminar. El Tribunal de Primera Instancia denegó la solicitud de injunction y el Tribunal de Apelaciones confirmó. Sin embargo, mediante Sentencia del 18 de julio de 2017, el Tribunal Supremo revocó las determinaciones de Instancia y el Tribunal de Apelaciones luego de una minuciosa revisión de la prueba desfilada. El Tribunal Supremo dispuso en la parte ejecutoria de la referida sentencia:

“En consecuencia, revocamos los *Resolución y Orden* emitida por el Tribunal de Primera Instancia, hallamos *ha lugar* la solicitud interdicto preliminar para continuar el pago de las pensiones. Le ordenamos al foro primario que celebre una vista donde determine si los colegios demandados tienen personalidad jurídica y, acto seguido, ordene la continuación de los pagos de pensiones por parte de los patronos de las peticionarias, ya sean las correspondientes Academias o la Iglesia.”

9. En atención a lo anterior, la parte demandante enmienda su demanda para conformarla a la referida Sentencia y solicitar la certificación de la clase a ser compuesta por personas en la misma posición que los demandantes.

II. CERTIFICACIÓN DE CLASE.

10. Se solicita del Honorable Tribunal que, como parte demandante, certifique a la siguiente clase:

A. LA CLASE:

Todos los Maestros, Empleados y Ex Empleados que cumplieron con las condiciones del Plan de Pensiones de las Escuelas Católicas de la Arquidiócesis de San Juan para adquirir derechos bajo los términos de dicho Plan y/o que adquirieron derechos bajo dicho Plan al 30 de junio de 2016, que trabajan o trabajaron para escuelas y dependencias de la Iglesia Católica que no aparecen incorporadas bajo el procedimiento establecido por las leyes de Puerto Rico.

B. SUBCLASES:

La Clase Demandante está compuesta por dos Subclases:

PRIMERA SUBCLASE: Todos los Maestros, Empleados y Ex Empleados que trabajan o trabajaron para escuelas y dependencias de la Iglesia Católica que no aparecen incorporadas bajo el procedimiento establecido por las leyes de Puerto Rico, que gozan de derechos adquiridos bajo los términos del Plan de Pensiones de las Escuelas Católicas de la Arquidiócesis de San Juan y que a la fecha de la

terminación del Plan (30 de junio de 2016) ya habían comenzado a recibir sus pensiones de retiro (“*pay status*”).

SEGUNDA SUBCLASE: Todos los Maestros, Empleados y Ex Empleados que trabajan o trabajaron para escuelas y dependencias de la Iglesia Católica que no aparecen incorporadas bajo el procedimiento establecido por las leyes de Puerto Rico, que gozan de derechos adquiridos bajo los términos del Plan de Pensiones de las Escuelas Católicas de la Arquidiócesis de San Juan y que a la fecha de la terminación del Plan (30 de junio de 2016) aún no habían comenzado a recibir sus pensiones de retiro (“*non pay status*”).

C. EXCLUSIONES DE LA CLASE:

(i) La clase excluye a los Maestros, Empleados y Ex Empleados que, para la fecha de la presentación de la presente demanda, previamente han comparecido como demandantes en acciones judiciales separadas ante Tribunales de Puerto Rico o el Tribunal de Distrito de los Estados Unidos para el Distrito de Puerto Rico, reclamando derechos bajo el Plan o solicitando remedios afines a los que se solicita en la presente demanda. [Esos maestros ya tienen representación legal y están activamente procesando sus reclamaciones ante distintos foros.]

(ii) La clase excluye a todos los Maestros, Empleados y Ex Empleados que cumplieron con las condiciones del Plan de Pensiones de las Escuelas Católicas de la Arquidiócesis de San Juan para adquirir derechos bajo los términos de dicho Plan y/o que adquirieron derechos bajo dicho Plan al 30 de junio de 2016, que trabajan o trabajaron para escuelas católicas y dependencias de la Iglesia Católica participantes en el Plan de Pensiones, que hubieran sido incorporadas a tenor con el procedimiento establecido por las leyes de Puerto Rico y que, por lo tanto, gozan de personalidad jurídica separada a la de la Iglesia. Esos maestros tienen una causa de acción contra un ente corporativo patronal (v.g., escuelas incorporadas).

(iii) La clase además excluiría a todos aquellos que, siendo elegibles para formar parte de la clase, elijan y ser excluidos de la clase y este pleito, dentro de los términos y condiciones que establezca el Tribunal.

11. El número de miembros de la clase es tan numeroso que la inclusión de cada uno los miembros sería impráctico e inconveniente. Para el 1ro. de septiembre de 2010, el Plan de Pensiones agrupaba a 3,781 participantes, cantidad que aumentó posteriormente. Se estima que, a la fecha de su terminación, el número de participantes del plan habrán rebasado 4,000 participantes, de los cuales alrededor de 1,000 (incluyendo los demandantes actuales) serían miembros en la clase, según definida.

12. La parte demandada incurrió en un curso de conducta común que violó los derechos que la clase. Todas las reclamaciones de los demandantes individuales tienen una base común y pueden ser agrupadas en un solo litigio.

13. Los miembros de la clase han sufrido daños a causa del curso de conducta de la parte demandada. Los daños sufridos por los miembros de la clase se deben a la conducta de la parte demandada que ocasionó la insolvencia del Plan, terminó el pago de beneficios a los miembros de la clase y eliminó y/o redujo los beneficios de pensión ya adquiridos por los demandantes.

14. Las reclamaciones de los representantes de la clase son típicas de las reclamaciones de los demás miembros de la clase. A todos los demandantes se les ha privado de los beneficios adquiridos bajo el Plan de Pensiones. Todas las reclamaciones de la parte demandante surgen de un mismo curso de conducta que afecta a todos los miembros de la clase y da lugar a sus reclamaciones.

15. Las cuestiones de hechos y derecho son comunes a todos los miembros de la clase y predominan sobre asuntos que solo afectan a los miembros individuales de la clase. Todos los miembros de la clase se afectan por la insolvencia y terminación del plan, la suspensión del pago de sus pensiones y la suspensión de sus beneficios, independientemente de que trabajen para distintas escuelas. Todos los demandantes trabajan para instituciones que son dependencias de la Iglesia y que no han sido separadamente incorporadas bajo las leyes de Puerto Rico.

16. El pleito de clase resulta ser un mecanismo superior a otros procedimientos para la justa y eficiente adjudicación de la controversia. Sería extremadamente oneroso —tanto para los miembros de la clase como para el sistema de tribunales— litigar individualmente las reclamaciones de cada uno de los miembros de la clase, cuando la controversia se origina por

una misma conducta de la parte demandada que es común a todos los demandantes. Un pleito de clase es más manejable que cientos de pleitos individuales. Además, se proveerá el beneficio de la adjudicación uniforme de las reclamaciones de los miembros y la supervisión comprensiva del tribunal.

17. La parte demandante, y su representación legal, representará adecuadamente los intereses de toda la clase. La parte demandante tiene conocimiento de los hechos que dan lugar a las reclamaciones de la clase y ha retenido representación que ha demostrado su capacidad para asumir la representación de los distintos miembros de la clase.

III. REPRESENTANTES DE LA CLASE.

A. LOS DEMANDANTES DE PERPETUO SOCORRO

1. Demandantes Originales:

18. Los siguientes Maestros, Empleados y Ex Empleados de Perpetuo Socorro comparecieron como demandantes originales en el caso SJ2016CV00131:

19. La demandante Yalí Acevedo Feliciano tiene 68 años de edad y sufre de diversos padecimientos de salud, entre otras, cáncer, asma y condiciones respiratorias por exposición a histoplasmosis, artritis, diabetes y otras. La demandante trabajó en Perpetuo Socorro desde 1978 hasta 2014 cuando se jubiló y comenzó a percibir la pensión a la que tiene derecho bajo el Plan. Recibe \$1,384.52 mensuales por concepto de su pensión. La demandante completó los 10 años de servicio con la Arquidiócesis en 1989. La demandante depende de su pensión para vivir y para manejar sus distintos padecimientos de salud. La demandante está casada con el co-demandante John A. Williams Bermúdez. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: O-9 Calle McKinley, Guaynabo, PR 00969; (787) 316-6229.

20. El demandante Juan D. Albarrán Rodríguez tiene 42 años de edad. Trabaja en Perpetuo Socorro desde 1997. Completó los 10 años de servicio con la Arquidiócesis en 2007. Actualmente es maestro de educación física en la escuela elemental. El demandante es soltero. Su dirección y teléfono, para fines de notificación, son: Dr. Espaillat BF8 5ta. Sec. Levittown, Toa Baja, PR 00949; (939) 969-2800.

21. La demandante Carmen M. Almodóvar Oliva tiene 67 años de edad y sufre padecimientos del corazón y artritis. Trabaja en Perpetuo Socorro desde 1994. Recibe una pensión mensual de \$586.67 mensual desde marzo de 2014, pero continúa trabajando. Completó sus 10 años de servicio con la Arquidiócesis en 2004. Actualmente es maestra de español en octavo grado. La demandante es viuda del Sr. Antonio R. Hernández Valdés. Su dirección y teléfono, para fines de notificación, son: Parques de San Ignacio, Calle 1 # D-4, San Juan, PR 00921-4800.

22. El demandante Miguel E. Alonso Reyes tiene 65 años de edad y padece de espasmos de su sistema músculo-esquelético y de desbalances. El demandante trabajó en Perpetuo Socorro desde 1984 hasta 2012 cuando se jubiló. Comenzó a percibir la pensión a la que tiene derecho bajo el Plan en 2013. Recibe \$851.24 mensual por concepto de su pensión. El demandante completó los 10 años de servicio con la Arquidiócesis en 1994. El demandante está casado con la co-demandante Mary L. De Graux Villafaña. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Octavio Marcano 531, Urb. Los Ingenieros, San Juan, PR 00918; (787) 565-2851.

23. La demandante Iraidá Alvarado Garcés tiene 74 años de edad. Trabaja en Perpetuo Socorro desde 1989. (Antes fue maestra en la Escuela Notre Dame en Caguas y en la Escuela San Antonio de Abad de Humacao). Recibe una pensión mensual de \$582.96 mensual desde septiembre de 2006,

pero continúa trabajando. Completó sus 10 años de servicio con la Arquidiócesis en 1999. Actualmente se desempeña como orientadora. La demandante es viuda. Su dirección y teléfono, para fines de notificación, son: 103 Gallery Plaza Apt. 1711, San Juan, PR 00911; (787) 509-5502.

24. El demandante Luis Aponte Santiago 39 años de edad. Trabaja en Perpetuo Socorro desde 2000. Completó los 10 años de servicio con la Arquidiócesis en 2010. Actualmente es maestro de Educación Física en escuela elemental. El demandante está casado con la co-demandante Lourdes Isern. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Calle Homero #42, Apolo, Guaynabo, PR 00969; (787) 633-9178.

25. La demandante Milagros Arroyo Reyes tiene 67 años de edad. Trabaja en Perpetuo Socorro desde 1989. (Antes, había trabajado en el Colegio San Antonio de Río Piedras). La demandante recibe una pensión mensual de \$879.00 desde de 2016, pero continúa trabajando. Completó sus 10 años de servicio con la Arquidiócesis en 1999. Actualmente se desempeña como maestra de inglés en el segundo grado. La demandante está casada con el co-demandante José A. Solis Ríos. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: 674 Calle Obregón Venus Gardens, San Juan, PR 00926; (787) 748-4506.

26. La demandante Enid Ávila Cardona tiene 45 años de edad y padece de diversas condiciones de salud, entre ellas hipotiroidismo y osteoartritis. Trabaja en Perpetuo Socorro desde 1993. Completó 10 años de servicio con la Arquidiócesis en el 2013. Actualmente, se desempeña como Decana de Estudiantes de Perpetuo Socorro. La demandante está casada con el co-demandante Boris Corujo Orraca. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y

teléfono, para fines de notificación, son: PO Box 361620, San Juan, PR 00936-1620; (787) 717-7499.

27. La demandante Ana Ayala Torres tiene 63 años de edad. Trabaja en Perpetuo Socorro desde 2004. Completó los 10 años de servicio con la Arquidiócesis en 2014. La demandante está casada con el co-demandante Ramón Ortiz. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: 653 Calle Estado, Apto. 1A, San Juan, PR 00907; (787) 450-7080.

28. La demandante Esther C. Barrera tiene 62 años de edad. Trabaja en Perpetuo Socorro desde 1991. Completó los 10 años de servicio con la Arquidiócesis en 2001. Actualmente enseña en la escuela superior y se desempeña como sicóloga. La demandante no está casada. Su dirección y teléfono, para fines de notificación, son: #54 Soldado Serrano, Ocean Park, San Juan, PR 00911; (787) 726-0512.

29. La demandante Gloria Caraballo Figueroa tiene 70 años y padece de diversas condiciones de salud, entre ellas hipertensión, hipercolesterolemia, osteoporosis entre otros padecimientos. Trabaja en el Perpetuo Socorro desde 1991. La demandante recibe una pensión mensual de \$384.17 desde aproximadamente el 2011 pero continúa trabajando en Perpetuo Socorro. Completó 10 años de servicio con la Arquidiócesis en el 2001. La demandante está casada con el co-demandante Jorge Luis Leavitt Rey. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Calle Málaga 8-43, Torrimar, Guaynabo, PR 00966; (787) 502-8276.

30. La demandante Gloria Cerra Quiñones tiene 48 años de edad. Trabaja en Perpetuo Socorro desde 1998. Completó los 10 años de servicio con la Arquidiócesis en 2008. Actualmente enseña pre-álgebra en séptimo grado. La demandante está casada con el co-demandante Jaime López Díaz.

La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: 177 Calle Violeta, San Juan, PR 00927; (787) 963-5156.

31. El demandante Ernesto Chiesa Figueroa tiene 46 años de edad. Trabaja en Perpetuo Socorro desde 2000. Completó los 10 años de servicio con la Arquidiócesis en 2010. Se desempeña como bibliotecario. El demandante está casado con la co-demandante María E. Báez Bello. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Cond. La Mancha, Apt. PH-12, Carolina, PR 00979; (787) 422-6866.

32. La demandante Vilmarie Chioldes Carbia tiene 63 años de edad y padece de diversas condiciones de salud, entre ellas, lupus, neuropatía, asma, hipotiroidismo, osteoporosis e hipertensión. Trabaja en Perpetuo Socorro desde 1989, con una interrupción entre 1992 y 2002. Completó los 10 años de servicio con la Arquidiócesis en 2010. Actualmente se desempeña como orientadora. La demandante no está casada. Su dirección y teléfono, para fines de notificación, son: Calle Elliot Place # 604, Cond. Elliot Hills, Apto. M F, San Juan, PR 00907.

33. La demandante Mayra Dagmar Colón Nieves tiene 61 años de edad y padece de osteoartritis. Trabaja en Perpetuo Socorro desde 1988. Completó los 10 años de servicio con la Arquidiócesis en 1998. Actualmente se desempeña como coordinadora de actividades. La demandante no está casada. Su dirección y teléfono, para fines de notificación, son: 316 Calle Faraday, Urb. Jardines Metropolitanos, San Juan, PR 00928; (787) 309-5931.

34. La demandante Ramonita Covas Bernier tiene 68 años de edad y padece de su espalda. Trabajó en Perpetuo Socorro desde 1988. La demandante recibe una pensión mensual de \$483 mensual desde 2013, pero continúa trabajando. Completó sus 10 años de servicio con la Arquidiócesis

en 1998. Actualmente se desempeña como maestra de estudios supervisados en pre-kinder. La demandante no está casada. Su dirección y teléfono, para fines de notificación, son: 212 Diez de Andino, Apt. 203, San Juan, PR 00912; (939) 645-0772.

35. La demandante María Cruz Cassé tiene 54 años de edad y es la encargada de una hija incapacitada. La demandante trabaja en Perpetuo Socorro desde 1999. (Antes trabajó en la Academia Nuestra Señora de la Providencia en Cupey). Completó los 10 años de servicio con la Arquidiócesis en 2009. Se desempeña como maestra de español en sexto grado. La demandante está casada con el co-demandante José F. Umpierre Rivera. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Cond. Miramar Plaza IIF, Ponce de León 954, San Juan, PR 00907; (787) 599-3493.

36. La demandante Luz D. Cruz Rodríguez tiene 62 años de edad. Trabaja en Perpetuo Socorro desde 1997. Completó los 10 años de servicio con la Arquidiócesis en 2007. Actualmente se desempeña como maestra de Kindergarten. La demandante no está casada. Su dirección y teléfono, para fines de notificación, son: 6300 Apto. 1106 Cond. La Mancha, Ave. Isla Verde, Carolina, PR 00979; (787) 306-3928.

37. El demandante Francisco E. De los Santos Aquino tiene 57 años de edad. Trabaja en Perpetuo Socorro desde 2006. Completó los 10 años de servicio con la Arquidiócesis en 2016. Se desempeña como maestro de religión en escuela intermedia. El demandante está casado con la co-demandante María del C. Ortiz Navarro. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Urb. Quintas Las Américas, Caguas, PR 00725; (787) 360-7901.

38. La demandante Yolanda M. Elizondo Del Pino tiene 76 años de edad, padece de insuficiencia cardiaca y utiliza un marcapasos. La

demandante trabajó en Perpetuo Socorro desde 1968. La demandante recibe una pensión mensual de \$828.06, pero continúa trabajando. Completó sus 10 años de servicio con la Arquidiócesis hace muchos años. Actualmente se desempeña como maestra de computadoras y dibujo técnico en la Escuela Superior. La demandante no está casada. Su dirección y teléfono, para fines de notificación, son: Avenida Ruiz Soler EE-2 Jardines de Caparra, Bayamón, PR 00959; (787) 785-6424.

39. El demandante Virgilio Espinal Wallace tiene 52 años de edad. Trabaja en Perpetuo Socorro desde 1998. Completó los 10 años de servicio con la Arquidiócesis en 2008. El demandante está casado con la co-demandante Santa Lebrón Ferrera. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Ave. Andalucía, 362 PMB 125, San Juan, PR 00920; (787) 364-1427.

40. La demandante Aida Teresa Febres Hernández tiene 63 años y padece de cáncer en el endometrio, condición de la cual fue operada en mayo de 2016 y para la que recibe quimioterapias y radioterapias. Trabaja en el Perpetuo Socorro desde 2001. Completó 10 años de servicio con la Arquidiócesis en el 2012. Actualmente, se desempeña como maestra para el duodécimo grado de la Escuela Superior. La demandante está casada con el co-demandante Juan R. García Loubriel. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: K 52, Marlin, Bahía Vistamar, Carolina, PR 00983; (787) 409-2063.

41. La demandante María José Fernández Magadán tiene 54 años de edad y es diabética. Trabaja en Perpetuo Socorro desde 1988. Completó los 10 años de servicio con la Arquidiócesis en 1998. Se desempeña como maestra de matemáticas en tercer grado. La demandante no está casada. Su dirección y teléfono, para fines de notificación, son: 151 César González,

Plaza Antillana, Apto. 3101, San Juan, PR 009918; (787) 529-8731.

42. La demandante Clara Fernández Sissa tiene 61 años de edad y toma medicamentos para el asma y alergias. La demandante trabaja en Perpetuo Socorro desde 2004. Completó los 10 años de servicio con la Arquidiócesis en 2014. Se desempeña como asistente bibliotecaria. La demandante no está casada. Su dirección y teléfono, para fines de notificación, son: Cond. Belmont, Miramar, Apto. 6, 704 Ave. Fernández Juncos, San Juan, PR 00907; (787) 725-4877.

43. La demandante Sarita Font Rodríguez tiene 59 años de edad. Trabaja en Perpetuo Socorro desde 1987. Completó los 10 años de servicio con la Arquidiócesis en 1997. Se desempeña como maestra de álgebra y pre-cálculo en escuela superior. La demandante está casada con el co-demandante José M. Castro Pavía. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: 1795 Calle Hibiscus, Urb. San Francisco, San Juan, PR 00927; (787) 360-5670.

44. El demandante Alfredo García tiene 55 años de edad y padece de la cintura. El demandante trabaja en Perpetuo Socorro desde 1996. Completó los 10 años de servicio con la Arquidiócesis en 2006. El demandante está casado con la co-demandante Maribel Casanova. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: PO Box 41, Luquillo, PR 00773; (787) 314-7871.

45. La demandante Liz A. García Dávila tiene 55 años de edad y padece de varias condiciones de salud, incluyendo artritis y colesterol alto. Trabaja en Perpetuo Socorro desde 1992. Completó los 10 años de servicio con la Arquidiócesis en 2002. Actualmente enseña estudios sociales en el cuarto grado. La demandante no está casada. Su dirección y teléfono, para fines de notificación, son: 141 Valles de Torrimar, Guaynabo, PR 00966-

8700; (787) 407-5772.

46. La demandante Vanessa García Dávila tiene 66 años de edad y padece de artritis y otras condiciones que afectan su salud. La demandante ha sido objeto de reemplazo de cadera y rodillas. La demandante trabajó en Perpetuo Socorro desde 1990 hasta 2009 cuando se jubiló por incapacidad y comenzó a percibir la pensión a la que tiene derecho bajo el Plan. Recibe \$339 mensuales por concepto de su pensión. La demandante completó los 10 años de servicio con la Arquidiócesis en 1990. La Sra. García está casada con el co-demandante Héctor Jorge Monserrate. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Calle Madrid #1, Cond. Lakeshore Apt. 6-B, San Juan, PR 00907; (939) 717-6671.

47. La demandante Ivelisse García Vega tiene 50 años de edad y padece de artritis e hipotiroidismo. La demandante trabajó en Perpetuo Socorro desde 1992. Completó los 10 años de servicio con la Arquidiócesis en 2002. (Trabajó en la Escuela Madre Cabrini durante 1991). La demandante está casada con el co-demandante Francisco J. Miranda del Valle. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: 517 Camino Estrella, Camino del Sol, Vega Baja, PR 00693; (787) 717-6410.

48. La demandante Lymaris González Sierra tiene 35 años de edad. Trabaja en Perpetuo Socorro desde 2005. Completó los 10 años de servicio con la Arquidiócesis en 2015. Actualmente es profesora de educación física en Escuela Intermedia y superior. La demandante está casada con el co-demandante Reynaldo Ortiz. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Urb. Palacios Reales, Calle Ricardi #107, Toa Alta, PR 00953; (787) 402-8566.

49. La demandante Elba Gutiérrez Schmidt tiene 66 años de edad. Trabaja en Perpetuo Socorro desde 1994. Completó los 10 años de servicio con la Arquidiócesis en 2004. La demandante recibe \$526.57 mensual por concepto de pensión bajo el Plan, pero continúa trabajando en Perpetuo Socorro, en una posición administrativa. La demandante es viuda. Su dirección y teléfono, para fines de notificación, son: 3307 Ave. Isla Verde Apto. 411, Surfside Mansions, Carolina, PR 00979; (787) 728-0183.

50. El demandante Héctor Julián Lanzó Roldán tiene 54 años de edad. Trabaja en Perpetuo Socorro desde 1986. Completó los 10 años de servicio con la Arquidiócesis en 1996. Actualmente es profesor de educación física y se desempeña como decano de estudiantes para la escuela intermedia y superior. El demandante está casado con la co-demandante Lydia Rivera Flores. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Calle Tamaulipa AZ-10, Venus Gardens, San Juan, PR 00926; (787) 485-5233.

51. El demandante José Manuel Leavitt Rey tiene 69 años de edad, es diabético y sufre de alta presión. El demandante trabaja en Perpetuo Socorro desde 1968, esto es, hace 48 años. Recibe una pensión mensual de \$1,862 desde junio de 2012, pero continúa trabajando. Completó sus 10 años de servicio con la Arquidiócesis hace ya muchos años. Actualmente es el vice principal de la escuela. El demandante no está casado. Su dirección y teléfono, para fines de notificación, son: Calle Teruel Apto. 4, Dos Pinos Townhouses, San Juan, PR 00923-2735.

52. La demandante Carmen E. Ledesma Méndez tiene 53 años de edad. Trabaja en Perpetuo Socorro desde 2002. (Previamente trabajó 4 años en el Colegio La Piedad). Completó los 10 años de servicio con la Arquidiócesis en 2008. Actualmente es profesora de matemáticas de octavo grado. La demandante está casada con el co-demandante Claudio Acarón

Bonilla. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: PO Box 79804, Carolina, PR 00984; (787) 726-2187.

53. La demandante Clarita Lidin de Rom tiene 58 años de edad y sufre de depresión. Trabaja en Perpetuo Socorro desde 1980, por lo que cumplirá 31 años en la Escuela. Completó los 10 años de servicio con la Arquidiócesis en 1990. Actualmente es profesora sustituta. La demandante está casada con el co-demandante Carlos Rom Goris. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Calle Costa Azul 5, Paseo Las Brisas, San Juan, PR 00926; (787) 630-9559.

54. La demandante Teresa López Guzmán tiene 67 años de edad y padece de osteoporosis, tiroides y alta presión. La demandante trabajó en Perpetuo Socorro de 1990 a 2004 y de 2008 al presente. La demandante recibe \$456.22 mensuales por concepto de pensión bajo el Plan, pero continúa trabajando en Perpetuo Socorro, como maestra de primer grado. Completó sus 10 años de servicio con la Arquidiócesis para 2000. La demandante no es casada. Su dirección y teléfono, para fines de notificación, son: Urb. Rio Piedras Heights, 206 Calle Verde, San Juan, PR 00926; (787) 504-5858.

55. La demandante Ligia López Oliver tiene 79 años de edad. Trabajó en Perpetuo Socorro desde 1984 hasta 2002 cuando se jubiló y comenzó a percibir la pensión a la que tiene derecho bajo el Plan. Recibe \$477.04 mensuales por concepto de su pensión. La demandante completó los 10 años de servicio con la Arquidiócesis hace muchos años. La demandante no está casada. Su dirección y teléfono, para fines de notificación, son: Calle Hernández 660, Miramar, San Juan, PR 00907; (787) 725-1967.

56. La demandante Christine M. Lugo Quesada tiene 54 años de edad. La demandante comenzó a trabajar en Perpetuo Socorro en 2006

(Previamente trabajó en la Academia San Jorge). Completó los 10 años de servicio con la Arquidiócesis en 1995. Actualmente es maestra de kindergarten. La demandante no está casada. Su dirección y teléfono, para fines de notificación, son: Calle José Martí #800 Apt. 5, San Juan, PR 00907; (787) 410-4514.

57. La demandante Carlixta Martínez Vilorio tiene 40 años de edad. Trabaja en Perpetuo Socorro desde 2003. Completó los 10 años de servicio con la Arquidiócesis en 2013. Actualmente trabaja en la oficina de contabilidad de la escuela. La demandante está casada con el co-demandante Ronny Echevarría. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Calle Parque Los Modelos, Urb. Altura Villa Fontana, Carolina, PR 00983; (787) 603-3597.

58. La demandante Awilda Meléndez Ríos tiene 56 años de edad y padece de rinitis aguda, sinusitis crónica, osteopenia, queratosis actínica y otras condiciones que afectan su salud. La demandante trabaja en Perpetuo Socorro desde 2000. Completó los 10 años de servicio con la Arquidiócesis en 2010. Actualmente trabaja como consejera de los grados 7 y 8. La demandante está casada con el co-demandante Edwin Sánchez Maldonado. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Hacienda San José, 1424, Condominio Puerta del Parque, Caguas, PR 00727-3143.

59. La demandante Edda I. Meléndez Rivera tiene 69 años de edad. Trabaja en Perpetuo Socorro desde 1986. La demandante recibe \$846.25 mensuales por concepto de pensión bajo el Plan, pero continúa trabajando en Perpetuo Socorro, como maestra de estudios sociales en escuela intermedia. Completó los 10 años de servicio con la Arquidiócesis en 1996. La demandante es viuda. Su dirección y teléfono, para fines de notificación,

son: Calle Luchetti #1373 Apt. 101, San Juan, PR 00907; (787) 674-1903.

60. La demandante Yeidy R. Oliver Hernández tiene 71 años de edad. Trabaja en Perpetuo Socorro desde 1978. Aunque recibe \$1001.67 mensuales por concepto de su pensión, continúa trabajando en la Escuela, donde se desempeña como maestra de inglés de octavo grado. La demandante completó los 10 años de servicio con la Arquidiócesis hace muchos años. La demandante es viuda. Su dirección y teléfono, para fines de notificación, son: 69 Calle Rodríguez Serra, San Juan, PR 00907-2007; (787) 525-1478, (787) 724-5952

61. El demandante Jesús Ortiz García tiene 59 años de edad y padece de hipertensión, artritis y otras condiciones que afectan su salud. El demandante trabaja en Perpetuo Socorro desde 1983. Completó los 10 años de servicio con la Arquidiócesis en 1993. Actualmente, funge como maestro de portugués, francés y español en la Escuela Superior. El demandante está casado con la co-demandante Marta Villamil Rodríguez. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Urb. Country Club, Calle 500, OA-9, Carolina, PR 00982; (787) 554-8086.

62. La demandante Diana Ortiz Rodríguez tiene 64 años de edad y padece de hipertensión y diabetes. Trabaja en Perpetuo Socorro desde 1995. Completó los 10 años de servicio con la Arquidiócesis en 2005. Actualmente, funge como maestra de inglés en la Escuela Superior. La demandante es viuda. Su dirección y teléfono, para fines de notificación, son: Cond. Condesa del Mar, 3103, Ave. Isla Verde, Apt. 704, Carolina, PR 00979; (787) 448-4411.

63. La demandante Nerirosa Otero Romero tiene 64 años de edad. Trabaja en Perpetuo Socorro desde 1980. (Previamente, había trabajado en la Academia San Jorge del 1978 al 1979). Completó los 10 años de servicio con la Arquidiócesis en 1989. Actualmente, funge como maestra de geometría en

la escuela intermedia. La demandante está casada con el co-demandante Alberto del Toro. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Olimpo 611, Miramar, San Juan, PR 00907; (787) 403-3225.

64. La demandante Carmen Priscilla Pavía Cabanillas tiene 60 años. Trabajó en el Perpetuo Socorro desde 1986 hasta 1999. Completó 10 años de servicio con la Arquidiócesis en el 1996. La demandante no está casada. Su dirección y teléfono, para fines de notificación, son: Urb. La Arboleda, Calle Alameda B-11, Guaynabo, PR 00966; (787) 793-3656; (787) 505-5759.

65. La demandante Francisca Ramírez tiene 74 años de edad. Trabaja en Perpetuo Socorro desde 1973 hasta la fecha de su retiro en 2004. La demandante recibe una pensión mensual de \$160.52 bajo el Plan. Completó sus 10 años de servicio con la Arquidiócesis hace muchos años. La demandante está casada con el co-demandante Luis Dario Tineo Sánchez. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: PO Box 10215, San Juan, PR 00908; (787) 721-4675.

66. La demandante Milagros Ramos tiene 61 años de edad. Trabaja en Perpetuo Socorro desde 2005. (Previamente, desde 1984, había trabajado en la Academia San Jorge). Completó los 10 años de servicio con la Arquidiócesis en 1994. Actualmente, funge como maestra de matemáticas y kindergarten. La demandante está casada con el co-demandante Alonso de Hoyos. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Calle López Landrón #1524 Apt. A-2, San Juan, PR 00911; (787) 645-6839.

67. El demandante Juan M. Ramos Pizarro tiene 60 años de edad y padece de desbalances, mareos y principios de Parkinson. El demandante

trabaja en Perpetuo Socorro desde 1993. Completó los 10 años de servicio con la Arquidiócesis en 2003. Actualmente, se desempeña como guardia de seguridad. El demandante está casado con la co-demandante Dora Carrasquillo Márquez. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: HC-01 Box 46 65, Loíza, PR 00972; (787) 354-5688.

68. La demandante Iraida Rinaldi Ríos tiene 80 años de edad. Trabaja en Perpetuo Socorro desde 1981. Completó los 10 años de servicio con la Arquidiócesis en 1991. Aunque recibe una pensión mensual de \$427.19 desde 2001, la demandante continúa trabajando. Actualmente se desempeña como registradora de la Escuela Intermedia y superior. La demandante está casada con el co-demandante Fernando Quiñones Aponte. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Apartado 9826, San Juan, PR 00908; (787) 307-0386.

69. El demandante Carlos Juan Rivera Padúa tiene 47 años de edad y padece del nervio ciático, hipercolesterolemia, hiper-trigliceridemia asma y otras condiciones. El demandante trabaja en Perpetuo Socorro desde 1992. Completó los 10 años de servicio con la Arquidiócesis en 2002. Actualmente se desempeña como director atlético del primer al duodécimo grado y maestro de educación física en la Escuela Intermedia y superior. El demandante está casado con la co-demandante Noelia M. Torres Cotts. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: 170 Ave. Arterial Hostos, Cond. Parque Centro Edificio Aleli Apt. C 26, San Juan, PR 00918; (787) 462-2709.

70. La demandante Georgina Rivera Rodríguez tiene 54 años de edad. Trabaja en Perpetuo Socorro desde 1988. Completó los 10 años de servicio con la Arquidiócesis en 1998. Actualmente se desempeña como asistente de

maestra del segundo grado. La demandante no es casada. Su dirección y teléfono, para fines de notificación, son: Cond. Parque de la Vista I Apto. 227 C, San Juan, PR 00924; (787) 531-1970.

71. La demandante Diana Roche Rodríguez Ríos tiene 67 años de edad. Trabajó en Perpetuo Socorro desde 1971 hasta la fecha de su retiro en 2014. Recibe una pensión mensual de \$1335.84 bajo el Plan. Completó 10 años de servicio con la Arquidiócesis. La demandante es viuda. Su dirección y teléfono, para fines de notificación, son: Condominio Pisos de Caparra Apt. 2-C, Guaynabo, PR 00966; (787) 409-4041.

72. La demandante Angela Rodríguez Colón tiene 66 años de edad. Trabaja en Perpetuo Socorro desde 1991. Aunque recibe una pensión mensual de \$740.00 bajo el Plan, continúa trabajando en la Escuela, como funcionaria administrativa relacionada con las admisiones a la Escuela Elemental. Completó 10 años de servicio con la Arquidiócesis en 2001. La demandante está casada con el co-demandante Pedro A. del Valle Ferrer. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: 1450 Ave. Ashford Apto. 5A, San Juan, PR 00907; (787) 345-6484.

73. El demandante Carlos Ruiz Porrata tiene 68 años de edad, padece del corazón y ha sido tratado por cáncer del pulmón. El demandante trabajó en Perpetuo Socorro desde 1974 hasta la fecha de su retiro en 2014. Completó 10 años de servicio con la Arquidiócesis. Al presente, está jubilado y recibe una pensión mensual de \$1,410.56 bajo el Plan. El demandante está casado con la co-demandante Sylvia Ramos Moreau. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Austral 602, Altamira, San Juan, PR 00920; (787) 613-2398.

74. La demandante Carmen C. Ruiz Rexach tiene 68 años de edad. Trabaja en Perpetuo Socorro desde 1998. Aunque recibe una pensión

mensual de \$317.00 bajo el Plan, continúa trabajando en la Escuela, como maestra de religión del segundo grado en la Escuela Elemental. Completó 10 años de servicio con la Arquidiócesis en 2008. La demandante es viuda. Su dirección y teléfono, para fines de notificación, son: Urb. El Dorado Calle B # B32, San Juan, PR 00926; (787) 638-0205.

75. La demandante Marlene Ruíz Ruíz tiene 64 años de edad. Trabaja en Perpetuo Socorro desde 1992. Completó 10 años de servicio con la Arquidiócesis en 2002. Al presente, trabaja como maestra en la Escuela Superior e intermedia. La demandante está casada con el co-demandante Jorge A. Saldarriaga Barragán. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Miramar Towers Apt. 14C, Calle Hernández 721, San Juan, PR 00907; (787) 349-8725.

76. La demandante María Victoria Saiz Martínez tiene 66 años de edad. Trabaja en Perpetuo Socorro desde 1993. Aunque recibe una pensión mensual de \$850.27 bajo el Plan desde 2015, continúa trabajando en Perpetuo Socorro, donde se desempeña como maestra de español del séptimo grado. Completó 10 años de servicio con la Arquidiócesis en 2003. La demandante está casada con el co-demandante Ramiro Jordán Sarria. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Calle 8 B 13, Santa Paula, Guaynabo, PR 00969; (787) 307-8987, (787) 789-4387.

77. El demandante Oscar Sánchez del Campo Delgado tiene 65 años de edad. Trabaja en Perpetuo Socorro desde 2005. Se desempeña como maestro en la Escuela Superior. Completó 10 años de servicio con la Arquidiócesis en 2015. Aunque recibe una pensión de \$378.00 continúa trabajando en Perpetuo Socorro. El demandante no es casado. Su dirección y teléfono, para fines de notificación, son: Calle Barnard 385, Reparto Universitario, Río Piedras, PR 00901; (787)967-5735.

78. La demandante Diana Sardiña Hernández tiene 65 años de edad y padece de migrañas. La demandante trabaja en Perpetuo Socorro desde 1992. (Antes trabajó en la Academia San Jorge desde 1984 al 1992). Ha trabajado para la Arquidiócesis por 32 años. Completó sus 10 años de servicio en 2002. La demandante está casada con el co-demandante Jorge Escobar. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: 200 Calle Sol Apto. D-1, San Juan, PR 00901; (787)724-3829.

79. La demandante Yolanda Seda Benítez tiene 65 años de edad y padece de diabetes y alta presión. Trabaja en Perpetuo Socorro desde 1995. (Antes trabajó dos años en la Academia Espíritu Santo). Completó sus 10 años de servicio en 2003. La demandante está casada con el co-demandante Manuel A. Pérez Sánchez. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: HC-01 Box 25441, Caguas, PR 00725; (787) 994-0034.

80. La demandante Amelia Sotomayor Díaz tiene 68 años de edad y padece de diabetes, alta presión osteoartritis y otras condiciones. La demandante trabaja en Perpetuo Socorro desde 1990. Completó sus 10 años de servicio con la Arquidiócesis en 2000. Aunque recibe una pensión mensual de \$695.37 bajo el Plan, continúa trabajando en Perpetuo Socorro. Al presente, se desempeña como maestra del segundo grado en la Escuela Elemental. La demandante no está casada. Su dirección y teléfono, para fines de notificación, son: Colinas de Monte Carlo F # 13 Calle 44, San Juan, PR 00924; (787)200-6523.

81. El demandante Luis Darío Tineo Sánchez tiene 71 años de edad. Trabaja en Perpetuo Socorro desde 1975. Aunque recibe una pensión mensual de \$595 bajo el Plan desde 2010, continúa trabajando en la escuela, donde se desempeña como empleado de mantenimiento. Completó

10 años de servicio con la Arquidiócesis hace muchos años. El demandante está casado con la co-demandante Francisca Ramírez Núñez. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: PO Box 10215, San Juan, PR 00908; (787) 721-4675.

82. La demandante Rita I. Toro Monserrate tiene 63 años de edad. Trabaja en Perpetuo Socorro desde 1994. Completó 10 años de servicio con la Arquidiócesis en el 2004. Actualmente, se desempeña como maestra de *Home Management* en la Escuela Superior. La demandante está casada con el co-demandante Miguel A. Hernández. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Calle Juan Kepler 1702, Urb. Tulipán, San Juan, PR 00926; (787) 368-3062.

83. La demandante Noelia M. Torres Cotts tiene 47 años de edad y padece de varias condiciones de salud, entre ellas esclerosis múltiple, arritmia, depresión, escoliosis, lordosis y otras. La demandante trabaja en Perpetuo Socorro desde 1991. Completó 10 años de servicio con la Arquidiócesis en el 2001. Actualmente, se desempeña como administradora del "*Digital Learning Center*" de la biblioteca. La demandante está casada con el co-demandante Carlos J. Rivera Padua. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: 170 Avenida Arterial Hostos, Cond. Parque Centro Edificio Alelí Apt. C 26, San Juan, PR 00918; (787) 462-3495.

84. La demandante Lianis Z. Vélez Pérez tiene 42 años de edad. Trabaja en Perpetuo Socorro desde 1998. Completó 10 años de servicio con la Arquidiócesis en el 2008. Actualmente, se desempeña como maestra en el tercer grado de la Escuela Elemental. La demandante está casada con el co-demandante Julio Rodríguez Odum. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y

teléfono, para fines de notificación, son: Calle Arroyo B-4, San Juan, PR 00926; (787) 649-8109.

2. Demandados Adicionales:

85. Los siguientes demandantes fueron incluidos mediante enmienda a la demanda en el caso SJ2016CV00131:

86. La demandante Ana Rosa Cuesta Del Valle tiene 89 años de edad y sufre de diversos padecimientos de salud relacionados con su avanzada edad, tales como, hipotiroidismo. Trabaja en Perpetuo Socorro comenzando en 1984. La demandante completó los 10 años de servicio con la Iglesia Católica y su Arquidiócesis en 1994. Ya comenzó a recibir la pensión a la que tiene derecho bajo el Plan. Recibe una pensión mensual de \$93.32, pero aun así continúa trabajando. La demandante es viuda. Su dirección y teléfono, para fines de notificación, son: Calle José Martí #955, Apartamento 1, San Juan, PR 00907; (787) 717-6555.

87. La demandante Eneida Fernández Moreno tiene 65 años y sufre de diversos padecimientos de salud, tales como, hipertensión arterial y además es superviviente de cáncer. Trabajó en Perpetuo Socorro por 30 años. La demandante completó los 10 años de servicio con la Iglesia Católica y su Arquidiócesis. Recibe una pensión mensual de \$525.00. La demandante es soltera. Su dirección y teléfono, para fines de notificación, son: Carr. 844 #7000, Box 99, San Juan, PR 00926; (787) 447-4174.

88. La demandante Milagros Matos Álvarez tiene 72 años. Trabajó en Perpetuo Socorro por 20 años. La demandante completó los 10 años de servicio con la Iglesia Católica y su Arquidiócesis. Recibe una pensión mensual de \$230.00. La demandante está casada con el co-demandante Antonio Manuel Taveras. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Calle 249 HT1, Tercera Extensión, Urb. Country Club, Carolina, PR 00982; (787) 750-6393.

89. La demandante Genoveva Rodríguez Rosa tiene 85 años y sufre de diversos padecimientos de salud relacionados con su avanzada edad, tales como, enfermedad de Alzheimer. Trabajo en Perpetuo Socorro por 24 años. La demandante completó los 10 años de servicio con la Iglesia Católica y su Arquidiócesis. Trabajó como empleada del salón cafetería. Recibe una pensión mensual de \$307.00. La demandante es viuda. Su dirección y teléfono, para fines de notificación, son: Calle Las Palmas 642 Apt. 4-A, San Juan, PR 00907; (787) 725-4032.

90. La demandante Estrella Sissa De León tiene 91 años de edad y como consecuencia de una fractura en su cadera en octubre de 2012 necesita asistencia continua para atender sus necesidades cotidianas. Trabajó en Perpetuo Socorro desde el 1966 hasta 1994. La demandante completó los 10 años de servicio con la Iglesia Católica y su Arquidiócesis en 1976. Ya comenzó a recibir la pensión a la que tiene derecho bajo el Plan. Recibe una pensión mensual de \$233.86. La demandante es viuda. Su dirección y teléfono, para fines de notificación, son: Residencia Brisamar, Apto. 3-A, 706 Calle José Martí, San Juan, PR 00907; (787) 724-6067.

91. La demandante Ramona Stokes Giménez tiene 87 años de edad. Trabajó en Perpetuo Socorro comenzando en 1982. La demandante completó los 10 años de servicio con la Iglesia Católica y su Arquidiócesis en 1992. Recibe una pensión mensual de \$61.92, pero aún así continúa trabajando. La demandante es viuda. Su dirección y teléfono, para fines de notificación, son: Residencia Brisamar, Apt. 1-A, 706 Calle José Martí, San Juan, PR 00907; (787) 725-5357.

92. La demandante Cristina Soriano tiene 92 años y sufre de diversos padecimientos de salud relacionados con su avanzada edad, tales como, hipertensión arterial. Trabajó por más de 20 años en Perpetuo Socorro. La demandante completó los 10 años de servicio con la Iglesia Católica y su Arquidiócesis. Recibe una pensión mensual de \$307.00. La

demandante es soltera. Su dirección y teléfono, para fines de notificación son: Edificio Inmaculada, 1715 Avenida Juan Ponce de León, San Juan, 00909; (787) 727-0600.

B. LOS DEMANDANTES DE SAN JOSÉ

1. Demandantes Originales:

93. Los siguientes comparecieron como demandantes originales en la demanda presentada en el caso SJ2016CV00143:

94. La demandante Sonia Arroyo Velázquez tiene 56 años de edad y sufre de diversos padecimientos de salud, entre otros, asma bronquial, síndrome de colon irritable y depresión. Trabaja en San José desde 1988. Completó los 10 años de servicio con la Arquidiócesis en 1998. Actualmente es maestra de español, ciencias, estudios sociales y religión en la Escuela Elemental. La demandante está casada con el co-demandante Jesús M. Franco Villafañe. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: PO Box 361472, San Juan, PR 00936-1472; (787) 548-0850.

95. El demandante Héctor Luis Báez Rodríguez tiene 53 años de edad. Trabaja en San José desde 1980. Completó los 10 años de servicio con la Arquidiócesis en 1990. Actualmente es el jefe de empleados de mantenimiento. El demandante es soltero. Su dirección y teléfono, para fines de notificación, son: RR-4 Box 2921, Bayamón, PR 00956-9405; (787) 602-7130, (787) 644-2681.

96. La demandante Ana Teresita Borges tiene 51 años de edad y sufre de diversos padecimientos de salud, entre otros, es superviviente de cáncer de seno, hipertensión arterial y problemas de compresión del cordón espinal. Trabaja en San José desde 1994. Completó los 10 años de servicio con la Arquidiócesis en 1999. Actualmente es maestra de ética e historia de la Escuela Intermedia. La demandante es viuda. Su dirección y teléfono,

para fines de notificación, son: 10 Las Rosas, Apt. 605, Bayamón, PR 00961; (787) 616-8577.

97. La demandante Alicia Castillo Peña tiene 78 años de edad. Trabajó en San José desde 1985 a 2007. Completó los 10 años de servicio con la Arquidiócesis en 1995. En el 2007 comenzó a percibir la pensión a la que tiene derecho bajo el Plan de \$375.37 mensuales. La demandante está casada con el co-demandante William Mangual Martínez. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Calle 1 #1 Ext. Alturas de San Patricio, Guaynabo, PR 00968-3126; (787) 792-0626.

98. La demandante Miriam Cortés Pérez tiene 54 años de edad y sufre de diversos padecimientos de salud, entre otros, hipotiroidismo, diabetes, hipercolesterolemia y trastornos de ansiedad. Trabaja en San José desde 1998. Completó los 10 años de servicio con la Arquidiócesis en 2008. Actualmente es empleada de mantenimiento. La demandante es soltera. Su dirección y teléfono, para fines de notificación, son: Brisas de Canóvanas, 151 Calle Gaviota, Canóvanas, PR 00729; (787) 371-4860.

99. La demandante Elsie De Jesús Rosado tiene 73 años de edad y sufre de diversos padecimientos de salud, entre otros, diabetes, y es sobreviviente de cáncer del seno en 2013. La demandante trabajó en San José desde 1992 hasta 2008 cuando se jubiló. En el 2007 comenzó a percibir la pensión a la que tiene derecho bajo el Plan de \$304 mensuales. La demandante completó los 10 años de servicio con la Arquidiócesis en 2002. La demandante es viuda. Su dirección y teléfono, para fines de notificación, son: Calle 23 R-124 Bella Vista, Bayamón, PR 00957; (787) 797-1991.

100. La demandante Isabel del Valle Rivera tiene 67 años de edad y sufre de diversos padecimientos de salud, entre otros, fibrosis pulmonar, hipertensión arterial, gastritis crónica, esfinge distendido y es sobreviviente de cáncer del seno. Trabaja en San José desde 1982. Completó los 10 años

de servicio con la Arquidiócesis en 2008. En el 2011 comenzó a percibir la pensión a la que tiene derecho bajo el Plan, pero continúa trabajando como profesora de español en la Escuela Intermedia y superior. Recibe \$893 mensual por concepto de su pensión. La demandante es soltera. Su dirección y teléfono, para fines de notificación, son: Urb. Río Hondo 3, CE-8 Calle Ceiba, Bayamón, PR 00961; (787) 780-2748; (787) 378-6155.

101. La demandante Sara J. Disdier Caballero tiene 62 años de edad y sufre de diversos padecimientos de salud, entre otros, lupus y trombocitopenia autoinmune. Trabaja en San José desde 1989. Completó los 10 años de servicio con la Arquidiócesis en 1999. Trabaja como profesora de matemáticas en la Escuela Superior. La demandante es viuda. Su dirección y teléfono, para fines de notificación, son: Avda. Las Colinas IB19, Urb. Santa Paula, Guaynabo, PR 00969; (787) 617-1053.

102. La demandante Elena Durán Sobrino tiene 75 años de edad y sufre de diversos padecimientos de salud, entre otros, artritis reumatoide, osteoartritis y escoliosis. La demandante trabajó en San José desde 1972 hasta 2007 cuando se jubiló. En el 2006 comenzó a percibir la pensión a la que tiene derecho bajo el Plan de \$952.84 mensuales. La demandante completó los 10 años de servicio con la Arquidiócesis en 1982. La demandante es soltera. Su dirección y teléfono, para fines de notificación, son: Condominio Parque San Patricio I, D-5 Calle Ébano Apto. 702, Guaynabo, PR 00968; (787) 781-3197, (787) 340-9558.

103. La demandante María M. Espinosa Miranda tiene 40 años de edad. Trabaja en San José desde el 2000. Completó los 10 años de servicio con la Arquidiócesis en 2010. La demandante está casada con el co-demandante Ariel Pagán Rodríguez. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Villa Lissette A12, Guaynabo, PR 00969; (787) 504-7041.

104. La demandante Marlia I. Feliciano Santana tiene 41 años de edad. Trabaja en San José desde 2000. Completó los 10 años de servicio con la Arquidiócesis en 2010. Trabaja como maestra en la Escuela Elemental. La demandante está casada con el co-demandante Carlos M. Meléndez. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: RR3 Box 3209, La Marina, San Juan, PR 00926; (787) 378-4805.

105. La demandante Amarilis Flores Cruz tiene 44 años de edad. Trabajó en San José desde 1999 hasta 2011. Completó los 10 años de servicio con la Arquidiócesis en 2011. La demandante está casada con el co-demandante Alfonso García Ruiz. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: PO Box 362961, San Juan, PR 00936-2961; (787) 409-9106.

106. La demandante Eva J. Freire tiene 70 años de edad. Trabajó en San José desde 1984 hasta 2011 cuando se jubiló. Completó los 10 años de servicio con la Arquidiócesis en 1994. En el 2011 comenzó a percibir la pensión a la que tiene derecho bajo el Plan de \$722.79 mensuales. La demandante está casada con el co-demandante Félix J. Lugo Soto. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Urb. Versalles Calle 4 E11, Bayamón, PR 00959; (787) 222-0120.

107. La demandante Ivette Fuentes Febles tiene 53 años de edad. Trabaja en San José desde 1991. Completó los 10 años de servicio con la Arquidiócesis en 2001. Trabaja como maestra de kindergarten. La demandante es soltera. Su dirección y teléfono, para fines de notificación, son: Calle Lopéz Landrón #1755, Santiago Iglesias, San Juan, PR 00921; (787) 224-5552.

108. La demandante Glenda García Martínez tiene 56 años de edad. Trabaja en San José desde 1992. Completó los 10 años de servicio con la Arquidiócesis en 2002. La demandante es soltera. Su dirección y teléfono, para fines de notificación, son: C35 AE-22, Santa Juanita, Bayamón, PR 00956; (787) 600-3843.

109. La demandante María T. Geswaldo Medina tiene 64 años de edad. Trabaja en San José desde 1978. Completó los 10 años de servicio con la Arquidiócesis en 1988. Trabaja como maestra de inglés y *Mass Media* en la Escuela Superior. La demandante es soltera. Su dirección y teléfono, para fines de notificación, son: Condominio Gallardo Gardens, Edif. G, Apt. 3G, Guaynabo, PR 00969; (787) 597-2880.

110. La demandante Sandra Ivette Grau Morales tiene 43 años de edad y sufre de diversos padecimientos de salud, entre otros hipertensión arterial y fibromialgia. Trabaja en San José desde 1997. Completó los 10 años de servicio con la Arquidiócesis en 2007. Trabaja como maestra de español y estudios sociales en la Escuela Elemental. La demandante está casada con el co-demandante Pedro R. Villalta Bernabe. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Urb. Magnolia Gardens, F 24 Calle 8, Bayamón, PR 00956; (787) 459-6977, (787) 619-2377.

111. La demandante Ivelisse Laboy Ruiz tiene 56 años de edad. Trabaja en San José desde 1998. Completó los 10 años de servicio con la Arquidiócesis en 2008. Trabaja como maestra de educación especial. La demandante está casada con el co-demandante Mark A. Neste. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Estancias Reales #25, Calle Duque de Kent, Guaynabo, PR 00969; (787) 287-8476, (787) 717-7878.

112. La demandante Mari Angelie Lamboglia Vilá tiene 55 años de edad. Trabaja en San José desde 2002. Completó los 10 años de servicio con la Arquidiócesis en 2013. Trabaja como maestra de religión en la Escuela Superior. La demandante está casada con el co-demandante José F. Adrover Robles. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Urbanización Torrimar, 13 Calle Barcelona, Guaynabo, PR 00966; (787) 397-8381.

113. La demandante Ana Doris Lladó Silva tiene 60 años de edad. Trabaja en San José desde 1990. Completó los 10 años de servicio con la Arquidiócesis en 1992. Trabaja como maestra de matemática y ciencia en la Escuela Elemental. La demandante es soltera. Su dirección y teléfono, para fines de notificación, son: Alamo Drive 114, Parkville Terrace, Guaynabo, PR 00969; (787) 637-7623.

114. La demandante Leslie Janette López Báez tiene 49 años de edad. Trabajó en San José desde 1989 a 2005. Completó los 10 años de servicio con la Arquidiócesis en 1999. La demandante está casada con el co-demandante Juan Carlos González Rodríguez. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Calle 6A #C5 Urb. Victor Braegger, Guaynabo, PR 00966 (787) 642-4562.

115. La demandante Nilsa López Marcano tiene 65 años de edad. Trabaja en San José desde 1985. Completó los 10 años de servicio con la Arquidiócesis en 1995. En el 2015 comenzó a percibir la pensión a la que tiene derecho bajo el Plan de \$410.00 mensuales, pero continúa trabajando como empleada de mantenimiento en San José. La demandante es soltera. Su dirección y teléfono, para fines de notificación, son: Calle Las Flores #40, Barrio Juan Domingo, Guaynabo, PR 00969; (787) 616-1374.

116. La demandante Tensy Machargo Enriquez tiene 73 años de edad. Trabaja en San José desde 1979. Completó los 10 años de servicio con la Arquidiócesis en 1989. En el 2007 comenzó a percibir la pensión a la que tiene derecho bajo el Plan de \$913.22 mensuales, pero continúa trabajando como Registradora de la escuela. La demandante es viuda. Su dirección y teléfono, para fines de notificación, son: Ext. Villa Caparra, C-1 Calle Florencia, Guaynabo, PR 00966; (787) 783-7137, (787) 225-1342.

117. La demandante Omayra Marrero Santiago tiene 47 años de edad. Trabaja en San José desde 2000. Completó los 10 años de servicio con la Arquidiócesis en 2010. La demandante está casada con el co-demandante Miguel Ángel Lozada. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Calle 3 C17, Villa El Salvador, San Juan, PR 00921; (787) 923-7802.

118. La demandante Florín M. Martínez Fontán tiene 69 años de edad. Trabajó en San José desde 1981 a 1991. Completó los 10 años de servicio con la Arquidiócesis en 1991. En el 2012 comenzó a percibir la pensión a la que tiene derecho bajo el Plan de \$164.82 mensuales. La demandante está casada con el co-demandante Ángel M. de la Rosa Schuck. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Urb. Sabanera del Río, #436 Camino Los Almácigos, Gurabo, PR 00778; (787) 473-2397.

119. La demandante Nilda Martínez Méndez tiene 64 años de edad. Trabajó en San José desde 1976 a 1995. Completó los 10 años de servicio con la Arquidiócesis en 1986. En el 2012 comenzó a percibir la pensión a la que tiene derecho bajo el Plan de \$182.85 mensuales. La demandante está casada con el co-demandante Eliezer Tulier Polanco. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su

dirección y teléfono, para fines de notificación, son: Box 10874, San Juan, PR 00922; (787) 645-2724, (787) 784-4755.

120. La demandante Janice M. Mercado Corujo tiene 42 años de edad. Trabaja en San José desde 1996. Completó los 10 años de servicio con la Arquidiócesis en 2006. Trabaja como maestra de educación física del kindergarten y la Escuela Elemental. La demandante está casada con el co-demandante Vicente Román Arriaga. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Urb. Río Piedras Heights, Calle Theis #1727, San Juan, PR 00926; (787) 547-4298.

121. La demandante Nereida Montes Burgos tiene 67 años de edad. Trabajó en San José desde 1997 a 2013. Completó los 10 años de servicio con la Arquidiócesis en 2007. En el 2013 comenzó a percibir la pensión a la que tiene derecho bajo el Plan de \$774.43 mensuales. La demandante está casada con el co-demandante Samuel Monge Pérez. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Plaza 6 RB-17 Marina Bahía, Cataño, PR 00962; (787) 239-3209.

122. La demandante Lillian Otero Cabrera tiene 50 años de edad. Trabaja en San José desde 1990. Completó los 10 años de servicio con la Arquidiócesis en 2000. Trabaja como empleada de mantenimiento. La demandante es soltera. Su dirección y teléfono, para fines de notificación, son: 10 Calle Balcones de Sevilla, Guaynabo, PR 00966-1870; (939) 630-0983.

123. La demandante Alma Padilla Morales tiene 67 años de edad. Trabaja en San José desde 1982. Completó los 10 años de servicio con la Arquidiócesis en 1992. En el 2012 comenzó a percibir la pensión a la que tiene derecho bajo el Plan, pero continúa trabajando como maestra de religión de la Escuela Elemental. Recibe \$902.90 mensual por concepto de

su pensión. La demandante es viuda. Su dirección y teléfono, para fines de notificación, son: Colina del Fresno, Edmee A-8, Bayamón, PR 00959; (787) 438-5766.

124. La demandante Minú Derbhis Pagán Ramos tiene 62 años de edad. Trabaja en San José desde 1985. Completó los 10 años de servicio con la Arquidiócesis en 1995. Trabaja como maestra de biología y otros cursos relacionados en la Escuela Superior. La demandante está casada con el co-demandante Ismael Placa Estremera. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Calle 2 G-9 Parque San Miguel, Bayamón, PR 00959; (787) 234-6780.

125. La demandante Ana L. Pérez Pérez tiene 54 años de edad. Trabaja en San José desde 1997. Completó los 10 años de servicio con la Arquidiócesis en 2007. Trabaja como maestra de salud y educación física de la Escuela Intermedia y Superior. La demandante es viuda. Su dirección y teléfono, para fines de notificación, son: Urb. Altamira, Calle Austral 608, San Juan, PR 00920; (787) 448-5932, (787) 277-0692.

126. La demandante Eileen M. Pérez Reyes tiene 48 años de edad. Trabajó en San José desde 1999 a 2011. Completó los 10 años de servicio con la Arquidiócesis en 2009. La demandante está casada con el co-demandante José Javier Santos Mimoso. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Urb. Torrimar, Calle Valencia #7, Guaynabo, PR 00966; (787) 398-8979, (787) 782-8459.

127. La demandante Lourdes Puig Sánchez tiene 61 años de edad. Trabajó en San José desde 1999 a 2015 cuando fue cesanteada. Completó los 10 años de servicio con la Arquidiócesis en 2010. En el 2012 se acogió al retiro temprano y comenzó a percibir la pensión a la que tiene derecho bajo el Plan de \$255.32 mensuales. La demandante está casada con el co-

demandante Carlos E. Chapel Palerm. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Valle Verde 3, Pradera DG-4, Bayamón, PR 00961; (787) 529-1843.

128. La demandante Airycell Quintana Muñiz tiene 40 años de edad. Trabajó en San José desde 2005 a 2014. Anterior a su trabajo en San José, trabajó un año en la Academia San Ignacio de Loyola y un año en el Colegio Calasanz. Completó los 10 años de servicio con la Arquidiócesis en 2013. La demandante es soltera. Su dirección y teléfono, para fines de notificación, son: Urb. April Gardens, Calle 4 B-26, Las Piedras, PR 00771; (787) 409-0716, (787) 891-4288.

129. La demandante Sonia M. Ramos González tiene 65 años de edad. Trabaja en San José desde 1997. Completó los 10 años de servicio con la Arquidiócesis en 2007. En el 2016 comenzó a percibir la pensión a la que tiene derecho bajo el Plan, pero continúa trabajando como maestra de inglés del kindergarten y la Escuela Elemental. Recibe \$399.68 mensual por concepto de su pensión. La demandante está casada con el co-demandante Reinaldo Santana. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Urb. Los Almendros, Robles EC-19, Bayamón, PR 00961; (787) 221-1850.

130. La demandante Nilda Rivas Laboy tiene 50 años de edad. Trabaja en San José desde 1994. Completó los 10 años de servicio con la Arquidiócesis en 2004. Trabaja como maestra de computadoras y robótica en la Escuela Elemental. La demandante está casada con el co-demandante Juan Medina Castro. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: PO Box 1009, Juncos, PR 00777; (787) 559-2163.

131. El demandante Pedro Rivera Ortiz tiene 54 años de edad. Trabaja en San José desde 1996. Completó los 10 años de servicio con la Arquidiócesis en 2006. Trabaja como empleado de mantenimiento de San José. El demandante es soltero. Su dirección y teléfono, para fines de notificación, son: HC 67 Box 13501, Bayamón, PR 00956; (787) 674-3715.

132. La demandante Margarita Rivera Rosado tiene 55 años de edad. Trabaja en San José desde 1997. Completó los 10 años de servicio con la Arquidiócesis en 2007. Trabaja como maestra de arte para la Escuela Elemental y Superior. La demandante es soltera. Su dirección y teléfono, para fines de notificación, son: Urb. Santa Juanita, Calle 33 RR4 3ra Sección, Bayamón, PR 00956; (787) 475-0684.

133. La demandante Wanda Rivera Vega tiene 52 años de edad. Trabaja en San José desde 1991. Completó los 10 años de servicio con la Arquidiócesis en 2001. Trabaja como maestra de ciencia y estudios sociales en la Escuela Elemental. La demandante está casada con el co-demandante Ernesto Maldonado Ojeda. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Monteblanco 93, Villa del Monte, Toa Alta, PR 00953; (939) 308-1408.

134. La demandante Evelyn D. Rodríguez Soto tiene 64 años de edad y sufre de diversos padecimientos de salud, entre otros, hipertensión arterial y diabetes. Trabajó en San José desde 1979 a 2014. Completó los 10 años de servicio con la Arquidiócesis en 1989. En el 2016 comenzó a percibir la pensión a la que tiene derecho bajo el Plan, pero continúa trabajando como maestra de inglés en la escuela superior en otra institución académica. Recibe \$869.77 mensual por concepto de su pensión. La demandante es soltera. Su dirección y teléfono, para fines de notificación, son: Urb. Muñoz Rivera, Calle Brisaida #43, Guaynabo, PR 00969-3511; (787) 447-3908.

135. La demandante Gladys J. Rodríguez Suliveres tiene 56 años de edad. Trabaja en San José desde 1984. Completó los 10 años de servicio con la Arquidiócesis en 1994. Trabaja como maestra de ciencias en la Escuela Intermedia y Superior. La demandante es soltera. Su dirección y teléfono, para fines de notificación, son: Cond. Altomonte, 100 Carr. 842 Apto. 14, San Juan, PR 00926; (787) 596-0079.

136. La demandante Brenda Rodríguez Toro de Damiani tiene 62 años de edad y sufre de diversos padecimientos de salud, entre otros, hipertensión arterial, diabetes, hipotiroidismo y depresión. Trabajó en San José desde 2004 a 2015 cuando fue cesanteada. Completó los 10 años de servicio con la Arquidiócesis en 2014. La demandante está casada con el co-demandante Nicholas Damiani López. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: C-35 Plaza #10, Urb. Estancia, Bayamón, PR 00961; (787) 785-8018, (787) 529-4749.

137. La demandante Yolanda Rodríguez Toro de Gil tiene 61 años de edad y sufre de diversos padecimientos de salud, entre otros, asma crónica. Trabaja en San José desde 1979. Completó los 10 años de servicio con la Arquidiócesis en 2005. Trabaja como maestra de inglés en la Escuela Elemental. La demandante está casada con el co-demandante Luis A. Gil Borgos. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Oviedo A-6, Torrimar, Guaynabo, PR 00966; (787) 782-5823, (787) 810-1051.

138. La demandante Jeanette Roig López tiene 53 años de edad. Trabajó en San José desde 1985 a 2012. Completó los 10 años de servicio con la Arquidiócesis en 2005. La demandante está casada con el co-demandante José A. Rivera. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para

fines de notificación, son: RR 36 Box 6056, San Juan, PR 00926; (787) 674-2357.

139. El demandante Eddie W. Santiago Figueroa tiene 52 años de edad. Trabaja en San José desde 1985. Completó los 10 años de servicio con la Arquidiócesis en 1995. Trabaja como empleado de mantenimiento de San José. El demandante es soltero. Su dirección y teléfono, para fines de notificación, son: Calle 69 Bloque 86, Casa #15, Bayamón, PR 00956; (787) 288-1315.

140. La demandante Carmen Josefina Santiago Hernández tiene 70 años de edad. Trabaja en San José desde 2001. Completó los 10 años de servicio con la Arquidiócesis en 2011. Trabaja como bibliotecaria y recepcionista. En el 2011 comenzó a percibir la pensión a la que tiene derecho bajo el Plan de \$174.09 mensuales. La demandante es soltera. Su dirección y teléfono, para fines de notificación, son: Trigo 558, San Juan, PR 00907; (787) 604-8327.

141. La demandante Fe Migdalia Santiago Padilla tiene 49 años de edad. Trabaja en San José desde 1989 a 1999. Completó los 10 años de servicio con la Arquidiócesis en 1999. La demandante es soltera. Su dirección y teléfono, para fines de notificación, son: Calle 27 I-5, Extensión Forest Hills, Bayamón, PR 00959; (787) 238-8399.

142. La demandante Carmen Santini Rivera tiene 71 años de edad. Trabaja en San José desde 1989. Completó los 10 años de servicio con la Arquidiócesis en 1999. En el 2009 comenzó a percibir la pensión a la que tiene derecho bajo el Plan de \$627.44 mensuales, pero continúa trabajando como profesora de inglés en la Escuela Superior. La demandante es soltera. Su dirección y teléfono, para fines de notificación, son: 1118 Piccioni, Apt 5-A, San Juan, PR 00907; (787) 587-2561.

143. La demandante Dora Elisa Soler Muñoz tiene 69 años de edad. Trabajó en San José desde 1980 a 1991. Completó los 10 años de servicio

con la Arquidiócesis en 1990. En el 2012 comenzó a percibir la pensión a la que tiene derecho bajo el Plan de \$196.75 mensuales. La demandante es viuda. Su dirección y teléfono, para fines de notificación, son: Villa de Torrimar, 312 Rey Felipe, Guaynabo, PR 00969; (787) 505-7757.

144. La demandante Magda E. Toledo Rodríguez tiene 53 años de edad. Trabaja en San José desde 1995. Completó los 10 años de servicio con la Arquidiócesis en 2005. Trabaja como profesora de computadoras y contabilidad en la Escuela Intermedia y Superior. La demandante es soltera. Su dirección y teléfono, para fines de notificación, son: 10123 Princesa Cristina, Río Grande Estate, Río Grande, PR 00745; (787) 383-8001.

145. La demandante Tahira E. Vargas Gómez tiene 36 años de edad. Trabaja en San José desde 2010. Completó los 10 años de servicio con la Arquidiócesis en 2015. Trabaja como contable para San José. Anterior a su empleo en San José trabajó con el Arzobispado de San Juan por seis (6) años. La demandante está casada con el co-demandante Joan Vargas. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: 403 Calle Buret, San Juan, PR 00912; (787) 518-9026, (787) 268-0736.

146. La demandante Leonor Vélez Ortiz tiene 40 años de edad. Trabajó en San José desde 2005 a 2015. Completó los 10 años de servicio con la Arquidiócesis en 2015. La demandante está casada con el co-demandante Israel Menchaca Dobal. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Calle Lirio #485, Mansiones de Río Piedras, San Juan, PR 00926; (787) 506-2709.

147. La demandante Yolanda Vélez Rosado tiene 59 años de edad. Trabajó en San José desde 2006. Completó los 10 años de servicio con la Arquidiócesis en 2010. Trabaja como maestra de historia en la Escuela Superior. La demandante está casada con el co-demandante Fernando

Sánchez Saldaña. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Urb. Altamira, Calle Austral #603, San Juan, PR 00920; (787) 345-7072.

148. La demandante Brenda T. Wharton Flores tiene 53 años de edad. Trabajó en San José desde 1995. Completó los 10 años de servicio con la Arquidiócesis en 2005. Trabaja como Directora de Personal de la escuela. La demandante es soltera. Su dirección y teléfono, para fines de notificación, son: Calle Argentina B39, Rolling Hills, Carolina, PR 00987; (787) 672-8809, (787) 750-4822.

2. Demandantes Incluidos Mediante Enmienda:

149. Los siguientes demandados fueron incluidos mediante enmienda a las alegaciones en el caso SJ2016CV00143:

150. El demandante Julio A. Camacho Mattei tiene 80 años de edad y sufre de diversos padecimientos de salud, entre otros, diabetes e hipertensión arterial. Trabajó en San José de 1974 a 2012. Completó los 10 años de servicio con la Iglesia Católica y su Arquidiócesis en 1984. En 2001 se jubiló y comenzó a recibir la pensión a la que tiene derecho bajo el Plan de \$420.00 mensuales. El demandante está casado con la co-demandante Evelyn Pietri Soto. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Calle 2 D6, Urb. Monte Bello Estate, Trujillo Alto, PR 00976; (787) 755-0191, (787) 602-1916.

151. La demandante Mercedes Fernández tiene 87 años de edad y sufre de diversos padecimientos de salud, entre otros, problemas de circulación por consecuencia de una tromboflebitis, hipertensión arterial y, además, fue intervenida quirúrgicamente para colocarle un marcapasos. Trabajó en San José comenzando en 1964. Completó los 10 años de servicio con la Iglesia Católica y su Arquidiócesis en 1974. La demandante ya

comenzó a percibir la pensión que recibe bajo el Plan de \$444.83 mensuales. La demandante es viuda. Su dirección y teléfono, para fines de notificación, son: Calle Bilbao J-9, Urb. Villa Clementina Norte, Guaynabo, PR 00969; (787) 790-5569, (787) 633-6375.

152. La demandante Sara Mejía Castaings de Corrada tiene 84 años de edad. Trabajó en San José desde 1970 hasta 1996. Completó los 10 años de servicio con la Iglesia Católica y su Arquidiócesis en 1980. En 1996 la demandante comenzó a percibir la pensión a la que tiene derecho bajo el Plan de \$425.00 mensuales. La demandante es viuda. Su dirección y teléfono, para fines de notificación, son: Urb. Suchville, Calle Principal 20, Guaynabo, PR 00966; (787) 782-1818.

153. La demandante Dora Muñiz Ramos tiene 92 años de edad. Trabajó en San José desde 1956 hasta 2015. Completó los 10 años de servicio con la Iglesia Católica y su Arquidiócesis en 1966. En 1993 la demandante comenzó a percibir la pensión a la que tiene derecho bajo el Plan de \$435.92 mensuales. La demandante es viuda. Su dirección y teléfono, para fines de notificación, son: Calle Palma Sola HA-6, Urb. Garden Hills, Guaynabo, PR 00966; (787) 792-3719.

154. La demandante Gladys Vázquez Acevedo tiene 87 años de edad. Trabaja en San José desde 1970. Completó los 10 años de servicio con la Iglesia Católica y su Arquidiócesis en 1980. En 1994 la demandante comenzó a percibir la pensión a la que tiene derecho bajo el Plan de \$436.00 mensuales. La demandante está casada con el co-demandante José A. Rosado Ortiz. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Calle Duero 407, Urb. Villas de Borinquen, San Juan, PR 00920; (787) 793-0878.

C. LOS DEMANDANTES DE SAN IGNACIO

155. Los siguientes comparecieron como demandantes originales en la

demanda presentada en el caso SJ2016CV00143 (la misma no ha sido enmendada):

156. La demandante Elsie Alvarado Rivera tiene 75 años de edad y sufre de diversos padecimientos de salud, tales como diabetes, hipertensión, problemas cardiovasculares, hipotiroidismo, depresión y problemas gastrointestinales. La demandante trabajó en San Ignacio desde 1975 hasta 2001. Ya está jubilada y comenzó a percibir la pensión a la que tiene derecho bajo el Plan. Recibe \$488 mensuales por concepto de pensión. La demandante completó los 10 años de servicio con la Arquidiócesis en 1985. La demandante está casada con el co-demandante Isidoro Hernández. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Coop. Jardines de San Francisco Apto. 616-I, San Juan, PR 00927; (787) 944-9993.

157. La demandante Esther M. Álvarez Meléndez tiene 36 años de edad. Trabaja en San Ignacio desde 2008 y actualmente es maestra de ciencias. Completó los 10 años de servicio con la Arquidiócesis en el 2012. La demandante está casada con el co-demandante Javier O. Torres. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Parque Señorial, Calle 2 B-6, San Juan, PR 00926; (787) 403-7714.

158. La demandante Margarita Álvarez Rodríguez tiene 60 años de edad. La demandante trabajó en San Ignacio desde 1986 hasta el 1990 y del 1991 al 2003. Completó los 10 años de servicio en la Arquidiócesis en el 2001. La demandante es soltera. Su dirección y teléfono, para fines de notificación, son: Calle Madrid #1, Lakeshore Apto. 10-A, San Juan, PR 00907; (787) 922-7644.

159. El demandante Lionel Arroyo Carrero tiene 57 años de edad. Trabaja en San Ignacio desde el 1994. Completó los 10 años de servicio con

la Arquidiócesis en el 2004. Actualmente es maestro de religión. El demandante es soltero. Su dirección y teléfono, para fines de notificación, son: HC-01 Box 26711, Caguas, PR 00795; (787) 387-2825.

160. La demandante Ada L. Arroyo Sánchez tiene 61 años de edad y sufre de diversos padecimientos de salud, tales como hipertensión y artritis reumatoidea. Trabaja en San Ignacio desde 1982. Completó los 10 años de servicio con la Arquidiócesis en 1992. Actualmente es maestra de matemáticas, religión, estudios sociales y caligrafía. La demandante está casada con el co-demandante José A. Hernández Nieves. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Calle 11 P-11, Alturas Interamericana, Trujillo Alto, PR 00976; (787) 241-6953.

161. La demandante Zenaida Basora Urrutia tiene 54 años de edad. Trabajó en San Ignacio desde 1989 a 2002. Completó los 10 años de servicio con la Arquidiócesis en 1999. La demandante está casada con el co-demandante Hermes Román Amador. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: D8 Calle Hamilton, Urb. Parkville, Guaynabo, PR 00969; (787) 300-0231.

162. El demandante Luis A. Carrión Pérez tiene 54 años de edad. Trabaja en San Ignacio desde 1986. Completó los 10 años de servicio con la Arquidiócesis en 1996. Actualmente es empleado del Departamento de Mantenimiento de la escuela. El demandante es soltero. Su dirección y teléfono, para propósitos de notificación, son: #136 Ciudad del Lago, Trujillo Alto, PR 00976; (787) 627-2610.

163. La demandante Silvia E. Casiano Tellado tiene 53 años de edad y sufre de diversos padecimientos de salud, tales como hipertensión, alergias nasales, asma, posible glaucoma y fibromialgia. La demandante trabajó en San Ignacio desde 1992 hasta 2004. Completó los 10 años de servicio con la

Arquidiócesis en 2002. Actualmente es maestra en otra institución. La demandante está casada con el co-demandante Gerardo F. López Muñoz. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Calle 15 M-1, Urb. Cupey Gardens, San Juan, PR 00926; (787) 310-6504.

164. La demandante Bárbara V. Casiano Velázquez tiene 47 años de edad. Trabaja en San Ignacio desde 2001. Completó los 10 años de servicio con la Arquidiócesis en 2011. Actualmente es empleada en la Oficina de Contabilidad de la escuela. La demandante está casada con capitulaciones matrimoniales. Su dirección y teléfono, para fines de notificación, son: Condominio Chalet de Bayamón Apto. 3032, Bayamón, PR 00959; (787) 923-0816.

165. La demandante Luisa María Castro Rivera tiene 62 años de edad y padece de diversos padecimientos de salud tales como hipertensión. Trabajó en San Ignacio comenzando en 1995. Completó sus 10 años de servicio con la Arquidiócesis en 2004, habiendo trabajado anteriormente en la Academia San José desde 1986 hasta 1989. La demandante está casada con capitulaciones matrimoniales. Su dirección y teléfono, para fines de notificación, son: PO Box 9020721, San Juan, PR 00902; (787) 552-7112.

166. La demandante Carmen Mercedes Crespo tiene 64 años de edad y sufre de diversos padecimientos de salud, tales como osteoporosis. La demandante trabajó en San Ignacio comenzando en 1983. Completó sus 10 años de servicio con la Arquidiócesis en 1993. Trabaja como maestra de primer grado. La demandante es soltera. Su dirección y teléfono, para fines de notificación, son: Calle Villa Iris A-6, Los Frailes, Guaynabo, PR 00969; (787) 529-3974, (787) 790-5719.

167. El demandante Andrés E. Durán Castaños tiene 34 años de edad. Trabaja en San Ignacio desde 2003. Completó los 10 años de servicio con la Arquidiócesis en 2013. Actualmente es gerente de sistemas de información

en la escuela. El demandante está casado con la co-demandante Vanessa Figueroa González. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: PO Box 675, Sabana Seca, PR 00952; (787) 360-9613.

168. La demandante Zonya Espinosa Tarniella tiene 34 años de edad. Trabaja en San Ignacio desde 2004. Completó los 10 años de servicios con la Arquidiócesis en 2014. Actualmente es maestra de religión. La demandante es soltera. Su dirección y teléfono, para fines de notificación, son: Calle Olmo 501, Highland Park, Apto. 102, San Juan, PR 00924; (787) 531-1353.

169. La demandante Dora E. Fernández Padilla tiene 65 años de edad. Trabajó en San Ignacio desde 1990 hasta 2003, cuando se jubiló y comenzó a recibir la pensión a la que tiene derecho bajo el Plan de \$483.83 mensuales. La demandante completó los 10 años de servicio con la Arquidiócesis en 2003. La demandante es soltera. Su dirección y teléfono, para fines de notificación, son: Calle Tejas R-27, Urb. Mallorca, Guaynabo, PR 00969; (787) 661-0015.

170. La demandante Gladys M. Figueroa Gautier tiene 49 años de edad. Trabaja en San Ignacio desde 1993. Completó los 10 años de servicio con la Arquidiócesis en 2003. Actualmente trabaja en el Programa de Apoyo al Estudiante de la escuela. La demandante está casada con el co-demandante Richard Zambrana. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: PO Box 9635, San Juan, PR 00908; (787) 209-7851.

171. La demandante Audilia Fuentes Santos tiene 54 años de edad y padece de diversos padecimientos de salud tales como fibromialgia y síndrome de ansiedad generalizada. Trabaja en San Ignacio desde 2000. Completó los 10 años de servicio con la Arquidiócesis en 2010. Actualmente es enfermera escolar en la escuela. La demandante es soltera. Su dirección y

teléfono, para fines de notificación, son: Urb. Villa Ávila, Calle Humacao A-40, Guaynabo, PR 00969; (787) 231-9517.

172. La demandante Lourdes Godén Gaud tiene 58 años de edad. Trabaja en San Ignacio desde 1999. Completó los 10 años de servicio con la Arquidiócesis en 2009. Actualmente es empleada de la Oficina de Administración de la escuela. La demandante está casada con el co-demandante Eliud A. Serrano González. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Urb. Santa Juanita DH24, Calle Cataluña, Bayamón, PR 00956; (787) 785-2059.

173. La demandante Jossie A. González Ventura tiene 55 años de edad y sufre de diversos padecimientos de salud, tales como hipertensión, dolores severos de espalda y tenosinovitis de Quervain. Trabaja en San Ignacio desde 1980. Completó los 10 años de servicio con la Arquidiócesis en 1990. Actualmente es Asistente Administrativa de la Oficina de Administración de la escuela. La demandante está casada con el co-demandante Edgardo Reyes Morales. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Urb. Las Colinas, Calle Colina del Yunque H-4, Toa Baja, PR 00949; (787) 649-0188.

174. La demandante Rosa D. Hernández Rosado tiene 58 años de edad y sufre de diversos padecimientos de salud, tales como problemas de circulación en la pierna izquierda, además de ser sobreviviente de cáncer. Trabajó en San Ignacio desde 1978 hasta 1995. Completó los 10 años de servicio con la Arquidiócesis en 1988. La demandante está casada con el co-demandante Ricardo Lebrón Maldonado. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Dr. Quevedo Báez BT-15 5ta. Sección, Levittown, Toa Baja, PR 00949; (787) 376-1342.

175. La demandante Janine Hidalgo Santiago tiene 38 años de edad. Trabaja en San Ignacio desde 1999. Completó los 10 años de servicio con la Arquidiócesis en 2009. Actualmente es maestra de ciencias. La demandante está casada con el co-demandante Héctor Martínez Tosado. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Calle Honduras B-16, Oasis Gardens, Guaynabo, PR 00969; (787) 326-4188.

176. La demandante Alice M. Huyke Souffront tiene 64 años de edad. Trabaja en San Ignacio desde 1989. Completó los 10 años de servicio con la Arquidiócesis en 1999. Actualmente es maestra de kindergarten. La demandante está casada con el co-demandante Carlos E. Jiménez Torres. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: 42 Calle 1, Urb. La Campiña, San Juan, PR 00926; (787) 789-4855, (787) 248-8855.

177. La demandante Olga M. Jaime Tapia de Ginés tiene 79 años de edad. La demandante trabajó en San Ignacio desde 1968 hasta 2003 cuando se jubiló y comenzó a percibir la pensión a la que tiene derecho bajo el Plan de \$731.50 mensuales. La demandante completó los 10 años de servicio con la Arquidiócesis en 1978. La demandante está casada con el co-demandante Antonio Ginés Montalvo. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Calle Nogal 149, San Ramón, Guaynabo, PR 00969; (787) 789-4333; (787) 514-3650.

178. La demandante María Luisa Juliá Juliá tiene 60 años de edad. Trabaja en San Ignacio desde 2000. Completó sus 10 años de servicio con la Arquidiócesis en 2010. Actualmente es maestra de inglés. La demandante está casada con el co-demandante Miguel Ángel Ríos Gerena. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Calle

San Jacinto G-3, Urb. El Álamo, Guaynabo, PR 00969; (787) 790-7076, (787) 944-3331.

179. La demandante Ana R. Juliá Savarit tiene 36 años. Trabaja en San Ignacio desde 2003. Completó los 10 años de servicio con la Arquidiócesis en 2013. Actualmente es maestra de estudios sociales y español. La demandante está casada con el co-demandante Abner R. Román Pérez y otorgaron capitulaciones matrimoniales. Su dirección y teléfono, para fines de notificación, son: 10 Flamingo Apartments #12302, Bayamón, PR 00959; (787) 384-9197.

180. La demandante Linda López Arriaga tiene 55 años de edad y sufre de diversos padecimientos de salud, tales como hipertensión. Trabaja en San Ignacio desde 1995. Completó sus 10 años de servicio con la Arquidiócesis en 2005. Actualmente es empleada del Departamento de Mantenimiento de la escuela. La demandante está casada con el co-demandante José Reyes Rosario. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Calle Guillermo Saldaña #57, Amelia, Guaynabo, PR 00965; (787) 529-2245.

181. La demandante Arlene López Cancel tiene 34 años de edad. Trabaja en San Ignacio desde 2003. Completó los 10 años de servicio con la Arquidiócesis en 2013. Actualmente es Vice-Principal de la escuela. La demandante está casada con capitulaciones matrimoniales. Su dirección y teléfono, para fines de notificación, son: Urb. Santa Clara, Calle Calabura T17, Guaynabo, PR 00969; (787) 466-2248.

182. El demandante Luis Ángel Martínez Vazquez tiene 49 años de edad. Trabaja en San Ignacio desde 2001. Completó los 10 años de servicio con la Arquidiócesis en 2011. Actualmente es maestro de educación física. El demandante es soltero. Su dirección y teléfono, para fines de notificación, son: HC-01 Box 9303, Toa Baja, PR 00959; (787) 604-5389.

183. La demandante Felícita Montañez Figueroa tiene 58 años de edad y fue despedida de San Ignacio en mayo de 2015. Sufre de diversos padecimientos de salud, tales como hipotiroidismo, hipertensión, apnea de sueño, depresión, trastornos cognoscitivos y pérdida de memoria. Desde enero de 2016 recibe beneficios del Seguro Social por incapacidad. Trabajó en San Ignacio desde 1983 hasta 2015. Completó los 10 años de servicio con la Arquidiócesis en el 1995. La demandante está casada (hoy separada) con el co-demandante Miguel A. Albarrán Reyes. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Calle 2 F4, Urb. Berwind Estates, San Juan, PR 00924; (939) 218-7630.

184. La demandante Asmara Morales Yepes tiene 45 años de edad. Trabaja en San Ignacio desde 1995. Completó sus 10 años de servicio para la Arquidiócesis en 2005. Actualmente es maestra de español y religión. La demandante está casada con capitulaciones matrimoniales. Su dirección y teléfono, para fines de notificación, son: Urb. Las Américas, Calle 7 BB-6, Bayamón, PR 00959; (787) 368-4154.

185. La demandante Carmen Teresa Morris Zamora tiene 60 años de edad. La demandante trabajó en San Ignacio desde 1985 hasta 2005 cuando renunció. Posteriormente, comenzó a percibir la pensión a la que tiene derecho bajo el Plan de \$387.70 mensuales. La demandante completó los 10 años de servicio con la Arquidiócesis en 1988. La demandante es soltera. Su dirección y teléfono, para fines de notificación, son: 7 Ramón Murga Apto. 11 (B201), Guaynabo, PR 00971; (787) 200-6184, (787) 635-5984.

186. La demandante Vivian V. Ortiz Schettini tiene 36 años de edad. Trabaja en San Ignacio desde 2005. Completó sus 10 años de servicio para la Arquidiócesis en 2015. Actualmente es maestra de matemáticas y estudios sociales. La demandante está casada con el co-demandante Fernando Sálamo Cedeño y otorgaron capitulaciones matrimoniales. Su dirección y

teléfono, para fines de notificación, son: Urb. Mirador Bairoa, Calle 17 2M-35A, Caguas, PR 00727; (787) 531-2365.

187. La demandante María de los A. Pacheco Rodríguez tiene 48 años de edad. Trabaja en San Ignacio desde 2006. Completó sus 10 años de servicio para la Arquidiócesis en 2001. Actualmente es maestra de kindergarten. La demandante está casada con el co-demandante Alfred Demel. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: PMB 372 PO Box 2400, Toa Baja, PR 00951; (787) 203-8769.

188. La demandante Yanira Padilla Santiago tiene 44 años de edad y sufre de diversos padecimientos de salud, tales como tiroides, insuficiencia venosa, colesterol e hipertensión. Trabaja en San Ignacio desde 1994. Completó sus 10 años de servicio para la Arquidiócesis en 2004. Actualmente es maestra de kindergarten. La demandante es soltera. Su dirección y teléfono, para fines de notificación, son: Vistas de Montecasino, 500 Avenida Norfe Apto. 1103, Toa Alta, PR 00953; (787) 615-7143.

189. El demandante Eliezer Parrilla Meléndez tiene 54 años de edad. Trabaja en San Ignacio desde 1990. Completó sus 10 años de servicio con la Arquidiócesis en 2000. Actualmente es empleado en el Departamento de Mantenimiento de la escuela. El demandante está casado con la co-demandante María García Montañez. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: RR #3, Buzón 5344, Caimito Bajo, San Juan, PR 00928; (787) 790-4962.

190. La demandante Liza Polanco Pagán tiene 37 años de edad. Trabaja en San Ignacio desde 2003. Completó sus 10 años de servicio con la Arquidiócesis en 2013. Actualmente es maestra de Educación Especial en la escuela. La demandante está casada con el co-demandante Walter Ricardo Bonilla Santalíz. La pareja comparece por sí y en representación de su

sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Paseo Alto, #90 Calle Mirador, San Juan, PR 00926; (939) 644-9669.

191. La demandante Myrna Quijano Guillama tiene 64 años de edad y sufre de diversos padecimientos de salud, tales como diabetes (Tipo 2) e hipertensión. Trabaja en San Ignacio desde 1984. Completó sus 10 años de servicio con la Arquidiócesis en 1994. Actualmente es maestra de español. La demandante es soltera. Su dirección y teléfono, para fines de notificación, son: Urb. Versailles, Calle 6 G-21, Bayamón, PR 00959; (787) 785-3542, (787) 528-3542.

192. La demandante Sonia Rivera Colón tiene 55 años de edad. Trabaja en San Ignacio desde 1992. Completó sus 10 años de servicio con la Arquidiócesis en 2002. Actualmente es la secretaria/recepcionista de la escuela. La demandante está casada con el co-demandante Jorge Ariel Vázquez Román. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Calle 204 4G-23, Urb. Colinas de Fairview, Trujillo Alto, PR 00976; (787) 309-1266, (787) 568-5522.

193. La demandante Iris Rodríguez Delgado tiene 70 años de edad. La demandante trabajó en San Ignacio comenzando en 1974. Completó sus 10 años de servicio con la Arquidiócesis en 1984. La demandante ya comenzó a percibir la pensión a la que tiene derecho bajo el Plan de \$759 mensuales. La demandante es viuda. Su dirección y teléfono, para fines de notificación, son: Urb. Jardines de Bayamonte, Calle Ruisseñor #145, Bayamón, PR 00956; (787) 785-3341.

194. El demandante Ángel F. Rolón Rivera tiene 57 años de edad y sufre de diversos padecimientos de salud, tales como discos herniados (L4-L5) y problemas de movilidad con su brazo derecho. Trabaja en San Ignacio desde 1981. Completó sus 10 años de servicio con la Arquidiócesis en 1991.

Actualmente es maestro de educación física. El demandante está casado con la co-demandante María Teresa Del Valle. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: 501 Calle Guayanilla, Apto. 18, Parque de San Agustín, San Juan, PR 00923; (787) 457-7003.

195. La demandante Ginnette Rosado Sánchez tiene 55 años de edad. Trabajó en San Ignacio desde 1995 hasta el 2007. Completó sus 10 años de servicio con la Arquidiócesis en 2005. Actualmente es bibliotecaria en otra institución. La demandante está casada con el co-demandante Eugenio René China. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Calle San José #50, Apto. 903, Condominio San Francisco Javier, Guaynabo, PR 00969; (787) 550-4880.

196. El demandante Javier Rosado Torres tiene 48 años de edad. Trabaja en San Ignacio desde 2004. Completó sus 10 años de servicio con la Arquidiócesis en 2014. Actualmente es empleado en el Departamento de Mantenimiento de la escuela. El demandante está casado con la co-demandante María S. Urango Salcedo. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Condominio Jardines de Guayama, Edif. E Apto. 403, San Juan, PR 00917; (787) 380-7559.

197. La demandante Fanivel Rosario Santiago tiene 45 años de edad y sufre de una serie de padecimientos de salud, tales como psoriasis, cuyo tratamiento conlleva gastos recurrentes. Trabaja en San Ignacio desde 1994. Completó sus 10 años de servicio con la Arquidiócesis en 2004. Actualmente es maestra de español. La demandante es soltera. Su dirección y teléfono, para fines de notificación, son: Avenida Winston Churchill 251, Parque El Señorial Apto. 86, San Juan, PR 00926; (787) 367-9411.

198. La demandante Adela Sabatier Águila tiene 63 años de edad. Trabaja en San Ignacio desde 1998. Completó sus 10 años de servicio con la Arquidiócesis en 2008. Actualmente es la bibliotecaria de la escuela. La demandante está casada con el co-demandante Rudy E. Mayol Kauffmann. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: PO Box 5037, Carolina, PR 00984; (787) 708-2231.

199. La demandante Ana Sierra Díaz tiene 52 años de edad y sufre de diversos padecimientos de salud, tales como una leve fractura de vértebra (#5) que conlleva gastos recurrentes para su tratamiento. Trabaja en San Ignacio desde 1999. Completó sus 10 años de servicio con la Arquidiócesis en 2009. Actualmente es maestra de francés. La demandante está casada con el co-demandante César Manuel Sierra Rondón. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Boulevard del Río II, Avenida Los Filtros 500 Apto. 72, Guaynabo, PR 00971; (787) 688-0803.

200. La demandante Mayra Enid Soto Guzmán tiene 55 años de edad y sufre de diversos padecimientos de salud, tales como problemas de movilidad con su rodilla derecha e hipertensión. Trabaja en San Ignacio desde 1994. Completó sus 10 años de servicio con la Arquidiócesis en 2004. Actualmente es maestra de cuarto, quinto y sexto grado. La demandante está casada con el co-demandante José A. Candelaria Maldonado. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Sierra Berdecía, Benítez B-1, Guaynabo, PR 00969; (787) 242-7167.

201. La demandante Nelly-Ann Suárez Pesante tiene 56 años de edad y sufre de diversos padecimientos de salud, tales como fibromialgia, lo que conlleva gastos recurrentes para su tratamiento. Trabaja en San Ignacio desde 1985. Completó sus 10 años de servicio con la Arquidiócesis en 1995.

La demandante está casada con capitulaciones matrimoniales. Su dirección y teléfono, para fines de notificación, son: PO Box 680, Guaynabo, PR 00970; (787) 579-0723.

202. La demandante Ana M. Tirado Colón tiene 42 años de edad. Trabaja en San Ignacio desde 2005. Completó sus 10 años de servicio con la Arquidiócesis en 2015. Actualmente es maestra de matemáticas y estudios sociales. La demandante está casada con el co-demandante Yarim E. Cros Vázquez. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: 1654 Calle Amarillo, Urb. Reparto de Diego, San Juan, PR 00926; (787) 344-4386.

203. La demandante Clara L. Tirado Ríos tiene 50 años de edad y sufre de una serie de padecimientos de salud, tales como hipertensión, artritis, tiroides, "*carpal tunnel syndrome*" y posible fibromialgia. Trabaja en San Ignacio desde 1995. Completó sus 10 años de servicio con la Arquidiócesis en 2005. Actualmente es empleada del Departamento de Contabilidad de la escuela. La demandante está casada con el co-demandante Samuel López Pérez. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Urb. Villa Verde, Calle 1G-10, Bayamón, PR 00959; (787) 203-1690.

204. La demandante Aurín Valcárcel Cervera tiene 67 años de edad y sufre de diversos padecimientos de salud, tales como osteoartritis degenerativa en ambas rodillas y dedos de los pies, así como hipertensión. La demandante trabaja en San Ignacio desde 1992. Completó sus 10 años de servicio con la Arquidiócesis en 2002. Actualmente es maestra de español. La demandante ya comenzó a percibir la pensión a la que tiene derecho bajo el Plan de \$612.00 mensuales. La demandante está casada con el co-demandante Santos Negrón Díaz. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y

teléfono, para fines de notificación, son: Calle 60 BC-16, Hill Mansions, Río Piedras, PR 00926; (787) 283-1441, (787) 902-7306.

205. La demandante Mirtelina Vázquez Robles tiene 54 años de edad y sufre de diversos padecimientos de salud, entre otros, hipotiroidismo e hipertensión arterial. Trabaja en San Ignacio desde 2001. Completó sus 10 años de servicio con la Arquidiócesis en 2011. Actualmente es Asistente Administrativa en la escuela. La demandante está casada con el co-demandante José V. Torres Rivera. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Urb. Colinas Metropolitanas, T-5 Calle Montellano, Guaynabo, PR 00969; (939) 218-7928.

206. La demandante Miriam Villardefrancos Vergara tiene 76 años de edad y sufre de diversos padecimientos de salud relacionados con una operación de cáncer de vejiga que requirió un reemplazo, así como gastos recurrentes asociados a tal condición. La demandante trabajó en San Ignacio desde 1993 hasta 2006. Completó sus 10 años de servicio con la Arquidiócesis en 2003. La demandante ya comenzó a percibir la pensión a la que tiene derecho bajo el Plan de \$246.33 mensuales. La demandante es soltera. Su dirección y teléfono, para fines de notificación, son: Calle I D-17, Torremolinos, Guaynabo, PR 00969; (787) 789-9136, (787) 525-2656.

207. La demandante Lourdes M. Zegrí Prieto tiene 35 años de edad. Trabajó en San Ignacio desde 2003 hasta 2005 y nuevamente del 2006 hasta el presente. Completó sus 10 años de servicio con la Arquidiócesis en 2014. Actualmente es maestra de matemáticas. La demandante está casada con el co-demandante Carlos E. Rentas Giusti. La pareja comparece por sí y en representación de su sociedad legal de bienes gananciales. Su dirección y teléfono, para fines de notificación, son: Calle Saúco #1989, Urb. San Ramón, Guaynabo, PR 00969; (787) 447-5600.

IV. LAS PARTES DEMANDADAS.

A. LA IGLESIA CATÓLICA

208. La Iglesia Católica es una entidad jurídica sin fines de lucro y con finalidad religiosa. La sede de la Iglesia Católica ubicada en San Juan se administra principalmente por conducto de la Arquidiócesis de San Juan, cuyo titular es el Arzobispo de San Juan, Monseñor Roberto González Nieves. La Arquidiócesis de San Juan y su titular toman decisiones sobre el patrimonio de la Iglesia Católica ubicado en su área de responsabilidad y afectan a los empleados de la Iglesia Católica y sus entidades afiliadas, tales como los maestros y empleados de las escuelas católicas ubicadas en la región de la Arquidiócesis de San Juan y/o adscritas a su Plan. La Arquidiócesis de San Juan y Monseñor Roberto González Nieves gozan de poderes de supervisión sobre los empleados de las escuelas católicas ubicadas en la región de la Arquidiócesis de San Juan y/o adscritas a ésta.

209. La Arquidiócesis de San Juan de la Iglesia Católica es una dependencia de la Iglesia Católica y no tiene personalidad jurídica propia, separada de la de la Iglesia Católica.

210. La Iglesia Católica ejerce supervisión sobre las escuelas católicas que le son afiliadas en la región de la Arquidiócesis de San Juan mediante la Superintendencia.

211. La Superintendencia es una dependencia de la Iglesia Católica y no tiene personalidad jurídica propia, separada de la de la Iglesia Católica. Para la fecha de la terminación del Plan, la directora de la Superintendencia lo era la Sra. Ana Cortés Crespo, quien se incluye como codemandada en tal capacidad además de en su carácter personal. Se incluye al cónyuge y a la sociedad legal de bienes gananciales de la Sra. Cortes Crespo, quienes han derivado beneficio de las actuaciones de ésta.

212. El Fideicomiso del Plan de Pensión Para Empleados de Escuelas Católicas (el "Fideicomiso") es una entidad jurídica creada mediante la

Escritura Núm. 12 otorgada en San Juan el 26 de noviembre de 1979 ante el Notario Antonio Suárez de la Torre, con el propósito de administrar los recursos del Plan.

213. El Fideicomiso tiene personalidad jurídica propia, bajo las leyes de Puerto Rico. El Fideicomiso está controlado por la Iglesia Católica, a través de la Superintendencia. Conforme a las disposiciones del Artículo 12 del Plan (Anejo 2 de la Demanda), la Superintendencia tiene facultad para nombrar y destituir a los miembros del Fideicomiso, así como para modificar y/o revocar sus decisiones. Durante todo el tiempo pertinente a la presente controversia, los miembros de la Junta de Síndicos del Fideicomiso han fungido como agentes de la Iglesia y han seguido las directrices del director de la Superintendencia y el Arzobispo de San Juan.

214. A la fecha de su terminación, el Fideicomiso tenía 42 escuelas e instituciones afiliadas. De éstas, una parte sustancial no estaban incorporadas bajo las leyes de Puerto Rico y operan como dependencias de la Iglesia Católica.

215. Perpetuo Socorro es una escuela católica ubicada en Miramar, afiliada a la Iglesia Católica y sujeta a la supervisión de la Arquidiócesis de San Juan y de su titular, el Arzobispo de San Juan, Monseñor Roberto González Nieves.

216. Perpetuo Socorro carece de personalidad jurídica propia, separada de la de la Iglesia Católica. Perpetuo Socorro es una escuela parroquial y es una dependencia de la Iglesia Católica, bajo el control de la Arquidiócesis de San Juan y de su titular, el Arzobispo Monseñor Roberto González Nieves.

217. San José es una escuela católica y dependencia de la Iglesia Católica, sujeta a la supervisión de la Arquidiócesis de San Juan y de su titular, el Arzobispo de San Juan, Monseñor Roberto González Nieves. San José no está incorporada y carece de personalidad jurídica propia, separada

de la de la Iglesia Católica. San José es una escuela parroquial y es una dependencia de la Iglesia Católica, bajo el control de la Arquidiócesis de San Juan y de su titular, el Arzobispo Monseñor Roberto González Nieves.

218. San Ignacio es una escuela católica y dependencia de la Iglesia Católica, sujeta a la supervisión de la Arquidiócesis de San Juan y de su titular, el Arzobispo de San Juan, Monseñor Roberto González Nieves. San Ignacio no está incorporada y carece de personalidad jurídica propia, separada de la de la Iglesia Católica. San Ignacio es una escuela parroquial y es una dependencia de la Iglesia Católica, bajo el control de la Arquidiócesis de San Juan y de su titular, el Arzobispo Monseñor Roberto González Nieves.

219. Al igual que Perpetuo Socorro, San José y San Ignacio, las siguientes escuelas y entidades afiliadas al Plan carecen de personalidad jurídica propia y son dependencias de la Iglesia Católica:

- (i) Academia Espíritu Santo
- (ii) Colegio Nuestra Señora de Lourdes
- (iii) Colegio Nuestra Señora de Belén
- (iv) Colegio Nuestra Señora de la Guadalupe
- (v) Colegio Sagrado Corazón de Jesús
- (vi) Colegio San Vicente de Paul
- (vii) Academia San Ignacio de Loyola
- (viii) Academia San Jorge
- (ix) Colegio Santa Cruz
- (x) Arzobispado de San Juan
- (xi) Colegio Corazón de María
- (xii) Colegio Espíritu Santo
- (xiii) Academia Nuestra Señora de la Providencia
- (xiv) Academia Nuestra Señora del Perpetuo Socorro
- (xv) Superintendencia de las Escuelas Católicas de San Juan

(xvi) Superintendencia de las Escuelas Católicas de Caguas

(xvii) Colegio La Piedad

(xviii) Colegio San Agustín de San Juan

220. Se designan bajo los nombres ficticios “X” y “Y” aquellas escuelas y dependencias participantes en el Plan que no estén incorporadas y que no hayan sido correctamente identificadas por la parte demandante en la lista anterior.

221. Todos los demandantes asociados con las dependencias no incorporadas de la Iglesia Católica son empleados de la Iglesia Católica.

222. Los maestros y empleados asociados con escuelas que están incorporadas y que gozan de personalidad jurídica separada de la Iglesia Católica son empleados de dichas corporaciones y entidades.

223. Se incluyen como codemandados individuales al Arzobispo de San Juan, en su capacidad oficial y personal, a la directora de la Superintendencia y a las siguientes personas que se desempeñan y/o desempeñaron como miembros de la Junta de Síndicos del Plan entre 2000 el presente: hermana Carmen González; Raúl Nieves; Aníbal Colón Rosa; padre Juan Santa Guzmán; Ramón Guzmán; Ángel Galiñanes Llorens; Ángel Castillo Burgos; Rosa Figueroa Mundo; Julio Sánchez Ortiz; René Avilés López; Samuel Soto Alonso; Padre Enrique Camacho; Padre Milton Rivera; Padre David Vargas; José Pizá; Enrique Dávila; Rosa I. Pérez; Padre Carlos Quintana; Padre Valeriano Migueles; Padre Armando Álvarez, Rafael L. Morales, María S. de Marxuach; Monseñor Baudilio Merino. Se designan como “Fiduciarios XX y YY” a aquellos otros miembros de la Junta de Síndicos del Plan que sirvieron en dicha Junta de 2000 al presente y que no han sido de otro modo designados por su nombre propio. La parte demandante entiende que la mayor parte de los fiduciarios y/o miembros de la Junta de Síndicos del Plan no son casados. Para aquellos que lo sean se incluye a sus Cónyuges y respectivas sociedades legales de bienes

gananciales. Durante todo el tiempo asociado a esta controversia, los miembros de la Junta de Síndicos y/o fiduciarios del Fideicomiso han actuado como agentes de la Iglesia Católica y han seguido las directrices del Arzobispo de San Juan y de la directora de la Superintendencia de la Arquidiócesis de San Juan.

224. Se incluyen como demandados bajo nombre ficticio “A”, “B” y “C” a aquellas otras personas que pudieran serle responsables a los demandantes por los hechos de este caso bajo cualquier causa de acción concebible tales como incumplimiento o violación de contratos, daños y perjuicios de enriquecimiento injusto.

B. EN CASO DE ERRORES

225. Las instituciones afiliadas al Plan son numerosas. La parte demandante ha hecho su mejor esfuerzo para identificar los colegios y entidades afiliados al Plan que no gozan de personalidad jurídica. En caso de que mediase error sobre la personalidad jurídica o ausencia de ella de alguna de las escuelas o entidades afiliadas, se solicita del Tribunal que permita su oportuna corrección.

V. HECHOS.

A. PERPETUO SOCORRO, SAN JOSÉ Y SAN IGNACIO

226. Según indicado, un grupo de los representantes de la clase son maestros, empleados y ex empleados de Perpetuo Socorro. Perpetuo Socorro es una escuela parroquial afiliada a la Iglesia Católica y sujeta a la supervisión de la Arquidiócesis de San Juan y de su titular, el arzobispo de San Juan, Monseñor Roberto González Nieves.

227. La Iglesia Católica y el Arzobispo toman decisiones relacionadas con la administración de Perpetuo Socorro. Por ejemplo, en época reciente, Perpetuo Socorro adquirió notoriedad, cuando un grupo de los padres de dicha escuela cuestionó el uso, por parte de la Iglesia Católica y el Arzobispo, de los fondos aportados por los padres por concepto de “*building fund*” para

otros fines. Defiende a Perpetuo v. Arquidiócesis de San Juan de la Iglesia Católica, KAC2010-0340(602). La Iglesia Católica pudo disponer de los fondos de Perpetuo Socorro porque la escuela es una dependencia de la Iglesia Católica, que carece de personalidad jurídica separada a ésta.

228. Como parte de su contrato de empleo, los demandantes de Perpetuo Socorro convinieron a seguir las normas y doctrinas de la Iglesia Católica, cuyo incumplimiento podría ser base para la terminación de sus contratos.

229. El Manual de Personal Docente y No Docente de Perpetuo Socorro (Anejo 1(a) de esta Demanda) establece, en este sentido:

La Academia del Perpetuo Socorro es una institución de carácter religioso, que es responsable de la misión espiritual de la Iglesia Católica en San Juan y como tal, necesita y requiere de sus empleados normas de conducta cónsonas con la moral y doctrina de la Iglesia Católica. Todo el personal contratado por la Academia del Perpetuo Socorro reconoce y acepta que el exhibir una conducta cónsona con la moral y doctrinas de la Iglesia Católica, ha sido factor decisivo en su contratación, y se compromete a cumplir con dichas normas durante la vigencia de su relación con la academia del Perpetuo Socorro. Tanto la Academia como la Autoridad Arquidiocesana competente tienen el derecho de terminar el contrato de empleo si el empleado no observare una conducta moralmente decorosa o si sus expresiones o estilo de vida estuviesen reñidas con la moral o doctrina de la Iglesia Católica. (Subrayado nuestro) (Anejo 1, pág. 38).

230. Lo anterior significa que los empleados de Perpetuo Socorro son supervisados, no sólo por la escuela, sino por la Iglesia Católica y la Arquidiócesis de San Juan, quienes tienen facultad para despedirlos por infracciones a normas que sean requeridas por los postulados de la Iglesia. Mercado, Quilinchini v. U.C.P.R., 143 D.P.R. 610, 643 (1997).¹

231. Al igual que los demandantes de Perpetuo Socorro, los demandantes de San José se consideran empleados de la Iglesia Católica y están sujetos a la supervisión del Arzobispo de San Juan, Monseñor Roberto González Nieves. San José es una escuela parroquial que está sujeta a la

¹ A los empleados de Perpetuo Socorro, por ejemplo, se les prohíbe “[e]xhibir una conducta inmoral o licenciosa, acuerdo a los postulados de la Iglesia Católica.” Compárese, Mercado, Quilinchini v. U.C.P.R., 143 D.P.R. a la pág. 643.

supervisión del Arzobispo de San Juan. San José opera bajo el Código de Derecho Canónico de la Iglesia Católica. Véase el Manual de la Facultad de San José (Anejo 1(b) de esta Demanda, pág. 8).

232. Como parte de su contrato de empleo, a los demandantes de San José se les exige la “total adhesión a las normas, doctrinas, documentos de la Santa Sede, Cartas Pastorales de la Conferencia Episcopal Puertorriqueña, Cartas Pastorales del Arzobispo de San Juan de Puerto Rico y normas y directrices de la Arquidiócesis de San Juan y sus dependencias.” (Anejo 1(b), pág. 30).

233. A los maestros de San José se les prohíbe “[i]ncidir en conducta contraria a los principios o moral de la Iglesia Católica Apostólica Romana” (Anejo 1, pág. 32), lesionar la moral, principios y postulados de la Iglesia Católica.” (*Id.*), o “[c]omportarse en su vida privada de tal forma que su conducta traiga descrédito a la Iglesia.” (Anejo 1, pág. 33).

234. Lo anterior es ilustrativo de que los empleados de San José son supervisados por el Arzobispo de la Iglesia Católica y la Arquidiócesis de San Juan, quienes tienen facultad para despedirlos por infracciones a normas que sean requeridas por los postulados de la Iglesia Católica.

235. Similarmente, los demandantes de San Ignacio son empleados de la Iglesia Católica. San Ignacio es una escuela afiliada a la Iglesia Católica y sujeta a la supervisión de la Arquidiócesis de San Juan y de su titular, el arzobispo de San Juan, Monseñor Roberto González Nieves.

236. Como parte de su contrato de empleo, a los demandantes de San Ignacio se les exige seguir “las enseñanzas y doctrinas de la Iglesia Católica Apostólica y Romana de Puerto Rico, ... y el no cumplir con estos requisitos dará lugar a la terminación de su contrato.” (Véase el Manual de Empleados de San Ignacio, incluido como Anejo 1(c), pág. 35).

237. El Manual de Empleados de San Ignacio dispone, en este sentido, que:

El personal docente conoce la organización y dirección religiosa de la Academia y consecuentemente se obliga a observar y cumplir con todas las normas de conducta moral dictadas por la Academia y/o la Iglesia Católica, Apostólica y Romana de Puerto Rico.” (Anejo 1(c), pág. 36)

238. A los maestros de San Ignacio se les requiere obtener un certificado de las escuelas católicas (Anejo 1(c), pág. 36). Los maestros reciben sus pagos a nombre de la Arquidiócesis de San Juan. (Veáse el Anejo 1a de esta Demanda).

239. Lo anterior significa que los empleados de San Ignacio son supervisados, no sólo por la escuela, sino por la Iglesia Católica y la Arquidiócesis de San Juan, quienes tienen facultad para despedirlos por infracciones a normas que sean requeridas por los postulados de la Iglesia. Mercado, Quilinchini v. U.C.P.R., 143 D.P.R. 610, 643 (1997).² La Iglesia Católica se considera patrono de los demandantes. Cf., Junta Rel de Trabajo v. Club Deportivo, 84 D.P.R. 515, 523-524 (1962).

240. La situación de los empleados demandantes de Perpetuo Socorro, San José y San Ignacio es representativa de las circunstancias de los miembros de la Clase demandante, todos cuyos miembros trabajan para escuelas y dependencias que no tienen personalidad jurídica separada a la de la Iglesia Católica. La Iglesia Católica se considera patrono de los demandantes. Cf., Junta Rel de Trabajo v. Club Deportivo, 84 D.P.R. 515, 523-524 (1962).

241. Dado el carácter sectario de la institución, los tribunales de ordinario no pueden intervenir en decisiones tomadas por las autoridades de la Iglesia que tengan fundamento religioso. Mercado, Quilinchini v. U.C.P.R., 143 D.P.R. a la pág. 643; Agostini Pascual v. Iglesia Católica, 109 D.P.R. 172, 177-178 (1979); véase, además, Academia San Jorge v. J.R.T., 110

² Por ejemplo, en los casos de hostigamiento sexual, las decisiones de la escuela son revisadas por la Iglesia Católica, a través de la Superintendencia (Anejo 1, pág. 25). El Organigrama de San Ignacio, también refleja la autoridad de Monseñor González Nieves como supervisor de dicha institución (Veáse el Anejo 1b de esta Demanda).

D.P.R. 193 (1980).

242. No obstante, las instituciones religiosas están sujetas a responder, en las mismas condiciones que cualquier otra entidad contratante, con respecto a obligaciones de naturaleza patrimonial que estén reguladas por las leyes y que no involucren cuestiones religiosas. Amador v. Conc. Igl. Univ. de Jesucristo, 150 D.P.R. 571, 580 (2000); Asoc. Academias Y Col. Cristianos v. E.L.A., 135 D.P.R. 150, 163 (1994). Ello incluye controversias de naturaleza laboral que no requieren pasar juicio sobre materias de doctrina, de disciplina, de fe o de organización eclesiástica interna. Díaz v. Colegio Nuestra Señora del Pilar, 123 D.P.R. 765, 783 (1989).

B. LA TERMINACIÓN DEL PLAN

243. En casos contractuales, las obligaciones de las partes se fijan de acuerdo al contrato y a los reglamentos de la institución, los que se entienden parte integral del contrato. González Aristud v. Hosp. Pavía, 168 D.P.R. 127, 137 (2006); Selosse v. Fund. Educ. Ana G. Méndez, 122 D.P.R. 534, 548-549 (1988).

244. En el campo laboral, la interpretación de las leyes se hace siempre de manera favorable a los empleados, quienes son la parte económicamente más débil. Whittenburg v. Col. Ntra. Sra. Del Carmen, 182 D.P.R. 937, 951 (2011).

245. El Plan existente de la Arquidiócesis de San Juan comenzó a regir el 1ro de septiembre de 1979. (Véase el Anejo 2 a esta Demanda). El Plan fue promulgado por la Iglesia Católica, a través de la Superintendencia, quien aparece designada como entidad auspiciadora del Plan. (Anejo 2, pág. 4). Mediante la mencionada Escritura Núm. 12 del 26 de noviembre de 1979, la Superintendencia constituyó el Fideicomiso para la administración del Plan. (Véase el Anejo 3 a esta Demanda).

246. El Plan dispone, en lo pertinente:

Este plan ha sido establecido por el Auspiciador del Plan para el beneficio exclusivo de los empleados de los patronos participantes y/o sus beneficiarios. En tanto sea posible, este documento será interpretado y administrado en forma consistente con la intención y los requisitos de las disposiciones del “Employees Retirement Income Security Act of 1974 [“ERISA”]... (Subrayado nuestro) (Anejo 2, pág. 4).

247. Esto es, el Plan se debe interpretar de forma consistente con ERISA, que gobierna los planes de retiro de los patronos privados a través de los Estados Unidos, 29 U.S.C. §§ 1001 y ss.

248. Bajo ERISA, los planes vienen obligados a rendir informes anuales detallados sobre su condición económica, 29 U.S.C. § 1023, incluyendo la obligación de informar a los participantes sobre el estado de su cuenta, 29 U.S.C. § 1025. Se requiere que se publique un resumen del plan, 29 U.S.C. § 1022. En caso de incumplimiento por el patrono o el administrador del plan, ERISA autoriza a los empleados y beneficiarios a, entre otras, cosas, instar una demanda para hacer valer sus derechos bajo un plan y recobrar sus beneficios, 29 U.S.C. § 1132.

249. ERISA sujeta a los patronos participantes a un escrutinio constante sobre la solvencia de los planes de retiro y establece mecanismos para detectar y corregir situaciones de insuficiencia de activos. ERISA crea, además, una entidad aseguradora, el *Pension Benefit Guaranty Corporation*, para cubrir insuficiencias en los planes participantes, de modo que los empleados participantes en un plan de retiro no sufran perjuicio por la insuficiencia de fondos. 29 U.S.C. §§ 1301 y ss.

250. Aunque menciona e incorpora por referencia a ERISA, el Plan que nos ocupa no está directamente cubierto por dicho estatuto federal, el que excluye de su cubierta a los planes de retiro adoptados por instituciones religiosas. Véase, 29 U.S.C. §1003(b)(2) (“*Church Plan*”). Esto quiere decir que el Plan no ha estado sujeto a fiscalización de las agencias que se encargan de la implementación de ERISA y que no ha tenido la obligación de

informar la reducción en sus activos o hacer desembolsos oportunos para corregirlas, según hubiera sucedido con cualquier patrono privado. El Plan tampoco está asegurado por el *Pension Benefit Guaranty Corporation*.

251. El Plan concede a los empleados beneficios de retiro al cumplir 65 años. (Véase, el Anejo 2, pág. 3). Los empleados adquieren beneficios luego de prestar 10 años de servicios. El artículo 11 del Plan, sobre “Derechos Adquiridos por los Participantes”, dispone, en lo pertinente, en su inciso B(1):

Todo participante en el plan que haya servido a patronos participantes por un mínimo de diez (10) años en la fecha en que finaliza su participación en el plan, tendrá derecho al beneficio de pensión acumulado hasta la fecha en la cual termina [su participación].

252. El Manual Informativo para Patronos Participantes preparado por la Arquidiócesis de San Juan y/o el Fideicomiso (Anejo 4 de esta Demanda), establece que los beneficios adquiridos por los empleados bajo el Plan no les pueden ser retirados. El Manual dispone, en su inciso 12:

DURACIÓN DEL PLAN

Una vez un patrono haya ingresado voluntariamente al plan, la duración del mismo será perpetua, pues los empleados adquieren ciertos beneficios que no pueden ser retirados. Sólo por el cierre de la institución o por probada quiebra económica podrá un patrono cesar en el plan, **DESPUES DE HABER PAGADO LA DEUDA CONTRAIDA CON SUS EMPLEADOS.** (Énfasis original).

253. Esto es, conforme a las representaciones del Fideicomiso y de la Iglesia Católica, los beneficios adquiridos por los empleados bajo el plan nunca pueden “ser retirados”.

254. En su Cláusula IX, la Escritura Núm. 12 establecía que “[l]as obligaciones de las partes en la presente están sujetas a la aprobación subsiguiente de esta Escritura de Fideicomiso y el Plan de Retiro Adjunto por el Secretario de Hacienda del Estado Libre Asociado del Estado Libre Asociado de Puerto Rico.” (Anejo 3).

255. El Artículo 18 del Plan dispone que el plan puede ser terminado, sujeto previamente, entre otras cosas, a la aprobación del Secretario de

Hacienda. En su inciso (b) el Artículo 18 dispone que “[e]sta terminación será efectiva si el comité y el fiduciario reciben un permiso de terminación del Secretario de Hacienda.” El inciso (d) del artículo 18 añade que “cuando la terminación del Plan ha sido aprobada, los fiduciarios del plan procederán a liquidar el fondo de fideicomiso.” (Anejo 2).

256. Los beneficios a los que tienen derecho los empleados al momento del retiro están gobernados por el Artículo 4 del Plan. Dicho artículo establece que los patronos pueden contribuir al Plan el 2%, 4% ó 6% de la nómina del patrono. Dependiendo de la contribución, el artículo establece una fórmula basada en una compensación de .5%, 1% ó 1.5% por el número de años de servicio de un empleado por el promedio de su salario por los últimos cinco (5) años. Por ejemplo, si el patrono aporta el 2%, para un empleado que trabajó 10 años por un sueldo promedio de \$400, la pensión es de $10 \times .5\% \times \$400 = \20 mensual. (Anejo 2, pág. 6; ver, además, el Anejo 5 de esta Demanda, Manual Informativo Para Empleados).

257. Los beneficios concedidos a los empleados por el Plan son conservadores. De acuerdo a su diseño, el Plan paga al empleado como beneficio un por ciento sustancialmente menor que la aportación que hace el patrono. Ello quiere decir que el Plan de ordinario debería producir ingresos suficientes para el pago de todos los beneficios.

258. Perpetuo Socorro, San José, San Ignacio y San Antonio son todas escuelas Participantes en el Plan. Perpetuo Socorro, San José, San Ignacio y San Antonio aportan a razón de 4% de su nómina. Los demandantes son beneficiarios del Plan, el que constituye parte de su compensación. Esto es, las cuatro (4) escuelas eligieron dedicar parte de sus fondos para el pago de aportaciones para el Plan, dinero que no le fue pagado a los demandantes como salario.

259. El Plan es auspiciado por la Superintendencia y administrado por una Junta de Síndicos, que son designados por ésta. Conforme al Artículo

12 del Plan (Anejo 2 de esta Demanda), la Superintendencia nombra a los miembros de la Junta y tiene la facultad de sustituirlos “en cualquier momento.” La Superintendencia puede revisar y modificar las decisiones de los miembros de la Junta. La Superintendencia y la Junta responden a las directrices del Arzobispo de San Juan, que es la autoridad eclesiástica que controla el Plan.

260. Los miembros de la Junta incumplieron crasamente con sus deberes de fiducia y maladministraron los fondos de los empleados. Entre 2000 y el presente, la Junta de Síndicos hizo numerosos desembolsos irregulares de los dineros de los empleados a escuelas, para pagar gastos operacionales de éstas, así como a otras entidades, que no tenían derecho a recibir estos fondos. Los miembros de la Junta de Síndicos incumplieron su deber de fiducia al no requerir el repago de estas cantidades.

261. Los miembros de la Junta de Síndicos actuaron de forma negligente al manejar e invertir los fondos destinados al pago de las pensiones de los empleados. Estos fondos fueron invertidos en valores y entidades de poca solidez económica, resultando en pérdidas económicas. Los miembros de la Junta incumplieron con su obligación de diversificar las inversiones, lo que propició que los fondos se menoscabaran por inversiones deficientes. Teniendo conocimiento de que el plan de pensiones no tendría los fondos necesarios para el pago de las pensiones, los miembros de la Junta no tomaron medidas para corregir esta situación ni para notificar a los empleados que sus pensiones estaban en peligro.

262. Los miembros de la Junta fueron negligentes en su obligación de cobrar sus contribuciones a los patronos participantes, a muchos de los cuales se les permitió acumular deudas cuantiosas que menoscabaron la capacidad del Fondo para pagar los beneficios de los empleados.

263. Los miembros de la Junta descuidaron su obligación de mantener récords adecuados relacionados con la administración de los fondos. Por

una década antes de la terminación del Plan, no se prepararon estados financieros. Tampoco se preparaban estudios actuariales. Aunque inicialmente, la Junta contaba con mecanismos para llevar la contabilidad de los beneficios de los empleados, el Fideicomiso alega que estos récords se abandonaron. Al momento de la terminación del plan, la Junta actuó a ciegas de los detalles de la verdadera situación económica del Plan, porque no tenían récords económicos vigentes.

264. Las omisiones y actuaciones negligentes de los miembros de la Junta provocaron que el Plan se tornara insolvente y/o agravaron su condición financiera. Los miembros de la Junta no tomaron medidas para corregir la situación y/o allegar fondos adicionales necesarios para garantizar la viabilidad económica del Plan. En lugar de servir al Plan y sus beneficiarios, los miembros de la Junta atendían las directrices de las autoridades eclesiásticas.

265. Para marzo de 2016, se decidió terminar el Plan. La decisión de terminar el plan fue propiciada por el Arzobispo de San Juan y la directora de la Superintendencia y fue acogida por los miembros de la Junta. El proceso para la terminación del Plan incumplió con el Artículo 18 de dicho instrumento, el que requería la aprobación previa del Departamento de Hacienda.

266. El 14 de marzo de 2016, la Superintendencia emitió un comunicado en el que informaba que se había tomado la decisión de terminar el Plan. (Véase el Anejo 6 de esta Demanda). El Comunicado indicaba:

La situación del plan es que los beneficios de pensión que se pagan superan por mucho las aportaciones de los patronos participantes lo que ha provocado una reducción sustancial en los activos del Plan. Los patronos participantes en su mayoría se han visto afectados por la difícil situación financiera que atraviesa el país por lo que aumentar sustancialmente las aportaciones al plan no era factible. Luego de la terminación los activos remanentes en el plan se repartirán mayormente entre los pensionados...

El Comunicado indicaba que se había orientado a los patronos para que, cada escuela, “conforme a sus posibilidades y programas de beneficios”, ofreciera a los empleados la posibilidad de establecer cuentas 401k para los empleados.

267. El mismo día del Comunicado, el Plan notificó a los beneficiarios que se estaba terminando el Plan. (Anejo 7 de esta Demanda). La comunicación indicaba que “[e]l último pago de pensión se hará en junio de 2016.”

268. Al anunciar la terminación del Plan, ninguna de las escuelas o entidades participantes, el Fideicomiso, la Iglesia Católica, la Arquidiócesis, el Arzobispo, la Superintendencia ni los síndicos reconocieron los derechos adquiridos por los demandantes bajo el Plan ni tomaron providencia alguna para su pago, como “derechos adquiridos”.

269. Al momento de anunciar la terminación del Plan, la parte demandada no había obtenido la aprobación del Departamento de Hacienda, según lo exige el artículo 18 del Plan.

C. BENEFICIOS ADEUDADOS

1. Demandantes de Perpetuo Socorro.

270. Todos los demandantes han trabajado más de 10 años para la Arquidiócesis de San Juan, por lo que, conforme al artículo 11 del Plan, adquirieron el derecho a los beneficios acumulados por ellos.

271. A la fecha en que se produjo la terminación del Plan, los siguientes demandantes originales de Perpetuo Socorro ya están recibiendo sus pensiones:

Yalí Acevedo Feliciano (\$1,385 mensual).
 Carmen Almodóvar Oliva (\$587 mensual).
 Miguel Alonso Reyes (\$851 mensual).
 Iraida Alvarado Garcés (\$583 mensual).
 Milagros Arroyo Reyes (\$879 mensual).
 Gloria Caraballo Figueroa (\$384 mensual).
 Ramonita Covas (\$483 mensual).
 Yolanda Eliozone Del Pino (\$828 mensual).
 Vanessa García Dávila (\$339 mensual).

Elba Gutiérrez Schmidt (\$526 mensual).
 Jose M. Leavitt Rey (\$1,862 mensual).
 Teresa López Guzmán (\$456 mensual).
 Ligia López Oliver (\$477 mensual).
 Edda Meléndez Rivera (\$846 mensual).
 Yeidy Oliver (\$1,002 mensual).
 Francisca Ramírez (\$161 mensual).
 Iraida Rinaldi Ríos (\$427 mensual).
 Diana Roche Rodríguez (\$1,336 mensual).
 Angela Rodríguez Colón (\$740 mensual).
 Carlos Ruiz Porrata (\$1,411 mensual).
 Carmen C. Ruiz Rexach (\$317 mensual).
 María Victoria Saiz Martínez (\$850 mensual).
 Oscar Sánchez del Campo (\$378 mensual).
 Yolanda Seda Benítez (\$587 mensual).
 Amelia Sotomayor Díaz (\$695 mensual).
 Luis Darío Tineo Sánchez (\$595 mensual).

272. Cada uno de los demandantes mencionados en el párrafo anterior tiene derecho a continuar recibiendo su pensión, lo que conforme a las tablas actuariales de expectativa de vida del Departamento de Salud del Estado Libre Asociado de Puerto Rico implica hasta la edad de **82.56**, para las féminas y de **74.85**, para los varones. El valor del beneficio acumulado se establece computando el valor presente de los pagos mensuales y utilizando como periodo base el número de meses que represente la diferencia entre la edad del beneficiario y la expectativa de vida. Dicho computo se descuenta a su valor presente utilizando un factor de la mitad de un uno por ciento (0.5%). Esta tasa representa las tasas prevalecientes a nivel federal y estatal.

Yalí Acevedo Feliciano (\$1,385 mensual) = **\$161,060**.
 Carmen Almodóvar Oliva (\$587 mensual) = **\$71,098**.
 Miguel Alonso Reyes (\$851 mensual) = **\$75,830**.
 Iraida Alvarado Garcés (\$583 mensual) = **\$46,741**.
 Milagros Arroyo Reyes (\$879 mensual) = **\$106,526**.
 Gloria Caraballo Figueroa (\$384 mensual) = **\$40,603**.
 Ramonita Covas (\$483 mensual) = **\$56,187**.
 Yolanda Eliozone Del Pino (\$828 mensual) = **\$53,777**.
 Vanessa García Dávila (\$339 mensual) = **\$42,653**.
 Elba Gutiérrez Schimdt (\$526 mensual) = **\$66,226**.
 José M. Leavitt Rey (\$1,862 mensual) = **\$110,007**.
 Teresa López Guzmán (\$456 mensual) = **\$55,289**.
 Ligia López Oliver (\$477 mensual) = **\$18,309**.
 Edda Meléndez Rivera (\$846 mensual) = **\$94,076**.
 Yeidy Oliver (\$1,002 mensual) = **\$100,039**.
 Francisca Ramírez (\$161 mensual) = **\$12,870**.
 Iraida Rinaldi Ríos (\$427 mensual) = **\$12,137**.

Diana Roche Rodríguez (\$1,336 mensual) = **\$161,909.**
 Ángela Rodríguez Colón (\$740 mensual) = **\$93,068.**
 Carlos Ruiz Porrata (\$1,411 mensual) = **\$94,884.**
 Carmen C. Ruiz Rexach (\$317 mensual) = **\$36,876.**
 María Victoria Saiz Martínez (\$850 mensual) = **\$106,937.**
 Oscar Sánchez del Campo (\$378 mensual) = **\$33,603.**
 Yolanda Seda Benítez (\$587 mensual) = **\$76,353.**
 Amelia Sotomayor Díaz (\$695 mensual) = **\$80,892.**
 Luis Dario Tineo Sanchez (\$595 mensual) = **\$24,491.**

273. Para el resto de los demandantes de Perpetuo, quienes no han completado su pensión, sus beneficios de retiro se pueden fijar conforme a la fórmula establecida en el artículo 4 del Plan (Anejo 2, pág. 6), lo que es decir, multiplicar sus años de servicio x el promedio de salario durante los últimos cinco años x .01. Esta operación rinde la cantidad mensual de pensión a la que tendrán derecho los demandantes:

Juan D. Albarrán Rodríguez (\$530 mensual).
 Luis Aponte Santiago (\$394 mensual).
 Enid Ávila Cardona (\$569 mensual).
 Ana Ayala Torres (\$269 mensual).
 Esther C. Barrera (\$488 mensual).
 Gloria M. Cerra Quiñones (\$387 mensual).
 Ernesto N. Chiesa Figueroa (\$427 mensual).
 Vilmarie Chirolde Carbia (\$469 mensual).
 Mayra Dagmar Colón Nieves (\$851 mensual).
 María M. Cruz Cassé (\$407 mensual).
 Luz D. Cruz Rodríguez (\$518 mensual).
 Francisco De Los Santos (\$219 mensual).
 Virgilio Espinal Wallace (\$456 mensual).
 Aida Teresa Febres (\$348 mensual).
 Clara E. Fernández Sissa (\$231 mensual).
 María José Fernández Magadán (\$510 mensual).
 Sarita Font Rodríguez (\$852 mensual).
 Alfredo García Toledo (\$520 mensual).
 Liz García Dávila (\$650 mensual).
 Ivelisse García Vega (\$151 mensual).
 Lymaris González Sierra (\$350 mensual).
 Héctor Julián Lanzo Roldán (\$680 mensual).
 Carmen E. Ledesma Méndez (\$325 mensual).
 Clarita Lidin de Rom (\$869 mensual).
 Christine M. Lugo Quesada (\$796 mensual).
 Carlixta Martínez Vilorio (\$275 mensual).
 Awilda Meléndez Ríos (\$408 mensual).
 Jesús Ortiz García (\$823 mensual).
 Diana Ortiz Rodríguez (\$435 mensual).
 Nerirosa Otero Romero (\$1,269 mensual).
 Carmen Priscilla Pavía Cabanillas (\$344 mensual).
 Milagros Ramos (\$738 mensual).
 Juan Ramos Pizarro (\$399 mensual).
 Carlos Juan Rivera Padua (\$858 mensual).
 Georgina Rivera Rodríguez (\$492 mensual).
 Marlene Ruiz Ruiz (\$707 mensual).

Diana Sardiña Hernández (\$895 mensual).
 Rita I. Toro Monserrate (\$537 mensual).
 Noelia Torres Cotts (\$741 mensual).
 Lianis Z. Vélez Pérez (\$457 mensual).

274. El beneficio específico para cada uno se obtiene empleando las tablas actuariales y ajustando la cuantía para llevarla a su valor presente:

Juan D. Albarrán Rodríguez (\$530 mensual) = **\$47,239.**
 Luis Aponte Santiago (\$394 mensual) = **\$35,077.**
 Enid Ávila Cardona (\$569 mensual) = **\$74,029.**
 Ana Ayala Torres (\$269 mensual) = **\$34,960.**
 Esther C. Barrera (\$488 mensual) = **\$63,452.**
 Gloria M. Cerra Quiñones (\$387 mensual) = **\$50,371.**
 Ernesto N. Chiesa Figueroa (\$427 mensual) = **\$37,999.**
 Vilmarie Chirolde Carbia (\$469 mensual) = **\$61,049.**
 Mayra Dagmar Colón Nieves (\$851 mensual) = **\$110,711.**
 María M. Cruz Cassé (\$407 mensual) = **\$52,973.**
 Luz D. Cruz (\$518 mensual) = **\$67,361.**
 Francisco De Los Santos (\$219 mensual) = **\$19,487.**
 Virgilio Espinal Wallace (\$456 mensual) = **\$59,343.**
 Aida Teresa Febres (\$348 mensual) = **\$45,297.**
 Clara E. Fernández Sissa (\$231 mensual) = **\$29,983.**
 María José Fernández Magadán (\$510 mensual) = **\$66,327.**
 Sarita Font Rodríguez (\$852 mensual) = **\$110,884.**
 Alfredo García Toledo (\$520 mensual) = **\$46,290.**
 Liz García Dávila (\$650 mensual) = **\$84,513.**
 Ivelisse García Vega (\$151 mensual) = **\$19,635.**
 Lymaris González Sierra (\$350 mensual) = **\$45,488.**
 Héctor Julián Lanzo Roldán (\$680 mensual) = **\$60,563.**
 Carmen E. Ledesma Méndez (\$325 mensual) = **\$42,293.**
 Clarita Lidin de Rom (\$869 mensual) = **\$113,090.**
 Christine M. Lugo Quesada (\$796 mensual) = **\$103,558.**
 Carluxta Martínez Vilorio (\$275 mensual) = **\$35,759.**
 Awilda Meléndez Ríos (\$408 mensual) = **\$53,125.**
 Jesús Ortiz García (\$823 mensual) = **\$73,346.**
 Diana Ortiz Rodríguez (\$435 mensual) = **\$56,538.**
 Nerirosa Otero Romero (\$1,269 mensual) = **\$165,061.**
 Carmen Priscilla Pavía Cabanillas (\$344 mensual) = **\$44,692.**
 Milagros Ramos (\$738 mensual) = **\$96,015.12.**
 Juan Ramos Pizarro (\$399 mensual) = **\$35,501.**
 Carlos Juan Rivera Padua (\$858 mensual) = **\$76,458.**
 Georgina Rivera Rodríguez (\$492 mensual) = **\$63,957.**
 Marlene Ruiz Ruiz (\$707 mensual) = **\$91,987.**
 Diana Sardiña Hernández (\$895 mensual) = **\$116,431.**
 Rita I. Toro Monserrate (\$537 mensual) = **\$69,831.**
 Noelia Torres Cotts (\$741 mensual) = **\$96,422.**
 Lianis Z. Vélez Pérez (\$457 mensual) = **\$59,455.**

275. La cuantía completa de beneficios envuelta en el presente caso para todos los demandantes originales de Perpetuo Socorro es de

\$4,444,419.95.

276. Los demandantes tienen derecho a recibir dichos beneficios, los que constituyen un derecho adquirido por ellos.

277. Por su parte, a la fecha en que se producirá la terminación del Plan, las siguientes nuevas demandantes de Perpetuo Socorro ya están recibiendo sus pensiones:

Ana Rosa Cuesta Del Valle	(\$93 mensual).
Eneida Fernández Moreno	(\$525 mensual).
Milagros Matos Álvarez	(\$230 mensual).
Genoveva Rodríguez Rosa	(\$307 mensual).
Estrella Sissa de León	(\$234 mensual).
Cristina Soriano	(\$435 mensual).
Ramona Stokes Giménez	(\$62 mensual).

278. Cada una de las demandantes arriba mencionadas tiene derecho a continuar recibiendo su pensión.

279. La cuantía completa de beneficios envuelta en el presente caso para las nuevas demandantes de Perpetuo Socorro excede la suma de **\$200,000.00.**

280. Las nuevas demandantes de Perpetuo Socorro antes mencionadas tienen derecho a recibir dichos beneficios, los que constituyen un derecho adquirido por ellas.

281. Se solicita en cuanto a las nuevas demandantes de Perpetuo Socorro, los mismos remedios solicitados para los demandantes originales, incluyendo la concesión de un remedio provisional para que no se terminen sus beneficios y se continúen pagando por la Iglesia Católica.

2. Demandantes de San José

282. Todos los demandantes de San José han trabajado más de 10 años para la Arquidiócesis de San Juan, por lo que, conforme al artículo 11 del Plan, adquirieron el derecho a los beneficios acumulados por ellos.

283. A la fecha en que se produjo la terminación del Plan, los siguientes demandantes ya están recibiendo sus pensiones:

Alicia Castillo Peña (\$375 mensual).

Elsie De Jesús Rosado (\$304 mensual).
 Isabel del Valle Rivera (\$893 mensual).
 Elena Durán Sobrino (\$953 mensual).
 Eva J. Freyre (\$723 mensual).
 Nilsa López Marcano (\$410 mensual).
 Tensy Machargo Enríquez (\$913 mensual).
 Florín M. Martínez Fontán (\$165 mensual).
 Nilda Martínez Méndez (\$183 mensual).
 Nereida Montes Burgos (\$774 mensual).
 Alma Padilla Morales (\$903 mensual).
 Lourdes Puig Sánchez (\$255 mensual).
 Sonia M. Ramos González (\$400 mensual).
 Evelyn D. Rodríguez Soto (\$ 870 mensual).
 Carmen J. Santiago Hernández (\$174 mensual).
 Carmen Santini Rivera (\$627 mensual).
 Dora Elisa Soler Muñiz (\$197 mensual).

284. Cada uno de los demandantes mencionados en el párrafo anterior tiene derecho a continuar recibiendo su pensión lo que, conforme a las tablas actuariales de expectativa de vida del Departamento de Salud del Estado Libre Asociado de Puerto Rico, implicaría que lo habrán de recibir hasta la edad de **82.56** para las féminas, y de **74.85** para los varones. El valor del beneficio acumulado se establece computando el valor presente de los pagos mensuales y utilizando como periodo base el número de meses que represente la diferencia entre la edad del beneficiario y la expectativa de vida. Dicho computo se descuenta a su valor presente utilizando un factor de la mitad de un uno por ciento (0.5%). Esta tasa representa las tasas prevalecientes a nivel federal y estatal.

Alicia Castillo Peña (\$375 mensual) =	\$17,931.05.
Elsie De Jesús Rosado (\$304 mensual) =	\$26,490.61.
Isabel del Valle Rivera (\$893 mensual) =	\$108,222.41.
Elena Durán Sobrino (\$953 mensual) =	\$69,356.21.
Eva J. Freyre (\$723 mensual) =	\$76,391.14.
Nilsa López Marcano (\$410 mensual) =	\$53,333.06.
Tensy Machargo Enríquez (\$913 mensual) =	\$79,578.15.
Florín M. Martínez Fontán (\$165 mensual) =	\$18,322.74.
Nilda Martínez Méndez (\$183 mensual) =	\$24,527.97.
Nereida Montes Burgos (\$774 mensual) =	\$93,852.94.
Alma Padilla Morales (\$903 mensual) =	\$109,422.19.
Lourdes Puig Sánchez (\$255 mensual) =	\$37,012.87.
Sonia M. Ramos González (\$400 mensual) =	\$51,990.63.
Evelyn D. Rodríguez Soto (\$ 870 mensual) =	\$116,673.19.
Carmen J. Santiago Hernández (\$174 mensual) =	\$18,399.44.
Carmen Santini Rivera (\$627 mensual) =	\$62,663.92.
Dora Elisa Soler Muñiz (\$197 mensual) =	\$21,872.34.

285. Para el resto de los demandantes, quienes no han completado su pensión, sus beneficios de retiro se pueden fijar conforme a la fórmula establecida en el artículo 4 del Plan (Anejo 2, pág. 6), lo que es decir, multiplicar sus años de servicio por el promedio de salario durante los últimos cinco años por .01. Esta operación rinde la cantidad mensual de pensión a la que tendrán derecho los demandantes:

Sonia Arroyo Velázquez (\$720.25 mensual).
 Héctor L. Báez Rodríguez (\$631.95 mensual).
 Ana T. Borges Rodríguez (\$540.54 mensual).
 Miriam Cortés Pérez (\$249.74 mensual).
 Sara J. Disdier Caballero (\$349.86 mensual).
 María M. Espinosa Miranda (\$308.25 mensual).
 Marlia I. Feliciano Santana (\$290.53 mensual).
 Amarilis Flores Ruiz (\$211.23 mensual).
 Ivette Fuentes Febles (\$473.19 mensual).
 Glenda García Martínez (\$356.71 mensual).
 María T. Geswaldo Medina (\$831.39 mensual).
 Sandra I. Grau Morales (\$457.69 mensual).
 Ivelisse Laboy Ruiz (\$330.48 mensual).
 Mari Angelie Lamboglia Vila (\$249.33 mensual).
 Ana D. Lladó Silva (\$685.53 mensual).
 Leslie J. López Báez (\$296.39 mensual).
 Omayra Marrero Santiago (\$221.89 mensual).
 Janice M. Mercado Corujo (\$475.90 mensual).
 Lillian Otero Cabrera (\$334.85 mensual).
 Minu Derbhis Pagán Ramos (\$752.72 mensual).
 Ana L. Pérez Pérez (\$394.08 mensual).
 Eileen M. Pérez Reyes (\$245.90 mensual).
 Ayricell Quintana Muñiz (\$182.71 mensual).
 Nilda Rivas Laboy (\$505.85 mensual).
 Pedro Rivera Ortiz (\$269.83 mensual).
 Margarita Rivera Rosado (\$432.16 mensual).
 Wanda Rivera Vega (\$607.09 mensual).
 Gladys J. Rodríguez Suliveres (\$597.84 mensual).
 Brenda Rodríguez Toro (\$209.98 mensual).
 Yolanda Rodríguez Toro de Gil (\$513.57 mensual).
 Jeanette Roig López (\$275.27 mensual).
 Eddie W. Santiago Figueroa (\$418.31 mensual).
 Fe Migdalia Santiago Padilla (\$135.33 mensual).
 Magda E. Toledo Rodríguez (\$502.15 mensual).
 Tahira E. Vargas Gómez (\$226.41 mensual).
 Leonor Vélez Ortiz (\$130.44 mensual).
 Yolanda Vélez Rosado (\$208.57 mensual).
 Brenda T. Wharton Flores (\$598.62 mensual).

286. El beneficio específico para cada uno se obtiene empleando las tablas actuariales y ajustando la cuantía para llevarla a su valor presente:

Sonia Arroyo Velázquez (\$720.25 mensual) =	\$93,690.89.
Héctor L. Báez Rodríguez (\$631.95 mensual) =	\$56,295.56.

Ana T. Borges Rodríguez (\$540.54 mensual) =	\$70,314.36.
Miriam Cortés Pérez (\$249.74 mensual) =	\$32,486.47.
Sara J. Disdier Caballero (\$349.86 mensual) =	\$45,509.39.
María M. Espinosa Miranda (\$308.25 mensual) =	\$40,097.51.
Marlia I. Feliciano Santana (\$290.53 mensual) =	\$37,792.90.
Amarilis Flores Ruiz (\$211.23 mensual) =	\$27,476.93.
Ivette Fuentes Febles (\$473.19 mensual) =	\$61,552.21.
Glenda García Martínez (\$356.71 mensual) =	\$46,400.70.
María T. Geswaldo Medina (\$831.39 mensual) =	\$108,148.11.
Sandra I. Grau Morales (\$457.69 mensual) =	\$59,536.24.
Ivelisse Laboy Ruiz (\$330.48 mensual) =	\$42,988.81.
Mari Angelie Lamboglia Vila (\$249.33 mensual) =	\$32,433.21.
Ana D. Lladó Silva (\$685.53 mensual) =	\$89,174.41.
Leslie J. López Báez (\$296.39 mensual) =	\$38,554.03.
Omayra Marrero Santiago (\$221.89 mensual) =	\$28,863.96.
Janice M. Mercado Corujo (\$475.90 mensual) =	\$61,905.12.
Lillian Otero Cabrera (\$334.85 mensual) =	\$43,558.02.
Minu Derbhis Pagán Ramos (\$752.72 mensual) =	\$97,914.74.
Ana L. Pérez Pérez (\$394.08 mensual) =	\$51,261.80.
Eileen M. Pérez Reyes (\$245.90 mensual) =	\$31,986.88.
Ayricell Quintana Muñiz (\$182.71 mensual) =	\$23,766.60.
Nilda Rivas Laboy (\$505.85 mensual) =	\$65,801.34.
Pedro Rivera Ortiz (\$269.83 mensual) =	\$24,036.85.
Margarita Rivera Rosado (\$432.16 mensual) =	\$56,215.24.
Wanda Rivera Vega (\$607.09 mensual) =	\$78,970.65.
Gladys J. Rodríguez Suliveres (\$597.84 mensual) =	\$77,767.82.
Brenda Rodríguez Toro (\$209.98 mensual) =	\$27,314.77.
Yolanda Rodríguez Toro de Gil (\$513.57 mensual) =	\$66,806.02.
Jeanette Roig López (\$275.27 mensual) =	\$35,806.71.
Eddie W. Santiago Figueroa (\$418.31 mensual) =	\$37,264.30.
Fe Migdalia Santiago Padilla (\$135.33 mensual) =	\$17,603.29.
Magda E. Toledo Rodríguez (\$502.15 mensual) =	\$65,319.43.
Tahira E. Vargas Gómez (\$226.41 mensual) =	\$29,451.23.
Leonor Vélez Ortiz (\$130.44 mensual) =	\$16,967.20.
Yolanda Vélez Rosado (\$208.57 mensual) =	\$27,130.66.
Brenda T. Wharton Flores (\$598.62 mensual) =	\$77,868.56.

287. La cuantía completa de beneficios envuelta en el presente caso para todos los demandantes iniciales de San José es de **\$2,890,201.49**

288. Los demandantes tienen derecho a recibir dichos beneficios, los que constituyen un derecho adquirido por ellos.

289. A la fecha en que se producirá la terminación del Plan, los nuevos demandantes de San José ya están recibiendo sus pensiones como sigue:

José A. Camacho Mattei	(\$420.00 mensual).
Mercedes Fernández	(\$444.83 mensual).
Sara Mejía Castaings de Corrada	(\$425.00 mensual).
Dora Muñiz Ramos	(\$435.00 mensual).
Gladys Vázquez Acevedo	(\$436.00 mensual).

290. Cada uno de los demandantes mencionados en el párrafo anterior tiene derecho a continuar recibiendo su pensión.

291. La cuantía completa de beneficios envuelta en el presente caso para los nuevos demandantes de San José excede la suma de **\$200,000.00**.

292. Los nuevos demandantes tienen derecho a recibir dichos beneficios, los que constituyen un derecho adquirido por ellos.

293. Se solicita en cuanto a las nuevas demandantes de San José, los mismos remedios solicitados para los demandantes originales, incluyendo la concesión de un remedio provisional para que no se terminen sus beneficios y se continúen pagando por la Iglesia Católica.

3. Demandantes de San Ignacio

294. Todos los demandantes de San Ignacio han trabajado más de 10 años para la Arquidiócesis, por lo que, conforme al artículo 11 del Plan, adquirieron el derecho a los beneficios acumulados por ellos.

295. A la fecha en que se produjo la terminación del Plan, los siguientes demandantes ya están recibiendo sus pensiones:

Elsie Alvarado Rivera (\$488.00 mensual).
Dora E. Fernandez Padilla (\$483.83 mensual).
Olga M. Jaume Tapia (\$731.50 mensual).
Carmen T. Morris Zamora (\$387.70 mensual).
Iris Rodríguez Delgado (\$759.00 mensual).
Aurín Valcárcel Cervera (\$612.00 mensual).
Miriam Villardefrancos Vergara (\$246.33 mensual).

296. Cada uno de los demandantes mencionados en el párrafo anterior tiene derecho a continuar recibiendo su pensión, lo que conforme a las tablas actuariales de expectativa de vida del Departamento de Salud del Estado Libre Asociado de Puerto Rico, implica que lo habrán de recibir hasta la edad de **82.56**, para las féminas, y de **74.85**, para los varones. El valor del beneficio acumulado se establece computando el valor presente de los pagos mensuales y utilizando como periodo base el número de meses que represente la diferencia entre la edad del beneficiario y la expectativa de vida. Dicho computo se descuenta a su valor presente utilizando un factor de la

mitad de un uno por ciento (0.5%). Esta tasa representa las tasas prevalecientes a nivel federal y estatal:

Elsie Alvarado Rivera (\$488.00 mensual) =	\$44,271.36.
Dora E. Fernández Padilla (\$483.83 mensual) =	\$101,952.66.
Olga M. Jaume Tapia (\$731.50 mensual) =	\$31,249.68.
Carmen T. Morris Zamora (\$387.70 mensual) =	\$104,958.14.
Iris Rodríguez Delgado (\$759.00 mensual) =	\$114,396.48.
Aurín Valcárcel Cervera (\$612.00 mensual) =	\$74,168.10.
Miriam Villardefrancos Vergara (\$246.33 mensual) =	\$19,391.10.

297. Para el resto de demandantes quienes han adquirido derechos bajo el Plan sus beneficios de retiro se pueden fijar conforme a la fórmula establecida en el artículo 4 del Plan (Anejo 2, pág. 6), lo que es decir, multiplicar sus años de servicio por el promedio de salario durante los últimos cinco (5) años por .01. Esta operación rinde la cantidad mensual de pensión a la que tendrán derecho los siguientes demandantes:

Esther M. Álvarez Meléndez (\$269.36 mensual).
 Margarita Álvarez Rodríguez (\$258.65 mensual).
 Lionel Arroyo Carrero (\$674.07 mensual).
 Ada L. Arroyo Sanchez (\$1,016.32 mensual).
 Zenaida Basora Urrutia (191.08 mensual).
 Luis A. Carrión Pérez (\$875.87 mensual).
 Silvia E. Casiano Tellado (\$204.75 mensual).
 Bárbara V. Casiano Velázquez (\$346.21 mensual).
 Luisa M. Castro Rivera (\$144.76 mensual).
 Carmen M. Crespo (\$885.84 mensual).
 Andrés Durán Castaños (\$253.18 mensual).
 Zonia Espinosa Tarniella (\$282.33 mensual).
 Gladys M. Figueroa Gautier (\$480.22 mensual).
 Audilia Fuentes Santos (\$283.68 mensual).
 Lourdes Godén Gaud (\$437.38 mensual).
 Jossie A. Gonzalez Ventura (\$934.20 mensual).
 Rosa D. Hernandez Rosado (\$190.74 mensual).
 Janine Hidalgo Santiago (\$271.38 mensual).
 Alice M. Huyke Souffront (\$751.94 mensual).
 Maria L. Juliá Juliá (\$334.65 mensual).
 Ana R Julia Savarit (\$337.05 mensual).
 Linda López Arriaga (\$361.31 mensual).
 Arlene López Cancel (\$316.51 mensual).
 Luis A. Martínez Vázquez (\$531.47 mensual).
 Felicita Montañez Figueroa (\$812.75 mensual).
 Asmara Morales Yepes (\$456.39 mensual).
 Vivian Ortiz Schettini (\$229.61 mensual).
 Maria de los A Pacheco Rodríguez (\$277.07 mensual).
 Yanira Padilla Santiago (\$563.31 mensual).
 Eliezer Parrilla Meléndez (\$553.58 mensual).
 Liza Polanco Pagán (\$262.26 mensual).
 Myrna Quijano Guillama (\$979.03 mensual).
 Sonia Rivera Colón (\$538.38 mensual).

Ángel F. Rolón Rivera (\$1,002.32 mensual).
 Ginnette Rosado Sánchez (\$239.69 mensual).
 Javier Rosado Torres (\$322.57 mensual).
 Fanivel Rosario Santiago (\$341.29 mensual).
 Adela Sabatier Águila (\$408.34 mensual).
 Ana Sierra Díaz (\$273.57 mensual).
 Mayra E. Soto Guzmán (\$544.54 mensual).
 Nelly-Ann Suárez Pesante (\$118.39 mensual).
 Ana M. Tirado Colón (\$224.96 mensual).
 Clara L. Tirado Ríos (\$637.75 mensual).
 Mirtelina Vazquez Robles (\$369.81 mensual).
 Lourdes M. Zegrí Prieto (\$240.94 mensual).

298. El beneficio específico para cada uno se obtiene empleando las tablas actuariales y ajustando la cuantía para llevarla a su valor presente:

Esther M. Álvarez Meléndez (\$269.36 mensual) =	\$35,038.16.
Margarita Álvarez Rodríguez (\$258.65 mensual). =	\$33,645.78.
Lionel Arroyo Carrero (\$674.07 mensual) =	\$60,047.61.
Ada L. Arroyo Sanchez (\$1,016.32 mensual) =	\$132,203.66.
Zenaida Basora Urrutia (191.08 mensual) =	\$24,855.31.
Luis A. Carrión Pérez (\$875.87 mensual) =	\$78,024.34.
Silvia E. Casiano Tellado (\$204.75 mensual) =	\$ 26,633.95.
Bárbara V. Casiano Velázquez (\$346.21 mensual) =	\$45,035.09.
Luisa M. Castro Rivera (\$144.76 mensual) =	\$18,830.58.
Carmen M. Crespo (\$885.84 mensual) =	\$115,230.29.
Andrés Durán Castaños (\$253.18 mensual) =	\$22,553.78.
Zonia Espinosa Tarniella (\$282.33 mensual) =	\$36,725.67.
Gladys M. Figueroa Gautier (\$480.22 mensual) =	\$62,466.93.
Audilia Fuentes Santos (\$283.68 mensual) =	\$36,901.90.
Lourdes Godén Gaud (\$437.38 mensual). =	\$56,894.81.
Jossie A. Gonzalez Ventura (\$934.20 mensual) =	\$121,520.75.
Rosa D. Hernandez Rosado (\$190.74 mensual) =	\$24,811.58.
Janine Hidalgo Santiago (\$271.38 mensual) =	\$35,301.91.
Alice M. Huyke Souffront (\$751.94 mensual) =	\$97,812.38.
Maria L. Juliá Juliá (\$334.65 mensual) =	\$43,532.06.
Ana R Julia Savarit (\$337.05 mensual) =	\$43,843.30.
Linda López Arriaga (\$361.31 mensual) =	\$46,999.06.
Arlene López Cancel (\$316.51 mensual) =	\$41,171.95.
Luis A. Martínez Vázquez (\$531.47 mensual) =	\$47,344.04.
Felicita Montañez Figueroa (\$812.75 mensual) =	\$105,723.27.
Asmara Morales Yepes (\$456.39 mensual) =	\$59,367.62.
Vivian Ortiz Schettini (\$229.61 mensual) =	\$29,867.76.
Maria de los A Pacheco Rodríguez (\$277.07 mensual) =	\$36,041.91.
Yanira Padilla Santiago (\$563.31 mensual) =	\$73,275.76.
Eliezer Parrilla Meléndez (\$553.58 mensual) =	\$49,313.77.
Liza Polanco Pagán (\$262.26 mensual) =	\$34,114.70.
Myrna Quijano Guillama (\$979.03 mensual) =	\$127,352.79.
Sonia Rivera Colón (\$538.38 mensual) =	\$70,032.19.
Ángel F. Rolón Rivera (\$1,002.32 mensual) =	\$89,288.50.
Ginnette Rosado Sánchez (\$239.69 mensual) =	\$31,179.55.
Javier Rosado Torres (\$322.57 mensual) =	\$28,735.40.
Fanivel Rosario Santiago (\$341.29 mensual) =	\$44,395.04.

Adela Sabatier Águila (\$408.34 mensual) =	\$53,116.53.
Ana Sierra Díaz (\$273.57 mensual) =	\$35,586.04.
Mayra E. Soto Guzmán (\$544.54 mensual) =	\$70,834.63.
Nelly-Ann Suárez Pesante (\$118.39 mensual) =	\$15,400.51.
Ana M. Tirado Colón (\$224.96 mensual) =	\$29,262.50.
Clara L. Tirado Ríos (\$637.75 mensual) =	\$82,958.80.
Mirtelina Vázquez Robles (\$369.81 mensual) =	\$48,104.65.
Lourdes M. Zegrí Prieto (\$240.94 mensual) =	\$31,342.04.

299. La cuantía completa de beneficios envuelta en el presente caso para todos los demandantes de San Ignacio arriba mencionados es de **\$2,787,078.22.**

300. Los arriba demandantes tienen derecho a recibir dichos beneficios, los que constituyen un derecho adquirido por ellos.

4. La Clase Demandante

301. Las reclamaciones de los demandantes de Perpetuo Socorro, San José, San Ignacio y San Antonio son representativas de las que tienen el resto de los miembros de la Clase.

302. Todos los miembros de la Clase han trabajado más de 10 años para la Iglesia Católica o instituciones afiliadas a ésta, por lo que, conforme al artículo 11 del Plan, adquirieron el derecho a los beneficios acumulados por ellos. Los demandantes miembros de la Clase tienen derecho a que las partes codemandadas les paguen sus beneficios.

303. Como trabajan en escuelas o entidades que no tienen una personalidad jurídica independiente a la de la Iglesia Católica, la responsabilidad del pago de sus beneficios recae sobre la Iglesia Católica, quien es su patrono. El Fideicomiso también tiene la obligación de pagar a todos los demandantes por sus beneficios.

304. El valor de la reclamación de los miembros de la Clase se estima en una suma no menor de cincuenta millones de dólares (\$50,000,000).

D. DAÑOS.

305. La actuación de las partes demandadas constituye un incumplimiento de contrato, así como una actuación torticera que ocasiona

daños a cada uno de los miembros de la Clase y/o sus cónyuges y sociedad legal de bienes gananciales. Para fines de esta demanda, se calcula en \$50,000 el daño sufrido por cada una de los miembros de la Clase y/o sus cónyuges y sociedad legal de bienes gananciales.

VI. PRIMERA CAUSA DE ACCIÓN: TERMINACIÓN ILEGAL DEL PLAN

306. En su Artículo 18, el Plan requiere que cualquier terminación sea previamente aprobada por el Secretario de Hacienda y el *Pension Benefit Guarantee Corporation* (“PBGC”) (Anejo 2, pág. 17).

307. Al anunciarse la terminación del Plan el 14 de marzo de 2016, la parte demandada no había obtenido la autorización del Departamento de Hacienda ni del PBGC.

308. La terminación del Plan es ilegal y contraria a las condiciones impuestas por el mencionado Artículo.

VII. SEGUNDA CAUSA DE ACCIÓN: CUMPLIMIENTO ESPECÍFICO DE CONTRATO.

309. Los beneficios bajo el Plan constituyen derechos adquiridos de los demandantes, según lo reconoce el Artículo 11 del Plan (Anejo 2, pág. 11). En su Manual Informativo Para Patronos Participantes, el Plan representó que los beneficios de los empleados no podían “ser retirados” y que el Plan sólo podía ser terminado “[d]espués de haber pagado la deuda contraída con sus empleados.” (Anejo 4)

310. En su capacidad como patrono de los demandantes, la Iglesia Católica viene obligada a responder con sus bienes para honrar los términos de los contratos existentes con los demandantes.

311. De acuerdo a los términos específicos del Plan, éste debe ser interpretado y administrado “en forma consistente con ... [ERISA]. (Anejo 2, pág. 4). Bajo ERISA, los empleados tienen derecho de reclamar de su patrono para que les compense por cualquier insuficiencia económica en el plan de retiro (29 U.S.C. § 1132).

312. En el presente caso, los demandantes tienen derecho a que la parte demandada les pague los beneficios que éstos acumularon, los que se enumeran en la Demanda y que ascienden a las cuantías antes expresadas.

313. Los demandantes tienen derecho al cumplimiento específico del contrato existente, que incluye el pago de sus beneficios de retiro. 3 L.P.R.A. sec. 3052.

VIII. TERCERA CAUSA DE ACCIÓN: IMPEDIMENTO POR ACTOS PROPIOS.

314. El Arzobispo, la Iglesia Católica y sus dependencias, la Arquidiócesis, la Superintendencia y las escuelas y entidades participantes y el Fideicomiso están impedidos por sus propios actos de terminar retroactivamente el Plan, sin pagar a los demandantes los beneficios acumulados. Véanse, Domenech v. Integration Group, 187 D.P.R. 595, 621 (2013); Santiago et al v. Rodríguez et al, 181 D.P.R. 204, 217 (2011); Vivoni Farrage v. Ortiz Carro, 179 D.P.R. 990, 1010 (2010); Int. General Electric v. Concrete Builders, 104 D.P.R. 871, 876-877 (1976).

315. Por años, los distintos demandados representaron a los demandantes que éstos tenían “derechos adquiridos” bajo el Plan. Las publicaciones de la parte demandada indicaron que los beneficios de los demandantes no podían “ser retirados” y que el Plan sólo podía ser terminado “[d]espués de haber pagado la deuda contraída con sus empleados.” (Anejo 4)

316. A los participantes se les dijo que “[u]na vez un patrono haya ingresado voluntariamente al Plan, la duración del mismo será perpetua.” (Anejo 4).

317. Basado en las representaciones de la Iglesia Católica y de los demás demandados, los demandantes se colocaron en una situación de desventaja. Confiando en que tendrían un plan de retiro, los demandantes no invirtieron en planes individuales de retiro 401k ni desarrollaron planes

alternativos para poder enfrentar sus necesidades al arribar a la edad de retiro.

318. En la fecha en que se anuncia la terminación del Plan, la mayoría de los demandantes ya no son jóvenes y no cuentan con otras opciones para enfrentar las vicisitudes que conlleva el paso de los años. Para los demandantes que ya están retirados, la pensión que se les paga constituye, en muchos casos, su única o principal fuente de ingresos. La terminación de este beneficio conllevará que muchos de los demandantes no puedan pagar por sus viviendas y que tampoco puedan satisfacer sus necesidades básicas. Muchos de los demandantes no sólo son personas envejecientes, sino que además padecen de condiciones de salud que les impiden trabajar como lo hicieron anteriormente.

319. Constituye un acto de crueldad, inconsistente con los postulados de la Iglesia Católica, el arrebatar a los maestros de las escuelas católicas, en el ocaso de sus carreras, sus pensiones de retiro de las que dependen para sobrevivir. La Iglesia Católica ha tomado de los activos de las escuelas para sus fines, cuando lo ha estimado necesario. Defiende a Perpetuo v. Arquidiócesis de San Juan de la Iglesia Católica, KAC2010-0340(602). Ahora viene obligada a utilizar sus activos para responder por las obligaciones contractuales hacia sus empleados.

320. La parte demandada está impedida, por sus actos propios, de terminar el Plan.

IX. CUARTA CAUSA DE ACCIÓN: SENTENCIA DECLARATORIA

321. Los derechos de los demandantes surgen de su contrato de empleo, del texto del Plan, de las representaciones realizadas por escrito por el Fideicomiso y la Iglesia Católica y de los otros documentos que se acompañan. El derecho de los demandantes a los beneficios adquiridos por ellos bajo el Plan constituye más bien una cuestión de derecho que puede ser adjudicada por este Tribunal sin que sea necesario agotar otros trámites.

322. Se solicita de este Honorable Tribunal que, conforme a las disposiciones de la Regla 59 de Procedimiento Civil, emita una sentencia declaratoria reconociendo el derecho de los demandantes a recibir las pensiones a las que tienen derecho bajo el Plan y la obligación de Perpetuo Socorro, San José, San Ignacio, San Antonio, la Iglesia Católica, el Arzobispado de San Juan, el Fideicomiso y la Superintendencia de pagar a los demandantes sus beneficios bajo el Plan.

X. QUINTA CAUSA DE ACCIÓN: INJUNCTION U ORDEN DE CESE Y DESISTA.

323. La parte demandada está impedida de terminar el Plan, según anunciado, porque dicha terminación es contraria a sus obligaciones contractuales con los empleados y exempleados de la Iglesia Católica y las escuelas católicas, y porque está impedida, por sus propios actos, de terminar el Plan, luego de representar que, una vez una escuela hubiera ingresado al Plan, su duración sería “perpetua”. (Anejo 4).

324. Si el Fideicomiso carece de fondos suficientes para el pago de los beneficios, la Iglesia Católica y los patronos participantes vienen obligados a hacer aquellos desembolsos adicionales que se requieran para subsanar dicha deficiencia. Compárese, 29 U.S.C. §§ 1082 y ss. ("*minimum funding standards*").

325. Se solicita de este Tribunal una orden de *injunction* o de hacer y/o desistir de hacer a los fines de que: (1) se prohíba a la parte demandada terminar el Plan sin pagar los beneficios a los demandantes, y (2) para que se ordene a la Iglesia Católica aportar los fondos requeridos para devolver la solvencia económica al Plan.

XI. SEXTA CAUSA DE ACCIÓN: DAÑOS Y PERJUICIOS.

326. La conducta de la parte demandada de anunciar la terminación del Plan sin pagarle sus beneficios a los demandantes ha provocado daños y perjuicios a éstos. A los demandantes se les amenaza con quedar

económicamente desamparados en una etapa adelantada de sus carreras, en muchos casos, en el ocaso de sus vidas, cuando ya no gozan de buena salud ni cuentan con capacidad productiva para trabajar.

327. La actuación de la parte demandada constituye un incumplimiento de contrato, así como una actuación torticera que ocasiona daños a cada uno de los demandantes. Para fines de esta demanda, se calcula en \$50,000 el daño sufrido por cada demandante miembro de la Clase y/o su cónyuge y sociedad legal de bienes gananciales. La cuantía total de los daños reclamados asciende a **\$3,300,000**, para los demandantes originales, más **\$350,000.00**, para los demandantes adicionales.

XII. SÉPTIMA CAUSA DE ACCIÓN: RESPONSABILIDAD SOLIDARIA.

328. El artículo 1.05 de la Ley de Corporaciones establece que todas las personas que actúen como corporación sin autoridad para ello, serán responsables solidariamente de todas las deudas y obligaciones incurridas como resultado de esta actuación,” 14 L.P.R.A. sec. 3505.

329. En este caso, la Arquidiócesis de San Juan y la Superintendencia y las escuelas y entidades enumeradas en el texto de la demanda que carecen de personalidad jurídica separada de la de la Iglesia Católica se comportan como personas jurídicas independientes sin serlo. Dichas partes son dependencias de la Iglesia Católica, quien las controla. La Iglesia Católica responde solidariamente ante los demandantes por el pago de sus derechos adquiridos.

XIII. OCTAVA CAUSA DE ACCIÓN: NEGLIGENCIA VIOLACIÓN DE DEBERES DE FIDUCIA Y RESPONSABILIDAD VICARIA

330. El Arzobispo de San Juan y la directora de Superintendencia de las Escuelas Católicas actuaron de forma tortuosa y negligente en su supervisión del Plan de Pensiones y al ordenar la terminación del mismo sin atender los derechos adquiridos de los empleados. Los síndicos y fiduciarios del Plan actuaron actuaron de forma tortuosa y negligente en su

administración del Plan de Pensiones provocando su insolvencia y/o agravando la posición económica del Fondo.

331. Las actuaciones negligentes de los miembros de la Junta de Síndicos, el Arzobispo de San Juan y la Superintendente de las Escuelas Católicas provocó daños a los demandantes equivalentes, para cada demandante a, cuando menos, el valor de la participación de cada demandante en el Fondo de Retiro, más \$50,000 por concepto de angustias mentales y emocionales para cada uno.

332. La Iglesia Católica responde solidaria y vicariamente por la negligencia de sus agentes, conforme al Artículo 1803 del Código Civil de Puerto Rico, 31 L.P.R.A. sec. 5142.

XIV. REMEDIOS A FAVOR DE LA CLASE.

333. Se solicita del Tribunal que conceda todos los remedios anteriores, no sólo a favor de los representantes de la Clase, sino de los miembros individuales de ésta.

XV. HONORARIOS DE ABOGADO.

334. Se suplica del Tribunal que asigne una partida razonable para el pago de los honorarios de abogado de la clase demandante.

XVI. SÚPLICA:

POR TODO LO CUAL, la parte demandante respetuosamente solicita de este Honorable Tribunal que declare con lugar la demanda y que conceda los remedios expresados en cada una de las ocho (8) causas de pedir enumeradas previamente, con cualquier otro remedio que en derecho proceda y que este Tribunal tenga a bien conceder.

RESPETUOSAMENTE SOMETIDA.

CERTIFICO: Que en esta misma fecha se ha enviado copia fiel y exacta del presente escrito, a través del sistema SUMAC, a todos los abogados de récord.

En San Juan, Puerto Rico, a 15 de enero de 2018.

BAUZÁ, BRAU, IRIZARRY,
OJEDA & SILVA
PO Box 13669
Santurce Station
San Juan, Puerto Rico 00908
Tel.: (787) 723-8754

f/GERMAN J. BRAU
Colegiado Núm. 9710
T.S.P.R. Núm. 7514
german.brau@bioslawpr.com

APPENDIX Q

LIST OF PLAINTIFFS

1. Yalí Acevedo Feliciano, John A. Williams Bermúdez and their conjugal partnership
2. Juan D. Albarrán Rodríguez
3. Carmen M. Almódovar Oliva
4. Miguel E. Alonso Reyes, Mary L. De Graux Villafaña and their conjugal partnership
5. Iraida Alvarado Garcés
6. Luis Aponte Santiago, Lourdes Isern and their conjugal partnership
7. Milagros Arroyo Reyes, José A. Solís Ríos and their conjugal partnership
8. Enid Ávila Cardona, Boris Corujo Orraca and their conjugal partnership
9. Ana Ayala Torres, Ramón Ortiz and their conjugal partnership
10. Esther C. Barrera
11. Gloria Caraballo Figueroa, Jorge Luis Leavitt and their conjugal partnership
12. Gloria M. Cerra Quiñones, Jaime López Díaz and their conjugal partnership
13. Ernesto N. Chiesa Figueroa, María E. Báez Bello and their conjugal partnership
14. Vilmarie Chioldes Carbia
15. Mayradagmar Colón Nieves
16. Ramonita Covas Bernier
17. Maria M. Cruz Cassé, José F. Umpierre Rivera and their conjugal partnership
18. Luz D. Cruz Rodríguez
19. Ana Rosa Cuesta Del Valle

20. Francisco E. De Los Santos Aquino, María Del C. Ortiz Navarro and their conjugal partnership
21. Yolanda M. Elizondo Del Pino
22. Virgilio Espinal Wallace, Santa Lebrón Ferrera and their conjugal partnership
23. Aida Teresa Febres Hernández, Juan R. García Loubriel and their conjugal partnership
24. María José Fernández Magadán
25. Eneida Fernández Moreno
26. Clara E. Fernández Sissa
27. Sarita Font Rodríguez, José M. Castro Pavía and their conjugal partnership
28. Alfredo García, Maribel Casanova and their conjugal partnership
29. Liz García Dávila
30. Vanessa García Dávila, Héctor Jorge Monserrate and their conjugal partnership
31. Ivelisse García Vega, Francisco J. Miranda Del Valle and their conjugal partnership
32. Lymaris González Sierra, Reynaldo Ortiz and their conjugal partnership
33. Elba Gutiérrez Schmidt
34. Héctor Julián Lanzó Roldán, Lydia Rivera Flores and their conjugal partnership
35. José Manuel Leavitt Rey
36. Carmen E. Ledesma Méndez, Claudio E. Acarón Bonilla and their conjugal partnership
37. Clarita Lidin de Rom, Carlos Rom Goris and their conjugal partnership
38. Teresa López Guzmán

39. Ligia López Oliver
40. Christine M. Lugo Quesada
41. Carlixta Martínez Vilorio, Ronny Echevarría and their conjugal partnership
42. Milagros Matos Alvarez, Antonio Manuel Taveras and their conjugal partnership
43. Awilda Meléndez Ríos, Edwin Sánchez Maldonado and their conjugal partnership
44. Edda 1. Meléndez Rivera
45. Yeidy R. Oliver Hernández
46. Jesús Ortiz García, Marta Villamil Rodríguez and their conjugal partnership
47. Diana Ortiz Rodríguez
48. Nerirosa Otero Romero, Alberto Del Toro and their conjugal partnership
49. Carmen Priscilla Pavía Cabanillas
50. Francisca Ramírez, Luis Darío Tineo Sánchez and their conjugal partnership
51. Milagros Ramos, Alonso De Hoyos and their conjugal partnership
52. Juan M. Ramos Pizarro, Dora Carrasquillo Márquez and their conjugal partnership
53. Iraida Rinaldi Ríos, Fernando Quiñones Aponte and their conjugal partnership
54. Carlos Juan Rivera Padua, Noelia M. Torres Cotts and their conjugal partnership
55. Georgina Rivera Rodríguez
56. Diana Roche Rodríguez Ríos
57. Angela Rodríguez Colón, Pedro A. Del Valle Ferrer and their conjugal partnership
58. Genoveva Rodríguez Rosa

59. Carlos Ruiz Porrata, Sylvia Ramos Moreau and their conjugal partnership
60. Carmen C. Ruiz Rexach
61. Marlene Ruiz, Jorge A. Saldarriaga Barragán and their conjugal partnership
62. María Victoria Saiz Martínez, Ramiro Jordán Sarria and their conjugal partnership
63. Oscar Sánchez Del Campo Delgado
64. Diana Sardiña Hernández, Jorge Escobar and their conjugal partnership
65. Yolanda Seda Benítez, Manuel A. Pérez Sánchez and their conjugal partnership
66. Estrella Sissa De León
67. Cristina Soriano
68. Amelia Sotomayor Díaz
69. Ramona Stokes Gimenez
70. Luis Darío Tineo Sánchez, Francisca Ramírez Núñez and their conjugal partnership
71. Rita T. Toro Monserrate, Miguel A. Hernández Feliciano and their conjugal partnership
72. Noelia Torres Cotts, Carlos J. Rivera Padua and their conjugal partnership
73. Lianis Z. Vélez Pérez, Julio Rodríguez Odum and their conjugal partnership
74. Sonia Arroyo Velázquez, Jesús M. Franco Villafañe and their conjugal partnership
75. Héctor Luis Báez Rodríguez
76. Ana Teresita Borges Rodríguez
77. Alicia Castillo Peña, William Mangual Martínez and their conjugal partnership

78. Miriam Cortés Pérez
79. Elsie De Jesús Rosado
80. Isabel Del Valle Rivera
81. Sara J. Disdier Caballero
82. Elena Durán Sobrino
83. María M. Espinosa Miranda, Ariel Pagán Rodríguez and their conjugal partnership
84. Marlia Feliciano Santana, Carlos M. Meléndez and their conjugal partnership
85. Amarilis Flores Ruiz, Alfonso García Ruiz and their conjugal partnership
86. Eva J. Freire, Félix J. Lugo Soto and their conjugal partnership
87. Ivette Fuentes Febles
88. Glenda García Martínez
89. María T. Geswaldo Medina
90. Sandra Ivette Grau Morales, Pedro R. Villalta Bernabe and their conjugal partnership
91. Ivelisse Laboy Ruiz, Mark A. Neste and their conjugal partnership
92. Mari Angelie Lamboglia Vila, José F. Adrover Robles and their conjugal partnership
93. Ana Doris Lladó Silva
94. Leslie Janette López Báez, Juan Carlos González Rodríguez and their conjugal partnership
95. Nilsa López Marcano
96. Tensy Machargo Enríquez

97. Omayra Marrero Santiago, Miguel Ángel Lozada and their conjugal partnership
98. Florin M. Martínez Fontán, Ángel M. De La Rosa Schuck and their conjugal partnership
99. Nilda Martínez Méndez, Eliezer Tulier Polanco and their conjugal partnership
100. Janice Mercado Corujo, Vicente Román Arriaga and their conjugal partnership
101. Nereida Montes Burgos, Samuel Monge Pérez and their conjugal partnership
102. Lillian Otero Cabrera
103. Alma Padilla Morales
104. Minu Derbhis Pagán Ramos, Ismael Placa Estremera and their conjugal partnership
105. Ana L. Pérez Pérez
106. Eileen Pérez Reyes, José Javer Santos Mimoso and their conjugal partnership
107. Lourdes Puig Sánchez, Carlos E. Chapel Palerm and their conjugal partnership
108. Ayricell Quintana Muñiz
109. Sonia M. Ramos González, Reinaldo Santana and their conjugal partnership
110. Nilda Rivas Laboy, Juan Medina Castro and their conjugal partnership
111. Pedro Rivera Ortiz
112. Margarita Rivera Rosado
113. Wanda Rivera Vega, Ernesto Maldonado Ojeda and their conjugal partnership
114. Evelyn D. Rodríguez Soto
115. Gladys J. Rodríguez Suliveres;
116. Brenda Rodriguez Toro De Damiani, Nicholas Damiani López and their conjugal partnership

117. Yolanda Rodríguez Toro De Gil, Luis A. Gil Borgos and their conjugal partnership
118. Jeanette Roig López, José A. Rivera And Their Conjugal Partnership
119. Eddie W. Santiago Figueroa
120. Carmen J. Santiago Hernández
121. Fe Migdalia Santiago Padilla
122. Carmen Santini Rivera
123. Dora Elisa Soler Muñiz
124. Magda E. Toledo Rodríguez
125. Tahira E. Vargas Gómez, Joan Vargas and their conjugal partnership
126. Leonor Vélez Ortiz, Israel Menchaca Dobal and their conjugal partnership
127. Yolanda Vélez Rosado, Fernando Sánchez Saldaña Dobal and their conjugal partnership
128. Brenda Wharton Flores
129. Elsie Alvarado Rivera, Isidoro Hernández and their conjugal partnership
130. Esther M. Alvarez Meléndez, Javier O. Torres and their conjugal partnership
131. Margarita Álvarez Rodríguez
132. Lionel Arroyo Carrero
133. Ada L. Arroyo Sánchez, José A. Hernández Nieves and their conjugal partnership
134. Zenaida Basora Urrutia, Mermes Román Amador and their conjugal partnership
135. Luis A. Carrión Pérez

136. Silvia E. Casiano Tellado, Gerardo F. López Muñoz and their conjugal partnership
137. Bárbara V. Casiano Velázquez
138. Luisa M. Castro Rivera, Jaime Luis García Garda and their conjugal partnership
139. Carmen M. Crespo
140. Andrés Durán Castaños, Vanessa Figueroa González and their conjugal partnership
141. Zonya Espinosa Tarniella
142. Dora Fernández Padilla
143. Gladys M. Figueroa Gautier, Richard Zambrana and their conjugal partnership
144. Audilia Fuentes Santos
145. Lourdes Godén Gaud, Eliud A. Serrano González and their conjugal partnership
146. Jossie A. González Ventura, Edgardo Reyes Morales and their conjugal partnership
147. Rosa D. Hernández Rosado, Ricardo Lebrón Maldonado and their conjugal partnership
148. Janine Hidalgo Santiago, Héctor Martínez Tosado and their conjugal partnership
149. Alice M. Huyke Souffront, Carlos E. Jiménez Torres and their conjugal partnership
150. Olga M. Jaume Tapia, Antonio Ginés Montalvo and their conjugal partnership
151. María L. Julia Julia, Miguel Ángel Ríos Gerena and their conjugal partnership
152. Ana R. Julia Savarit
153. Linda López Arriaga, José Reyes Rosario and their conjugal partnership

154. Arlene López Cancel
155. Luis A. Martínez Vázquez
156. Felícita Montañez Figueroa, Miguel A. Albarrán Reyes and their conjugal partnership
157. Asmara Morales Yepes
158. Carmen T. Morris Zamora
159. Vivian Ortiz Schettini;
160. María De Los A. Pacheco Rodríguez, Alfred Demel and their conjugal partnership
161. Yanira Padilla Santiago
162. Eliezer Parrilla Meléndez, María García Montañez and their conjugal partnership
163. Liza Polanco Pagán, Walter Ricardo Bonilla Santaliz And Their Conjugal Partnership
164. Myrna Quijano Guillama
165. Sonia Rivera Colón, Jorge Ariel Vázquez Román and their conjugal partnership
166. Iris Rodríguez Delgado
167. Ángel F. Rolón Rivera, Maria Teresa Del Valle and their conjugal partnership
168. Ginnette Rosado Sánchez, Eugenio René Chinaea and their conjugal partnership
169. Javier Rosado Torres, Maria S. Urango Salcedo and their conjugal partnership
170. Fanivel Rosario Santiago
171. Adela Sabatier Águila, Rudy E. Mayol Kauffmann and their conjugal partnership

172. Ana Sierra Díaz, César Manuel Sierra Rondón and their conjugal partnership
173. Mayra E. Soto Guzmán, José A. Candelaria Maldonado and their conjugal partnership
174. Nelly-Ann Suárez Pesante
175. Ana M. Tirado Colón, Yarim E. Cros Vázquez and their conjugal partnership
176. Clara L. Tirado Rios, Samuel López Pérez and their conjugal partnership
177. Aurin Valcarcel Cervera
178. Mirtelina Vázquez Robles, José V, Torres Rivera and their conjugal partnership
179. Miriam Villardefrancos Vergara
180. Lourdes M. Zegrí Prieto, Carlos E. Rentas Giusti and their conjugal partnership

APPENDIX R



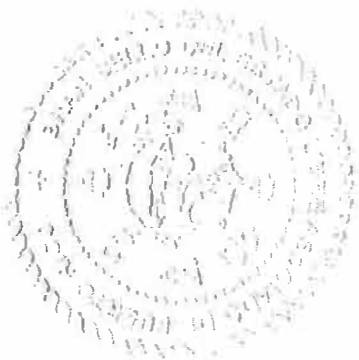
**ESTADO LIBRE ASOCIADO DE PUERTO RICO
DEPARTAMENTO DE ESTADO
SAN JUAN, PUERTO RICO**

Yo, **VICTOR A. SUÁREZ MELÉNDEZ**, Secretario de Estado del Estado Libre Asociado de Puerto Rico,

CERTIFICO: Que de acuerdo con el Tratado de París de 10 de diciembre de 1898, la **“IGLESIA CATÓLICA APOSTÓLICA Y ROMANA”**, tiene personalidad jurídica propia por ser parte del Estado Vaticano, por lo cual no tiene que registrarse como corporación en el Departamento de Estado.

CERTIFICO ADEMÁS: Que toda división o dependencia creada bajo dicha personalidad jurídica será parte de la misma, por lo cual no tendrá que registrarse en el registro de corporaciones la **“ARQUIDIOCESIS DE SAN JUAN”**.

EN TESTIMONIO DE LO CUAL, firmo la presente y estampo en ella el Gran Sello del Estado Libre Asociado de Puerto Rico, en la Ciudad de San Juan, hoy, 6 de julio de 2016.



VICTOR A. SUÁREZ MELÉNDEZ
Secretario de Estado