

No. 18-921

---

---

*In the Supreme Court of the United States*

Roman Catholic Archdiocese of San Juan,  
Puerto Rico, et al.,  
*Petitioners,*

v.

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

---

**On Petition for Writ of Certiorari to the  
Supreme Court of Puerto Rico**

---

**BRIEF IN OPPOSITION TO  
PETITION FOR WRIT OF CERTIORARI**

---

GERMAN J. BRAU-RAMÍREZ  
*Counsel of Record*  
ANTONIO BAUZÁ-SANTOS  
BAUZÁ, BRAU, IRIZARRY,  
OJEDA & SILVA  
PO Box 13669  
San Juan, Puerto Rico 00908  
Tel.: 787-710-8262  
Fax: 787-282-3672  
[german.brau@bioslawpr.com](mailto:german.brau@bioslawpr.com)  
[antonio.bauza@bioslawpr.com](mailto:antonio.bauza@bioslawpr.com)

*Counsel for all Respondents*

February 1<sup>st</sup>, 2019

---

## PARTIES TO THE PROCEEDING

All of the Respondents are natural persons. *See*  
Petition, App. 242-250.

## TABLE OF CONTENTS

|   |    |
|---|----|
| PARTIES TO THE PROCEEDING.....  | i  |
| TABLE OF CONTENTS.....  | ii |
| TABLE OF AUTHORITIES.....   | iv |
| INTRODUCTION.....   | 1  |
| ARGUMENT  |    |
| A. <u>The Legal Personality of the Catholic Church in Puerto Rico has been recognized by this Court.....</u>  | 2  |
| B. <u>Its Dependencies Act as “Part of” the Catholic Church.....</u>  | 3  |
| C. <u>The Catholic Church Was Sued and Appeared in the Present Case, Thus Waiving any Defense Related to Its Existence.....</u>   | 5  |
| D. <u>The Supreme Court of Puerto Rico Issued an Injunction Directed against the Catholic Church.....</u>   | 8  |
| E. <u>The Dioceses Were Aware of the Implications of the Injunction.....</u>  | 10 |
| F. <u>The Catholic Church did not present Any Evidence as to its Legal Personality.....</u>   | 10 |
| G. <u>The Court of First Instance Ruled that the Catholic Church Disobeyed the Injunction.....</u>  | 11 |
| H. <u>The Issue Regarding the Catholic Church’s Lack of Legal Personality Was Untimely Raised and Was Based on Canon Law, Which is Not Binding on Puerto Rico Courts.....</u> | 13 |

|  |    |
|--|----|
| I. <u>The Puerto Rico Supreme Court’s Ruling is Interlocutory in Nature</u> .....  | 14 |
| J. <u>The Attachment Order Was Served on Banks holding Monies Belonging to the Archdiocese; No Other Dioceses Were Directly Affected</u> .....                       | 15 |
| K. <u>The Catholic Church Filed for Bankruptcy</u> .....   | 17 |
| L. <u>The Puerto Rico Supreme Court Had Already Ruled the Catholic Church is Obligated to Pay if Schools Lack Separate Legal Personality</u> .....                   | 18 |
| M. <u>Petitioners’ Position is Wholly Inconsistent with <i>Ponce v. Roman Catholic Apostolic Church</i></u> .....  | 20 |
| N. <u>Canon Law is the Internal Regulation of the Catholic Church and is Not Binding in Court Cases Dealing with Contractual Matters Unrelated To Religion</u> ..... | 21 |
| O. <u>Under Canon Law, all Churches in Puerto Rico are Joined in an Ecclesiastical Province, which Enjoys Legal Personality</u> .....                                | 23 |
| P. <u>The Court Should Not Issue a Certiorari in this Case</u> .....   | 24 |
| Q. <u>The Supreme Court of Puerto Rico Did Not Intrude Into Church Matters</u> .....   | 27 |
| R. <u>The Catholic Church Cannot be the Judge of its Own Obligations</u> .....   | 28 |
| CONCLUSION.....  | 30 |

## TABLE OF AUTHORITIES

### Cases

|   |   |
|---|---|
| <i>Agostini Pascual v. Iglesia Católica,</i><br>109 D.P.R. 172 (1979).....  | 3 |
| <i>Asoc. De Vecinos de Villa Caparra v. Iglesia Católica,</i><br>117 D.P.R. 346(1986).....                            | 3 |
| <i>Iglesia Católica v. Registrador,</i><br>96 D.P.R. 511 (1968).....  | 3 |
| <i>Iglesia Católica, Apostólica y Romana v. Fournier,</i><br>34 D.P.R. 753 (1925).....                                | 3 |
| <i>Iglesia Católica, Apostólica y Romana v. Monclova,</i><br>37 D.P.R. 797 (1928).....                                | 3 |
| <i>Iglesia Católica, Apostólica y Romana v. Municipio de<br/>Arecibo,</i><br>39 D.P.R. 695 (1929).....                | 3 |
| <i>Iglesia Católica Apostólica y Romana v. Municipio de<br/>Hatillo,</i><br>59 D.P.R. 191 (1941).....                 | 3 |
| <i>Iglesia Católica Apostólica y Romana de Puerto Rico v.<br/>Collazo,</i><br>47 D.P.R. 636 (1932).....               | 3 |
| <i>Iglesia Católica Apostólica y Romana de Puerto Rico v.<br/>Combate Tobacco Corp.,</i><br>42 D.P.R. 376 (1931)..... | 3 |
| <i>Iglesia Católica Apostólica y Romana de Puerto Rico v.<br/>Puig Morales,</i><br>55 D.P.R. 34 (1939).....           | 3 |

|   |               |
|---|---------------|
| <i>In re Roman Catholic Archbishop of Portland in Oregon,</i><br>335 B.R. 842 (Bankr. D. Ore. 2005).....                          | 22            |
| <i>Jones v. Wolf,</i><br>443 U.S. 595 (1979).....   | 22, 27        |
| <i>La Iglesia Católica, Apostólica y Romana en P.R. v.</i><br><i>Registrador,</i><br>72 D.P.R. 847 (1951).....                    | 3             |
| <i>La Iglesia Católica, Apostólica y Romana en Puerto Rico</i><br><i>v. El Municipio de Bayamón,</i><br>18 D.P.R. 839 (1912)..... | 3             |
| <i>Negrón v. Sucesión Izquierdo,</i><br>46 D.P.R. 660, 664 (1934) .....   | 22            |
| <i>Ponce v. Roman Catholic Apostolic Church,</i><br>210 U.S. 296 (1908).....  | <i>passim</i> |
| <i>Ríos v. Iglesia Católica, Apostólica y Romana de P.R.,</i><br>62 D.P.R. 100 (1943).....  | 3             |
| <i>Santos v. Holy Roman Catholic and Apostolic Church,</i><br>212 U.S. 463 (1909).....  | 2             |
| <i>Vélez Colón v. Iglesia Católica,</i><br>105 D.P.R. 123 (1976).....   | 3             |

**Statutes**

|                             |     |
|-----------------------------|-----|
| 11 U.S.C. § 1112(b)(4)..... | 17  |
| 11 U.S.C. 362.....          | 17  |
| 29 U.S.C. §1003(b)(2).....  | 5-6 |

**Treaties**

Treaty of Paris of 1898.....2

**Other Authorities**

*Actum Praeclare* issued by Pope Leo XIII on January 20, 1903.....24

Code of Canon Law.....23

Stephen M. Baingridge, Aaron H. Cole, *The Bishop’s Alter Ego: Enterprise Liability and the Catholic Priest Sex Abuse Scandal*, 46 JCLS 65, 78-80 (2007) .....23

**BRIEF IN OPPOSITION TO PETITION  
FOR WRIT OF CERTIORARI**

INTRODUCTION

Petitioners' Brief contains a number of misstatements regarding both the facts of the case and applicable law. Respondents address these issues below. The Catholic Church thrice requested this Court to stay proceedings, Nos. 17A1375 and 18A220. Appearing parties were directed to file a brief in Opposition to the Application for Stay in No. 17A1375. Appearing parties filed their Opposition on June 19, 2018, which included a brief discussion of the merits. Application No. 17A1375 was denied by Justice Breyer on June 21, 2018. It was immediately resubmitted the following day to Justice Alito, which denied it on June 22, 2018. Application No. 18A220 was denied by Justice Breyer on August 29, 2018. We hereby reproduce, and briefly expand upon the arguments

already presented to this Honorable Court by Respondents:<sup>1</sup>

## ARGUMENT

### A. The Legal Personality of the Catholic Church in Puerto Rico has been recognized by this Court.

In *Ponce v. Roman Catholic Apostolic Church*, 210 U.S. 296 (1908), this Honorable Court recognized the legal personality and “corporate existence” of the Roman Catholic Apostolic Church in Puerto Rico, based on Art. VIII of the 1898 Treaty of Paris, which applies to U. S. possessions acquired in the Spanish-American War; see, also, *Santos v. Holy Roman Catholic and Apostolic Church*, 212 U.S. 463, 465 (1909) (Philippine Islands) (“the legal personality of the Roman Church, and its capacity to hold property in our insular possessions, is recognized”).

As a legal entity, the Catholic Church in Puerto Rico can be sued to seek compliance with its patrimonial

---

<sup>1</sup> The undersigned attorneys are new to the practice of this Court, whose jurisdiction they did not invoke. We apologize in advance to the Court if any errors of form have been committed.

obligations. In the aftermath of *Ponce v. Roman Catholic Apostolic Church*, the Catholic Church has appeared as a party in numerous cases before the Commonwealth of Puerto Rico Courts.<sup>2</sup>

B. Its Dependencies Act as “Part of” the Catholic Church.

In *Ponce v. Roman Catholic Apostolic Church*, the Catholic Church was represented by a Bishop. 212 U.S. at 297. In many cases before the Puerto Rico Courts, the Catholic Church has acted through its dioceses and occasionally, through its parishes. The common practice of

---

<sup>2</sup> See, for example, *Asoc. De Vecinos de Villa Caparra v. Iglesia Católica*, 117 D.P.R. 346 (1986); *Agostini Pascual v. Iglesia Católica*, 109 D.P.R. 172 (1979); *Vélez Colón v. Iglesia Católica*, 105 D.P.R. 123 (1976); *Iglesia Católica v. Registrador*, 96 D.P.R. 511 (1968); *La Iglesia Católica, Apostólica y Romana en P.R. v. Registrador*, 72 D.P.R. 847 (1951); *Ríos v. Iglesia Católica, Apostólica y Romana de P.R.*, 62 D.P.R. 100 (1943); *Iglesia Católica Apostólica y Romana, etc. v. Municipio de Hatillo*, 59 D.P.R. 191 (1941); *Iglesia Católica Apostólica y Romana de Puerto Rico v. Puig Morales*, 55 D.P.R. 34 (1939); *Iglesia Católica Apostólica y Romana de Puerto Rico v. Collazo*, 47 D.P.R. 636 (1932); *Iglesia Católica, etc. v. Combate Tobacco Corp.*, 42 D.P.R. 376 (1931); *Iglesia Católica, Apostólica y Romana v. Municipio de Arecibo*, 39 D.P.R. 695 (1929); *Iglesia Católica, Apostólica y Romana v. Monclova*, 37 D.P.R. 797 (1928); *Iglesia Católica, Apostólica y Romana v. Fournier*, 34 D.P.R. 753 (1925); *La Iglesia Católica, Apostólica y Romana en Puerto Rico v. El Municipio de Bayamón*, 18 D.P.R. 839 (1912). The above list is merely representative and is not exhaustive.

Puerto Rico authorities has been to accept the actions of the different components of the Catholic Church, as being proper representatives of the same, if so, determined by Church authorities. This longstanding practice is illustrated by the certificate issued by the Puerto Rico State Department on behalf of the Archdiocese of San Juan, included by Applicants in page R-1 to the Application for Stay No. 17A1375 filed in this case on June 15, 2018. According to the Certificate, “any division or dependency created under ... [the] legal personality [of the Catholic Church in Puerto Rico] will be part of the same, for which reason the “ARCHDIOCESE OF SAN JUAN” does not have to register in the corporate register.” (Spanish) (Our translation).

That is, according to official Commonwealth of Puerto Rico authorities, if a dependency of the Catholic Church is not separately registered, it is nonetheless recognized as being a “part of” the Catholic Church.

C. The Catholic Church Was Sued and Appeared in the Present Case, Thus Waiving any Defense Related to Its Existence.

Respondents are 185 teachers, former teachers and employees of three (3) parochial catholic schools in Puerto Rico. More than two (2) years ago, Respondents commenced the present action before the local Courts of the Commonwealth of Puerto Rico, to obtain specific performance of their duly contracted pension rights.<sup>3</sup> Specifically, retired Respondents sought an injunction to force the Catholic Church to resume payment of their retirement pensions, which had been discontinued by the Catholic Church on June 30, 2016, after the pension fund became depleted.

The case was filed in state court because, being a “Church Plan”, the Pension Plan of the Archdiocese of San Juan is not governed by the Employee Retirement Income

---

<sup>3</sup> The three (3) parochial schools are Academia Nuestra Señora del Perpetuo Socorro, Academia San José and Academia San Ignacio de Loyola. Respondents filed separate suits for each of these three (3) schools. The cases were duly consolidated.

Security Act of 1974 (“ERISA”), 29 U.S.C. §1003(b)(2). The suit was directed against the Catholic Church and the Pension Fund Trust (the “Trust”) in charge of the last funds available for payment of the pensions. The three (3) catholic schools, the Archdiocese of San Juan (the “Archdiocese”) and the Superintendence of Schools for the Archdiocese of San Juan (the “Superintendence”) were also named in the complaint as dependencies (“*dependencias*”) of the Catholic Church. The Archbishop of San Juan, Mons. Roberto González Nieves, was also named in the complaint as representative of the Archdiocese and the principal active church official in Puerto Rico. Respondents claimed that they were employees of the Catholic Church because they were employed in parochial schools belonging to and operated by the Catholic Church and because none of the three (3) schools had corporate existence separate from the Catholic Church.

The Catholic Church appeared in the case on June 13, 2016,<sup>4</sup> answered the complaint on September 1, 2016, and filed numerous motions, vigorously opposing Respondent's claims.<sup>5</sup> No allegations as to the Catholic Church's lack of legal personality were presented at this time.

---

<sup>4</sup> The summons was served upon the Archbishop of San Juan on behalf of the Catholic Church. In its appearance, the Catholic Church pointed out that its correct name was "Holy Roman Catholic Apostolic Church" (emphasis added) and that the name used by Respondents in the complaint (which omitted the adjective "Roman") corresponded to the corporate name of the Orthodox Church. Respondents made clear that the complaint was directed against the Catholic Church and made the corresponding amendment in their later filings, a change unopposed by Petitioners.

<sup>5</sup> Besides its answer to the complaint and several dispositive motions, the Catholic Church filed or made more than two dozen other appearances in the case, usually appearing jointly with the Archdiocese and the Superintendence, but also appearing alone. Some of these filings were enumerated in the ¶ 5 of the motion filed by Respondents before the Supreme Court of Puerto Rico on June 6, 2018, included as App. A of Respondents' Opposition to Petitioner's Application for Stay No. 17A1375. With their motion, Respondents included the first page of each motion filed in the Court of First Instance, where the appearance of the Catholic Church was noted, and included the docket number for each filing. This Court can take judicial notice of the docket of the Puerto Rico Superior Court, Case No. SJ2016CV00131, which is available online at <https://unired.ramajudicial.pr/sumac/>, confirming that the Catholic Church was an active participant throughout the Puerto Rico litigation.

Although they all lacked a valid corporate certificate, the Catholic Church caused all three (3) parochial schools to appear through separate counsel, as if they were wholly independent entities, a move which was timely contested by Respondents.

D. The Supreme Court of Puerto Rico Issued an Injunction Directed against the Catholic Church.

After several other proceedings, on July 18, 2017, the Supreme Court of Puerto Rico issued a preliminary injunction in Respondents' favor, ordering the continuation of petitioners' pension payments by their employer. (See App. J of Petitioners' Application for Stay No. 17A1375 filed on June 15, 2018). In its judgment, the Supreme Court of Puerto Rico determined that Respondents are suffering irreparable damages as a result of the termination of their pensions which, for many of these elderly retired school teachers and employees, is their sole source of sustenance. The Court stated:

It remains to be determined who is obliged to continue the payments to the [plaintiffs] while the

lawsuit reaches conclusion. ... [Plaintiffs] 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.

The Supreme Court of Puerto Rico ordered 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". (Emphasis added) Thus, the Supreme Court of Puerto Rico's mandate expressly contemplated that, upon determining that all three (3) parochial schools lacked corporate personality, payment of the pensions should fall upon the Catholic Church, who was the main defendant in the case and had actively participated in all proceedings.

E. The Dioceses Were Aware of the Implications of the Injunction.

The Dioceses of the Catholic Church in Puerto Rico were fully aware of the implications of the Supreme Court’s decision. On August 14, 2017, the Conference of Catholic Bishops in Puerto Rico filed an *amicus curiae* petition with the Supreme Court of Puerto Rico, alleging that the Court’s decision would have a crippling effect on the Catholic Church and that it would affect “all catholic churches in all of Puerto Rico” (“todas las Iglesias católicas en todo Puerto Rico”). (Respondent’s App. B to Opposition to the Application for Stay No. 17A1375) (Spanish).

F. The Catholic Church did not present Any Evidence as to its Legal Personality.

The evidentiary hearing ordered by the Supreme Court of Puerto Rico was held on January 30, 2018. The evidence presented at the hearing centered on the legal personality of the parochial schools. No evidence whatsoever was presented by the Catholic Church at the hearing concerning the legal personality of its different

dioceses or parishes. The only evidence to that effect was presented by Respondents and consisted of two (2) certificates issued by the Puerto Rico State Department for the Archdiocese and the Superintendence, ratifying that Catholic Church dependencies did not have to register with the Puerto Rico Corporate Register as they are considered part of the Catholic Church.<sup>6</sup>

G. The Court of First Instance Ruled that the Catholic Church Disobeyed the Injunction.

On March 16, 2018, the Puerto Rico Court of First Instance issued its ruling, holding that none of the parochial schools had a legal personality separate from the Catholic Church. Consistent with the Supreme Court of Puerto Rico's July 18, 2018 injunction order, the Puerto Rico Court of First Instance directed the Catholic Church

---

<sup>6</sup> At the time of the Puerto Rico Supreme Court's July 18, 2017 injunction order, none of the Dioceses of Puerto Rico was separately incorporated. On August 23, 2018, after an attachment order was issued against the Catholic Church, the Diocese of Arecibo obtained a corporate certificate from the Puerto Rico State Department. The other five (5) Dioceses remain unincorporated dependencies of the Catholic Church.

“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.” Ten days later, on March 26, 2018, as the Catholic Church had not complied with its order and the Court of First Instance, acting *sua sponte*, declared that the Catholic Church was “in breach of our order” and ruled that “[i]n view of the foregoing, as well as the reckless attitude assumed by defendants, such party is ordered to, in the final span of 24 hours, proceed to deposit the sum of 4.7 million dollars with the Accounts unit of this Court.” The Court warned that “if this Order is not complied with within the established term, we shall proceed to order the seizure of bank accounts of the Roman Catholic and Apostolic Church in Puerto Rico.”

The Catholic Church did not comply with the Court’s order to deposit the funds for payment of the pensions. Upon Respondents’ request, an attachment order was issued on March 27, 2018. Contrary to Petitioners’

assertion, the attachment was not ordered as a provisional remedy to secure an eventual judgment, but rather under the Court's civil contempt power, to force compliance with the injunction issued by the Supreme Court of Puerto Rico on July 18, 2017, which had already directed that, if the schools were found to lack legal personality, then pension payment obligations would fall upon the Catholic Church. The attachment was directed against the Catholic Church in Puerto Rico and all of its dependencies.

H. The Issue Regarding the Catholic Church's Lack of Legal Personality Was Untimely Raised and Was Based on Canon Law, Which is Not Binding on Puerto Rico Courts.

It was at this late stage that the Catholic Church appealed to the Puerto Rico Court of Appeals, asserting that the injunction issued by the Supreme Court of Puerto Rico on July 18, 2017 was ineffective, as it was allegedly directed against a nonexistent party (the Catholic Church). The Catholic Bishops sought to intervene in the case, also

asserting that the Catholic Church, as such, is inexistent.<sup>7</sup> The Catholic Church's and the Bishop's allegations were not based on any evidence (since none had been presented regarding this issue). Instead, the Court of Appeals was invited to take judicial cognizance of Canon Law precepts which showed that the Catholic Church considers all dioceses and parishes to have legal personality of their own.

I. The Puerto Rico Supreme Court's Ruling is Interlocutory in Nature.

The Court of Appeals sided with the Catholic Church relying on Canon Law to rule that the Catholic Church does not possess a legal personality. This ruling was reversed by the Supreme Court of Puerto Rico. The Supreme Court of Puerto Rico ruled that, for purposes of its contractual obligations, the issue of the Catholic Church's legal personality is a question of secular law and concluded

---

<sup>7</sup> Contrary to what the Catholic Church alleges, all Dioceses filed briefs with the Puerto Rico Court of Appeals. The Court denied their intervention, after considering their arguments, and ruled that the Catholic Church in Puerto Rico is an inexistent entity.

that, from the point of view of government institutions, the different dioceses and parishes in Puerto Rico are not separate from the Catholic Church, but rather, part of the Catholic Church. The Court dioceses again requested to intervene and were allowed to present briefs stating out their position. Their request for intervention was eventually denied by the Supreme Court of Puerto Rico, but only after the Court concluded that the Dioceses lack separate legal personality and that they were already represented in the case by the Catholic Church.

The Puerto Rico Supreme Court's ruling is interlocutory in nature and is related to the question of who is responsible for paying the retired teachers' pensions while the case is being litigated. Proceedings continued thereafter in the Puerto Rico Court.

J. The Attachment Order Was Served on Banks Holding Monies Belonging to the Archdiocese; No Other Dioceses Were Directly Affected.

Between August 21 and 23, 2018, the attachment order issued by the Puerto Rico Court of First Instance was

served upon five (5) different banking institutions in San Juan, Puerto Rico, holding monies belonging to the Archdiocese and associated parishes.<sup>8</sup> The Court Marshal attached \$606,569.13 deposited in an account belonging to the Archdiocese. An additional \$4,100,000 was frozen in funds deposited in 160 accounts belonging to parishes associated with the Archdiocese and in 12 accounts using the Archdiocese's identification number. (See ¶ 12 of the Complaint filed by the Archdiocese in Adversary Proceeding No. 18-00099-EAG filed before the United States Bankruptcy Court for the District of Puerto Rico, Docket No. 1) (funds belong to the "Parishes of the Archdiocese"). Contrary to the Catholic Church's assertions, no other Catholic Church assets were affected by the attachment order. Neither were the other Dioceses directly affected by the Court's order, although

---

<sup>8</sup> At no time did the Court Marshal attempt to execute the order against the Orthodox Church. The text of the Court's order made clear it was directed against the assets of the Catholic Church. However, some of the service documents cited the caption of the initial complaint, which omitted the word "Roman" from the Catholic Church's designation. The clerical error was swiftly corrected by the Court.

Respondents recognize that, under the terms of the Order, their assets could also have been attached as belonging to the Catholic Church.

K. The Catholic Church Filed for Bankruptcy.

On August 28, 2018, the Catholic Church filed a petition for reorganization before the United States Bankruptcy Court for the District of Puerto Rico, under Chapter 11 of the United States Bankruptcy Code, Case No. 18-04911-EAG. The Puerto Rico Court issued an order staying proceedings on August 30, 2018, as required by 11 U.S.C. § 362. On September 7, 2018, the Bankruptcy Court ruled that the petition involved all Catholic Church entities not separately incorporated. (See Docket No. 35 of Case No. 18-04911 before the United States Bankruptcy Court for the District of Puerto Rico). At the time of the filing of the Petition for Writ of Certiorari, the Catholic Church's Bankruptcy petition was still pending, although a dismissal motion had been filed by the United States Trustee under 11 U.S.C. § 1112(b)(4), which was joined by

Respondents. (See Docket Nos. 190 and 230 of Case No. 18-04911).

L. The Puerto Rico Supreme Court Had Already Ruled the Catholic Church is Obligated to Pay if Schools Lack Separate Legal Personality.

Petitioners' writ is a thinly veiled collateral attack against the judgment issued by the Supreme Court of Puerto Rico on July 18, 2017, in a case where the Catholic Church actively participated and was unsuccessful. Under the garb of separation of Church and State, the Catholic Church is seeking to overturn the Supreme Court of Puerto Rico's order directing that, if the schools were found to have no separate legal personality, pension payment obligations would then fall upon the Catholic Church.

What Petitioners are asking this Court to do is to rule that there is no single legal person known as the "Roman Catholic Apostolic Church in Puerto Rico", but rather a myriad of Catholic churches, each with its own separate personality. According to the sworn statement filed by the Archbishop of San Juan before the Supreme

Court of Puerto Rico: “[t]here is no single entity of the Catholic Church that represents or oversees all Catholic entities in the territory.” Petitioners contend that, since the Catholic Church is inexistent, orders issued by the Supreme Court of Puerto Rico and the Puerto Rico Court of First Instance directing payment of the Respondents’ pensions by the Catholic Church are ineffectual.

What the Catholic Church is attempting to do is justify its noncompliance with the injunction issued against it. As plainly stated by Mons. Roberto González in another affidavit filed before the Supreme Court of Puerto Rico:

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 at 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.

That is, the Catholic Church seeks to assert that it did not breach the Puerto Rico Supreme Court’s and Trial

Court's orders that it pay the pensions of its employees because said order was directed at an inexistent party.

M. Petitioners' Position is Wholly Inconsistent with *Ponce v. Roman Catholic Apostolic Church*.

The legal personality of the Catholic Church was recognized in *Ponce v. Roman Catholic Apostolic Church, supra*. Petitioners' contention that there is no Roman Catholic Apostolic Church in Puerto Rico is simply at odds with said precedent, as well as with the numerous other precedents of the Supreme Court of Puerto Rico where the Catholic Church has appeared as a named party. In the extant case, the Catholic Church was named as the main defendant, appeared in the proceeding and defended itself actively. As previously stated, it was not until the Puerto Rico Courts ruled against it, that the Catholic Church raised the claim that it does not exist as a single institution.

N. Canon Law is the Internal Regulation of the Catholic Church and is Not Binding in Court Cases Dealing with Contractual Matters Unrelated to Religion.

Petitioners base their argument on Canon Law. They argue that internal Church law recognizes each Diocese as an independent entity and argue that the Courts of Puerto Rico are obliged to apply Canon Law when interpreting contractual obligations of the Catholic Church.

The liability of an entity for legal obligations arising out of a contract is a question of secular law. The Supreme Court of Puerto Rico ruled that contracts entered into by the different components of the Catholic Church in Puerto Rico are governed by Puerto Rico law and are deemed to be contracts of the Catholic Church, as this is the entity that enjoys legal recognition, as held in *Ponce v. Roman Catholic Apostolic Church*. The Puerto Rico Supreme Court's ruling that all components of the Catholic Church in Puerto Rico are liable for the payment of Respondents' pensions is consistent with the "corporate" legal personality of the Catholic Church, as recognized by this Court under

the Treaty of Paris, and is based on application of the neutral legal principles of Puerto Rico law to the controversy, free from entanglement with questions of religious doctrine. *Jones v. Wolf*, 443 U.S. 595, 603 (1979).

Petitioners actively seek such entanglement by courts with doctrinal matters arguing that, in dealing with legal contracts executed by the Catholic Church, the Courts are bound to apply Canon Law. This would needlessly expand the application of the Catholic Church internal regulations outside of their appropriate scope.<sup>9</sup>

Other Courts have denied the Catholic Church's pretention that patrimonial controversies involving the Catholic Church must be adjudicated according to Canon Law. See, notably, *In re Roman Catholic Archbishop of Portland in Oregon*, 335 B.R. 842 (Bankr. D. Ore. 2005),

---

<sup>9</sup> Canon Law, for instance, prohibits ordained priests from marrying. Could a Judge be prevented from performing a secular civil wedding ceremony of an ordained priest, just because the ordained priest is a member of the Catholic Church? See, e.g., the Puerto Rico Supreme Court's ruling in *Negrón v. Sucesión Izquierdo*, 46 D.P.R. 660, 664 (1934) (marriage by Catholic Priest is valid under Puerto Rico civil law, though prohibited by Canon Law).

where the Bankruptcy Court for the District of Oregon rejected a similar argument to the one formulated here by Petitioners. 335 B.R. at 865-866 (“[e]ven debtor’s own canon law expert acknowledges that being a separate juridic person under canon law does not give that juridic persona a civil law identity”); see also, Stephen M. Baingridge, Aaron H. Cole, *The Bishop’s Alter Ego: Enterprise Liability and the Catholic Priest Sex Abuse Scandal*, 46 JCLS 65, 78-80 (2007) (discussing Portland case).

O. Under Canon Law, all Churches in Puerto Rico are Joined in an Ecclesiastical Province, which Enjoys Legal Personality.

Even if Canon Law were to be applied, the Catholic Church’s argument fails. It is simply not true that, as a question of Church law, there is no entity that represents or oversees all Catholic entities in Puerto Rico. The Court is requested to take judicial knowledge of arts. 431 and 432 of the Code of Canon law, available online at the Holy See’s site: [www.vatican.va/archive/ENG1104](http://www.vatican.va/archive/ENG1104). Article 431, in its

§ 2, commands that “individual dioceses and other particular churches within the territory of some ecclesiastical province must be joined to the ecclesiastical province.” (Emphasis added). Article 432, § 2, states that an ecclesiastical province possesses juridical personality. The ecclesiastical province of Puerto Rico was created in January 20, 1903 by the *Actum Praeclare* issued by Pope Leo XIII. Said province gathers in a single person, all dioceses and parishes in Puerto Rico.

In suing the Catholic Church in Puerto Rico, Respondents were directing their claims at a legal person that fully exists, both under Church law and under this Court’s precedents, and that includes all catholic churches in Puerto Rico.

P. The Court Should Not Issue a Certiorari in this Case.

The Catholic Church’s petition constitutes a baseless and untimely attack on the clear mandate issued by the Supreme Court of Puerto Rico over a year and a half ago, in

its July 18, 2017 judgment, when it ordered payment of pensions to be made by the Catholic Church, should the trial Court find that the three parochial schools lack a separate legal personality. The remedy then issued by the Supreme Court of Puerto Rico against the Catholic Church was proper and reasonable, as said party had been included in the case as the main defendant and had acted as an active participant throughout. It was not until the Catholic Church defaulted on the order to pay issued by the Trial Court that the issue of the inexistence of the Catholic Church was first brought up. Such self-serving argument is clearly at odds with this Court's century-old precedent in *Ponce v. Roman Catholic Apostolic Church*, where it was ruled that the Catholic Church is a legal person in Puerto Rico. The Catholic Church expressly waived any arguments as to its personality by appearing in the case.

The Supreme Court of Puerto Rico's July 18, 2018 ruling is interlocutory in nature. To this day, Respondents continue to suffer irreparable damages because they have

been deprived of the pensions on which they largely depend on to survive. Respondents are mostly elderly individuals, who were promised pension benefits as part of their compensation package with the parochial schools they used to work for before retiring. Respondents have not received their retirement pensions for over two and a half years. Some of them have lost, or are in danger of, losing their homes. Still others, who suffer from terminal and/or debilitating conditions, are unable to pay for their medicines and/or required medical treatment. As recently as late 2017, Respondents faced the well-documented humanitarian crisis which affected all island residents in the aftermaths of Hurricanes Irma and María, without the benefit of their pension income.

Respondents do not much care whether their pensions are paid by the Catholic Church or by a particular diocese. Petitioners rely on the present issue, however, to continue to delay payment of an undisputed debt. It is uncontroverted that the three (3) schools located in San

Juan, Puerto Rico, are parochial schools owned and operated under the *aegis* of the Archbishop of San Juan of the Archdiocese. Said prelate, however, continues to insist that the Archdiocese is under no obligation to comply with the injunction issued by the Supreme Court of Puerto Rico, simply because the order was addressed to the Catholic Church, and not to the Archdiocese.<sup>10</sup> This is simply untenable.

Q. The Supreme Court of Puerto Rico Did Not Intrude Into Church Matters.

Ordering a church to pay for a contractual debt is a neutral action that does not burden the exercise of religion or otherwise involve the state in religious matters. *Jones v. Wolf, supra*. As the Supreme Court of Puerto Rico observed, “we are before a purely contractual dispute regulated by local law among private parties.”

---

<sup>10</sup> The Archdiocese was included in the complaint, as a dependency (“*dependencia*”) of the Catholic Church and has appeared alongside it throughout these proceedings.

R. The Catholic Church Cannot be the Judge of its Own Obligations.

The characterization offered by the Catholic Church of its internal structure is self-serving and fails to mention that all catholic churches in Puerto Rico belong to an ecclesiastical province that enjoys legal personality under Canon Law. Ultimately, what the Catholic Church seeks is to be allowed to determine by itself whether to honor an obligation imposed by civil authorities. In this case, church liability follows as a corollary to its corporate existence. The Catholic Church is responsible to Respondents for the contractual obligations incurred by its officials when Respondents were first recruited as teachers and employees of the parochial schools operated within the Archdiocese and in other locations on the island. This is the same principle that would apply to any other non-religious corporate employer in Puerto Rico.

Petitioners would seek to confuse the issue by framing it as a question of internal Church structure. There is nothing in the ruling of the Supreme Court of

Puerto Rico that changes the way the Catholic Church has traditionally operated in Puerto Rico. The fact that the dioceses are held to be “part of” the Catholic Church in no way impedes them from contracting with third parties, or even holding property, because Puerto Rico authorities allow Church action to occur through any representative chosen by the Catholic Church. What the Catholic Church cannot do is have the dioceses enjoy the rights and privileges granted to a religious entity (in this case, not having to register in the Commonwealth Puerto Rico’s Corporate Registry), while maintaining that they are wholly separate entities from the Catholic Church. Because you cannot have your cake and eat it too.

Petitioners must comply with the orders and injunctions issued by the Courts of Puerto Rico, the same way any other private employer must.

CONCLUSION

**WHEREFORE**, Respondents respectfully request that this Honorable Court deny the Petition for Writ of Certiorari submitted by Petitioners.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 1<sup>st</sup> day of February, 2019.

*/s/German J. Brau-Ramírez*

GERMAN J. BRAU-RAMÍREZ

*Counsel of Record*

ANTONIO BAUZÁ-SANTOS

BAUZÁ, BRAU, IRIZARRY,

OJEDA & SILVA

PO Box 13669

San Juan, Puerto Rico 00908

Tel.: 787-710-8262

Fax: 787-282-3672

[german.brau@bioslawpr.com](mailto:german.brau@bioslawpr.com)

[antonio.bauza@bioslawpr.com](mailto:antonio.bauza@bioslawpr.com)

*Counsel for all Respondents*