

JUDGE MARY E. ROBERTS

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

THE PRESBYTERY OF SEATTLE, a  
Washington nonprofit corporation; THE  
FIRST PRESBYTERIAN CHURCH OF  
SEATTLE, a Washington nonprofit  
corporation; ROBERT WALLACE, President  
of The First Presbyterian Church of Seattle, a  
Washington nonprofit corporation; and  
WILLIAM LONGBRAKE, on behalf of  
himself and similarly situated members of  
First Presbyterian Church of Seattle,

Plaintiffs,

v.

JEFF SCHULZ and ELLEN SCHULZ, as  
individuals and as the marital community  
comprised thereof; and LIZ CEDERGREEN,  
DAVID MARTIN, LINDSEY McDOWELL,  
GEORGE NORRIS, NATHAN ORONA, and  
KATHRYN OSTROM, as trustees of The  
First Presbyterian Church of Seattle, a  
Washington nonprofit corporation,

Defendants.

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JEFF SCHULZ and ELLEN SCHULZ, as  
individuals and as the marital community  
comprised thereof; and LIZ CEDERGREEN,  
DAVID MARTIN, LINDSEY McDOWELL,  
GEORGE NORRIS, NATHAN ORONA, and  
KATHRYN OSTROM, as trustees of The  
First Presbyterian Church of Seattle, a  
Washington nonprofit corporation,

No. 16-2-03515-9 SEA

ORDER DENYING  
DEFENDANTS' CR 56(f)  
MOTION FOR CONTINUANCE

1 Third-Party Plaintiffs and  
2 Counterclaimants,

3 v.

4 THE PRESBYTERY OF SEATTLE, a  
5 Washington nonprofit corporation; SCOTT  
6 LUMSDEN, Executive Presbyter of the  
7 Presbytery of Seattle, an individual; and THE  
8 FIRST PRESBYTERIAN CHURCH OF  
9 SEATTLE, a Washington nonprofit  
10 corporation, as recognized by the State of  
11 Washington under Washington's Nonprofit  
12 Corporations Act, by and through the  
13 corporation's duly elected Board of Trustees,

14 Counterclaim Defendant and  
15 Third-Party Defendants.

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16 THE FIRST PRESBYTERIAN CHURCH  
17 OF SEATTLE, a Washington nonprofit  
18 corporation, as recognized by the State of  
19 Washington under Washington's Nonprofit  
20 Corporations Act, by and through the  
21 corporation's duly elected Board of Trustees,

22 Cross-Claimant and Third-  
23 Party Plaintiff,

24 v.

25 THE PRESBYTERY OF SEATTLE, a  
26 Washington nonprofit corporation; ROBERT  
WALLACE, an individual; WILLIAM  
LONGBRAKE, an individual; and  
PRESBYTERIAN CHURCH (U.S.A.), A  
Corporation, a Pennsylvania nonprofit  
corporation,

Cross-Claim Defendants and  
Third-Party Defendants.

1 This matter came before the Court on Defendants' CR 56(f) Motion for Continuance  
2 (the "motion"). The Court has considered the motion and the Declaration of Daniel Kittle in  
3 Support of Defendants' CR 56(f) Motion for Continuance, with exhibits. The Court has also  
4 considered the opposition to the motion filed by plaintiffs Presbytery of Seattle, First  
5 Presbyterian Church of Seattle, William Longbrake, and Robert Wallace ("plaintiffs"), as well  
6 as the Declaration of Robert B. Mitchell in Opposition to Defendants' Motion for Continuance,  
7 with exhibits. The Court received no written reply from the defendants, but heard oral  
8 argument from counsel this date. The court also considered the substantial submissions of the  
9 parties in support of and in opposition to the plaintiffs' motion for partial summary judgment,  
10 and the defendants' motion for preliminary injunction.

11 Plaintiffs filed their complaint in this matter on February 17, 2016. Plaintiffs moved  
12 for partial summary judgment on their claim for a declaratory judgment on March 10, 2016.  
13 Several months before plaintiffs filed their complaint and moved for summary judgment,  
14 plaintiffs' counsel alerted counsel for defendants about the grounds for relief asserted in  
15 plaintiffs' motion for partial summary judgment.

16 Defendants have served extensive written discovery requests on plaintiffs. The  
17 Plaintiffs have provided extensive responses. The court understands that the defendants do not  
18 agree that the plaintiffs' responses are complete. In the motion, defendants say that they seek  
19 discovery related to (1) "Plaintiffs' assertion that PCUSA is 'hierarchical' within the meaning  
20 of *Rohrbaugh* [*Presbytery of Seattle v. Rohrbaugh*, 79 Wn.2d 367, 485 P.2d 615 (1971), *cert.*  
21 *denied*, 405 U.S. 996, *reh. denied*, 406 U.S. 939 (1972)] (motion, p. 8), (2) "[Seattle]  
22 Presbytery's purported assumption of corporate authority under Washington law," (motion, p.  
23 9), and (3) "Plaintiffs' assertion that First Presbyterian holds its property in trust for PCUSA"  
24 (motion, p. 10). Plaintiffs, in response to the motion, explained how their responses are  
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1 complete with regard to these three legal issues. The court received no reply from the  
2 defendants.

3 The record shows that defendants have had sufficient time and notice to prepare their  
4 opposition to plaintiffs' motion for partial summary judgment. Defendants have had ample  
5 opportunity to assemble declarations from experts, and they have done so. Upon inquiry from  
6 the court as to what specific evidence the defendants expected to discover, defense counsel  
7 made only vague references to internal correspondence he suspected existed. Even so, the  
8 anticipated evidence would not add anything to the defendants' already thorough response to  
9 the plaintiffs' motion for summary judgment. Evidence of the sort alluded to by defense  
10 counsel would be cumulative at best.

11 Defendants fail to show that additional discovery would support further their assertion  
12 that there exists a genuine issue of material fact as to whether the Presbyterian Church (U.S.A.)  
13 is hierarchical.

14 Defendants similarly fail to specify the type of evidence they seek that will shed any  
15 light on the propriety of the Administrative Commission's actions in assuming original  
16 jurisdiction over the affairs of First Presbyterian Church of Seattle (FPCS). Any evidence  
17 related to corporate authority is known to defendants or available to them.

18 Finally, defendants fail to explain how additional discovery will support their  
19 arguments pertaining to whether property of FPCS was held in trust for the Presbyterian  
20 Church (U.S.A.).

21 For the reasons stated in this Order, the Defendants' CR 56(f) Motion for Continuance  
22 is DENIED.

23 DATED this 27<sup>th</sup> day of May, 2016.

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26 JUDGE MARY E. ROBERTS