Team # 1210

United States District Court
For The
Central District of Stetson
Gulfport Division

ADRIANNA Q. WILSON, *Plaintiff,* v. LIGHT UP MY LIFE UNIVERSALIST ACADEMY, *Defendant.*	Case No.: 0:10-cv-007LC-BVD **MEMORANDUM IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS,** **&** **IN OPPOSITION OF PLAINTIFF'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS**

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STATEMENT OF JURISDICTION

I. This court has jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3) and (4), and supplemental jurisdiction pursuant to U.S.C. § 1367.

II. Venue is proper in the United States District Court for the Central District of Stetson, Gulfport Division, under 1.02(c) of the Local Rules of the Central District of Stetson, and pursuant to 28 U.S.C. § 1391(b)(2), because this is the judicial district in which a substantial part of the events giving rise to the claim occurred.

QUESTIONS PRESENTED

I. Whether a religious school is protected by the ministerial exception found in the First Amendment from an employment discrimination suit brought by a school administrator.

II. Whether a request for documents pertaining to a religious institution's religious doctrines, beliefs, polices and hiring practices is constitutionally permitted.

STATEMENT OF FACTS

This matter arises from a sexual discrimination claim filed by Ms. Adrianna Wilson in the Central District of Stetson, Gulfport Division, on January 30, 2012. (Pl. ['s] Compl. 1.) Ms. Wilson applied for the position of Administrator at Light Up My Life Universalist Academy ("Academy") on or about June 1, 2011. Id. at 2. The Academy is a religious organization, and it has been a long-standing policy of the Academy to require a unanimous recommendation of their hiring committee before an applicant is offered a position. (R.1-2.) One of the members of the hiring committee is Mr. Allan Bowersox, the Academy's Chaplin and a ministerial employee. Id. One of the duties of the Administrator position is to supervise the Chaplin of the Academy. Id. Mr. Bowersox openly refused to hire Ms. Wilson because of his firmly held religious belief that a man should not be under subjection to a woman in a religious setting. Id. When hiring decisions were made for the Administrator position, Ms. Wilson was not offered the job. Id.

Ms. Wilson claims she was not offered the position at the Academy because of her gender. (Pl. ['s] Compl. 1.) She asserts the Academy violated Title VII of the Civil Rights Act by intentionally discriminating against her on the basis of her sex. Id. She further asserts a violation of Chapter 760 of the Stetson Statutes for Sex Discrimination. Id. The Defendant has timely filed a Motion to Dismiss Plaintiff's Complaint with Prejudice for failure to state a claim upon which relief

may be granted. (Def. [’s] Mot. To Dismiss. 1.) Ms. Wilson has also timely filed a Motion to Compel Production of Documents. (Pl. [’s] Mot. To Compel. 1.)

SUMMARY OF ARGUMENT

In the interest of justice, this Court should grant the Academy's motion to dismiss for failure to state a cause for which relief can be granted. The Academy is protected under the ministerial exception of the Constitution from employment discrimination claims brought by ministerial employees, and has correctly asserted this as an affirmative defense. The Administrator position at the Academy is protected under this exception because of the religious duties and responsibilities the job entails. Further, the Administrator supervises the Academy's Chaplin, and therefore supervises religious rituals. As a position covered under the exception, the Academy is allowed freedom to discriminate when hiring individuals for the Administrator position. Therefore, even if Ms. Wilson proves all the allegations set forth, she will be prohibited from bringing her claim to court.

Alternatively, Ms. Wilson's motion to compel religious documents should be denied. Discovery that probes the bona fides of a religious institution is unconstitutional. The First Amendment protects these documents from being judged by a Trier of fact. In addition, the decision to not offer Ms. Wilson the Administrator position was the result of an internal church committee's discussions, which is uncharted territory for the courts. Granting Ms. Wilson's motion to compel would dismiss the important precedent set in <u>Rankin</u> and

Milivojevich, where the courts fought to protect the First Amendment rights of religious institutions. Therefore, her motion to compel should be denied.

ARGUMENT

Religious institutions are free to "select and control who will minister to the faithful" in accordance with the Free Exercise and Establishment Clauses of the First Amendment. Hosanna-Tabor Evangelical Lutheran Church & Sch. v. E.E.O.C., 132 S. Ct. 694, 709 (U.S. 2012). This freedom includes a privilege to establish individual regulations for internal governance based on the constructs of their faith. Serbian E. Orthodox Diocese v. Milivojevich, 426 U.S. 696, 714 (1976). As the Supreme Court has stated, "[t]he church must be free to choose those who will guide it on its way." Hosanna-Tabor, 132 S. Ct. at 710. With regard to management of internal affairs, the ministerial exception preserves a religious institution's right to be free from government entanglement. Rweyemamu v. Cote, 520 F.3d 198, 201 (2d Cir. 2008).

Moreover, matters of a religious organization are not subject to traditional norms of discovery because of the Establishment Clause and Free Exercise Clause of the United States Constitution. Kedroff v. Saint Nicholas Cathedral of Russian Orthodox Church in North America, 344 U.S. 94, 116 (1952). These Constitutional Clauses guarantee religious organizations independence from secular control and manipulation. Id. In short, the government cannot interfere with a church's power to decide its own matters of internal affairs. Id. Therefore, the hiring procedures and rules regulating the qualifications of an individual used in evaluating

candidates seeking employment at a religious institution are protected by these religious clauses.

I. MS. WILSON'S EMPLOYMENT DISCRIMINATION CLAIMS SHOULD BE DISMISSED FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED.

A. Standard of Law

When considering a motion to dismiss pursuant to Federal Rules of Civil Procedure 12(b)(6), a court must take well-pled factual allegations in the complaint as true, and must make all reasonable inferences in favor of the plaintiff. Brown v. Credit Suisse First Boston LLC, 431 F.3d 36, 45 (1st Cir. 2005); Fed.R.Civ.P. 12(b)(6). However, legal conclusions and unsupported inferences or assumptions in a complaint need not be accepted in the context of deciding a Rule 12 motion. See Fed.R.Civ.P. 12(b)(6). To survive a motion to dismiss, a complaint must allege "all the material elements necessary to sustain recovery under some viable legal theory." Bell Atl. Corp. v. Twombly, 550 U.S. 544, 562 (2007) (quoting Car Carriers, Inc. v. Ford Motor Co., 745 F.2d 1101, 1106 (7th Cir. 1984). A court may dismiss a complaint only if it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations. Hishon v. King & Spalding, 467 U.S. 69, 72 (1984).

Light Up My Life Universalist Academy asserts the ministerial exception as an affirmative defense to Ms. Wilson's gender discrimination claims. Protected by

this defense, Ms. Wilson will be unable to put forth any set of facts of which relief could be granted. In the furtherance of justice, the Academy's Motion to Dismiss must be granted.

B. Light Up My Life Universalist Academy correctly asserted the ministerial exception as an affirmative defense to Ms. Wilson's Employment Discrimination claims.

The ministerial exception is a Constitutional doctrine that forbids courts from entangling themselves in religious questions, and disturbing the autonomy of religious institutions over religious affairs. Rweyemamu, 520 F.3d at 204-09. To qualify under the ministerial exception, the employer must be a religious institution, and the employee must be a minister. Hosanna-Tabor, 132 S. Ct. at 711. In order to establish if an employee's position is ministerial, the courts ordinarily look to the employee's primary duties. Rayburn v. General Conference of Seventh-Day Adventists, 772 F.2d 1164, 1169 (4th Cir. Md. 1985). However, the courts have refrained from articulating a stringent test or standard for determining who qualifies as a ministerial employee. Dias v. Archdiocese of Cincinnati, 1:11-CV-00251, 2012 WL 1068165 (S.D. Ohio Mar. 29, 2012). Absent a firm test, the courts reserve the right in determining, on a case-by-case basis, when an employee's position is protected by the exception. Id. When found to fall under this category, the exception "precludes subject matter jurisdiction over claims involving the employment relationship between a religious institution and its

ministerial employees" and operates as an affirmative defense. Weishuhn v. Catholic Diocese, 279 Mich. App. 150, 157 (Mich. Ct. App. 2008). Ultimately, the exception ensures that the authority to select and control who will minister to the faithful is a matter strictly ecclesiastical and is the church's decision alone. Kedroff, 344 U.S. at 97.

1. The position of Administrator at Light Up My Life Universalist Academy is protected by the ministerial exception.

To establish whether an employee falls within the ministerial exception, courts look to see if the employee's primary duties consist of "teaching, spreading the faith, church governance, supervision of the religious order, or supervision and participation in religious ritual and worship." Rayburn, 772 F.2d at 1169. Particularly, the ministerial exception is "robust where it applies" to Title VII. E.E.O.C. v. Roman Catholic Diocese, 213 F.3d 795, 801 (4th Cir. 2000). It is also important to note that the ministerial exception is not limited to the head of a religious congregation. Hosanna-Tabor, 132 S. Ct. at 707.

In Hosanna-Tabor, the Supreme Court opined that requiring a church to accept or retain an unwanted minister, or punishing a church for failing to do so, interferes with the internal governance of the church, depriving the church of control over the selection of those who will personify its beliefs. Id. at 705. However, when addressing the criteria necessary to impose the ministerial

exception, the court stated they were reluctant to "adopt a rigid formula for deciding when an employee qualifies as a minister." Id. at 697. Instead, the Court limited its discussion to the facts of the case presented. Id. at 714. It determined the ministerial exception applied to the respondent, a teacher in the church's school, because she "played a substantial role in 'conveying the church's message and carrying out its mission.'" Id. As a secular teacher in the Lutheran school, the respondent spent most of her days teaching secular subjects, and spent only forty-five minutes each day fulfilling religious duties. Hosanna-Tabor, 132 S.Ct. at 716. The Court applied the ministerial exception, and therefore dismissed the employment discrimination suit she claimed against the school.

By purposefully omitting a strict test in determining who qualifies as a minister under the exception, the Court insisted instead on a case-by-case inquiry into the factors surrounding the employee's position within the church. The Court focused these inquiries on whether the respondent "played an important role as an instrument of her church's religious message and as a leader of its worship activities." Id. at 715. The decision to apply the exception rested not on her ordination status or formal title, but rather the function of her employment. Id.

It is critical this court recognizes the ministerial exception as relied on by the court in Hosanna-Tabor. "Determination of whose voice speaks for the church is per se a religious matter." Minker v. Baltimore Annual Conference of United

Methodist Church, 894 F.2d 1354, 1356 (D.C. Cir. 1990). Similar to the teacher in Hosanna-Tabor, the duties of the administrator at the Academy play an important role in conveying the church's message. Specifically, the Administrator supervises the church's Chaplin. The Academy's Chaplin is a member of its clergy, and is strictly ministerial. Applying the principles of an Administrator in Hosanna-Tabor, the position entails managing and supervising the execution, use or conduct of another. Therefore, as an administrator, Ms. Wilson would be managing and supervising the execution of the Chaplin of the church. She would be an instrument in carrying out the church's mission effectively through directing the Chaplin. Even if she is supervising other secular positions in the church, the court in Hosanna-Tabor stated the time spent supervising the church's mission is not important, only that the duty is present. Hosanna-Tabor, 132 S. Ct. at 715.

Dias also looked to an employee's duties in determining reliance on the ministerial exception. Dias, 1:11-CV-00251, 2012 WL 1068165 at 4. In Dias, a computer teacher at a religious school brought an employment discrimination claim against her employer. Id. at 1. The school raised the ministerial exception as an affirmative defense, but the court refused its application. Id. at 7. The court ruled in favor of the teacher, noting her duties *only* involved overseeing computer systems. Id. at 5. Classifying her duties as non-ministerial, the court denied the

defendant's Motion to Dismiss based on reliance of the ministerial exception. Id. at 7.

Alternatively, the administrator position at the Academy certainly has ministerial responsibilities. Both parties agree the Administrator's duties include supervising the church's Chaplin in his daily activities. Further, the Chaplin is an important part of the church community, and follows the religious teachings of the church. Supervising a position that is so pervasively religious indicates an Administrator has some sort of influence, and guidance, on the conduct of the church's teachings.

There are somber consequences if this Court does not apply the ministerial exception to the Academy's Administrator position. The Supreme Court's lack of guidance in Hosanna-Tabor reveals the far-reaching abilities of the ministerial exception. Courts rely on the exception to guarantee the freedoms afforded religious institutions in the First Amendment. Uniformly, the courts have concluded "in order to insulate the relationship between a religious organization and its ministers from constitutionally impermissible interference by the government," the religious clauses of the First Amendment require a narrow construction of Title VII. Bollard v. California Province of the Soc'y of Jesus, 196 F.3d 940, 945 (9th Cir. 1999).

2. Even if the Academy is denied privilege based on the ministerial exception, Ms. Wilson's claims infringe on the Academy's First Amendment right as a religious institution.

The First Amendment requires churches to be free from government interference in matters of church governance and administrations. See Rosati v. Toledo, 233 F. Supp. 2d 917, 923 (N.D. Ohio 2002). Whenever a question of discipline, faith, or ecclesiastical rule, custom, or law has been decided by a church judicatory to which the matter has been carried, the legal tribunals must accept such decisions as final and binding upon them. Hosanna-Tabor, 132 S. Ct. at 704. The American tradition has long embraced a "Constitutional order in which the institutions of religion are distinct from the institutions of government." Richard W. Garnett, Symposium: Religion And Morality In The Public Square: Religion And Group Rights: Are Churches (Just) Like The Boy Scouts?, 22 St. John's J.L. Comm. 515 (2007). Significantly, the Free Exercise Clause of the First Amendment provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . ." U.S.C.A. Const. Amend. I. Any attempt by the government to restrict a church's free choice of its leaders thus constitutes a burden on the church's free exercise rights. Rayburn v. General Conference of Seventh-Day Adventists, 772 F.2d 1164, 1167 (4th Cir. Md. 1985). As the Seventh Circuit explained, the Free Exercise Clause "protects the act of a decision rather than a motivation behind it." Alicea-

Hernandez v. Catholic Bishop of Chicago, 320 F.3d 698, 703 (7th Cir. 2003). In the instant case, the Academy's decision not to hire Ms. Wilson is a freely exercised act afforded to the Academy as a religious institution. Therefore, there is no reason to look into the motivations behind the hiring process.

Title VII regulation of ministers also violates the Establishment Clause. Elvig v. Calvin Presbyterian Church, 397 F.3d 790, 803 (9th Cir. 2005). In Elvig, the Ninth Circuit stated if Title VII regulations were applied to ministers, the act itself would infringe on churches' rights. Id. at 805. Pre-dating the American Revolutionary War, Americans have been unwilling to subject themselves to a management of churches maintained by the government. Id. If Title VII is allowed to directly regulate churches, they will become "instrumentalities of the state." Id. Instead of teaching the doctrines of their religion, they will be teaching the doctrines of the state. Id. This unconstitutional act would pull at the roots of the First Amendment, and the motivations inspiring its creation. In the interest of honoring the Constitution's power, and the important public policy concerns associated with stressing its supremacy, this court must dismiss the Title VII claims brought by Plaintiff. Ms. Wilson will be obstructing the very privileges set out by the nation's foremost principals if she is allowed to intervene with the hiring practices of the Academy.

As Ms. Wilson asserted both a federal and state sex discrimination claim, it is important to note the proper authority of these constitutional clauses. The religious clauses of the First Amendment are applicable to the states and their subdivisions through the Fourteenth Amendment. Employment Div. v. Smith, 494 U.S. 872, 876-77 (1990). Therefore, the Free Exercise and Establishment Clauses apply to both of Plaintiff's state and federal claims. See Rweyemamu v. Cote, 520 F.3d 198, 209-10 (2d Cir. 2008) (holding a dismissed federal employment discrimination claim in federal court precluded its supplemental jurisdiction over all remaining state law claims). By following the principles set forth in the Constitution and prior analogous case law, both of Ms. Wilson's claims must be dismissed.

II. MS. WILSON'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS SHOULD BE QUASHED BECAUSE IT VIOLATES THE ACADEMY'S FIRST AMENDMENT RIGHTS.

A. Standard of Law

Under the Rule 37(a) of the Federal Rules of Civil Procedure, a party may bring a motion to compel discovery in order to compel a party to disclose information. See Tri-Star Pictures, Inc. v. Unger, 171 F.R.D. 94, 98 (S.D.N.Y. 1997). Rule 26(b)(2) of the Federal Rules of Civil Procedure directs courts to examine the potential burdens to be borne by the various parties if the contemplated discovery is performed, and to limit such if it determines the burdens

or expenses of the discovery outweighs the benefits. Id. at 102. The decision to grant discovery requests lies within this Court's discretion. See Stagl v. Delta Airlines, Inc., 52 F.3d 463, 474 (2d Cir. 1995).

B. Ms. Wilson's attempt to discover the bona fides of a religious organization is prohibited by the First Amendment.

The Founding Fathers of the United States "fashioned a charter of government which envisaged the widest possible toleration of conflicting views." United States v. Ballard, 322 U.S. 78, 87 (1944). As proof, the first guarantee of the First Amendment requires the toleration of each and every individual's religious beliefs. Id. The Supreme Court once held if there is any fixed star in the United States' constitutional constellation it is that no government official can prescribe what shall be accepted as religion. W. Va. State Bd. of Educ. v. Barnette, 319 U.S. 624, 625 (1943). The permanency of that guiding star has directed much case law.

The United States Supreme Court reflected this doctrine when they declared a decision reached by an internal church committee is not subject to judicial abrogation. See Milivojevich, 426 U.S. 696 (1976). Additionally, the Fourth Circuit stated if traditional document production of a bona fide religious organization were allowed, then internal church records would inevitably become subject to subpoena, discovery, cross-examination, and all other forms of the legal

process all enabling civil courts to "probe the mind of [a] church" in the selection of its employees. Rayburn, 772 F.2d at 1171. In order to protect against this sort of questioning in the instant case, Ms. Wilson should be forbidden from discovering any and all materials relating to Light Up My Life Universalist Academy's internal affairs and decisions reached by its Hiring Committee.

1. The First Amendment prohibits Ms. Wilson's request for documents revealing the bona fides of the Academy, a religious institution.

In the interest of justice, courts have consistently declined subject matter jurisdiction over cases which are dependent upon the intrusion of church documents inquiring into whether an organization is indeed bona fide; whether behavior is religious in nature; and whether actions conform to a particular religious orthodoxy. See Minker v. Baltimore Annual Conference of United Methodist Church, 894 F.2d 1354, 1356 (D.C. Cir. 1990) (holding an age discrimination suit against a religious organization was forbidden because the suit would violate the Free Exercise Clause of the First Amendment); see Rayburn v. Gen. Conference of Seventh-Day Adventists, 772 F.2d 1164, 1167 (4th Cir. 1985) (holding the First Amendment applied and prohibited a religious organization from being liable for an alleged sexual discrimination lawsuit when it decided not to promote a female); see McClure v. Salvation Army, 460 F.2d 553, 560 (5th Cir.

1972) (holding encroachment by the government into an area of religious freedom violates the First Amendment).

In Rankin v. Howard, a plaintiff filed a claim alleging invidious religious discrimination because of his association in the Unification Church—a religious organization with unconventional religious views. Rankin v. Howard, 527 F. Supp. 976, 977 (D. Ariz. 1981). The defendant tried to depose the church's president in order to refute the church's status as a bona fide religious organization. Id. The federal Court held the First Amendment is a complete bar to courts testing the truth or falsity of all religious beliefs. Id. at 978. In support, the Court cited United States v. Ballard, which stated:

> Men may believe what they cannot prove. They may not be put to the proof of their religious doctrines or beliefs . . . The religious views espoused might seem incredible, if not preposterous, to most people. But if those doctrines are subject to trial before a jury charged with finding their truth or falsity, then the same can be done with the religious beliefs of any sect. When the triers of fact undertake that task, they enter a *forbidden domain*.

Ballard, 322 U.S. at 86-87 (emphasis added).

Similar to Rankin, the Academy is a religious organization with unconventional religious views. Accordingly, the internal religious beliefs of the Academy are a *forbidden domain* to Ms. Wilson in her efforts to judge the decision-making of the religious entity. She specifically critiques the Academy's Chaplain, Mr. Allan Bowersox, and his firm belief that "a man should not be under

subjection to a woman in a religious setting." (Pl. ['s] Mot. to Compel. 2.) In order to contrast this belief with the Universalist church doctrine, Ms. Williams requests, "Any and every iteration in any and every document detailing or alluding to the religious beliefs of [the Academy], concerning the role of either gender in hiring or supervising at [the Academy]." (Pl. ['s] Mot. to Compel. 2.) Consistent with the holding in Rankin, Ms. Wilson should not be allowed to compel a religious institution to divulge its internal religious documents in order to judge the strength of association between the Chaplin's interpretation and the actual church dogma. Subjecting the documents to such criticism is unconstitutional, and therefore improper. In addition, Ms. Wilson's attack on the Chaplin's personal religious belief lacks merit because it is improper for a Trier of fact to judge the truthfulness of one's religion. Ballard, 322 U.S. at 86-87.

2. It is unlawful for Ms. Wilson to compel discovery of documents detailing the decisions of an Internal Church Committee.

The First Amendment's Establishment and Free Exercise Clauses grant religious organizations immunity from civil discovery under certain circumstances. United Methodist Church, Baltimore Annual Conference v. White, 571 A.2d 790, 792 (D.C. 1990). One of these circumstances is the prohibition of civil courts abrogating the decisions and procedures of internal church committees set up by religious organizations. See Hadnot v. Shaw, 826 P.2d 978, 987-89 (Okla. Sup. Ct.

1992). Simply, when an internal church committee reaches a hiring decision, courts are to defer to the committee's decision as final. See Jones v. Wolf, 443 U.S. 595, 602 (1979).

The Supreme Court decision in Milivojevich furthers this belief. Milivojevich, 426 U.S. at 696. In Milivojevich, a removed Bishop filed suit against his former religious employer after its internal church committee removed him from power. Id. at 698. The Bishop sought declaratory relief from a civil court in order to resolve the dispute over who was in control of the religious organization, and whether the church committee properly applied the religious organization's internal by-laws. Id. at 696. The Illinois Supreme Court held the Bishop's removal was invalid and further held the determination of the religious committee was "defective under the internal regulations of the [religious organization]." Id. at 698. The Supreme Court, however, held the Establishment and Free Exercise Clauses permitted religious organizations to establish their own rules and regulations for internal governance, and to create church committees for internal decision-making. Id. at 724. Furthermore, when a religious organization creates a committee, the religious clauses require civil courts to accept the organization's internal decisions as binding upon them. Id. at 724-25.

In the present case, the Academy established an internal church committee in order to review applicants for the position of Administrator. The Academy

required unanimous recommendation of all members on the Hiring Committee—including Chaplain Bowersox—before any applicant was offered a position. Id. The choice to not hire Ms. Wilson was the internal church committee's alone.

A court may interpret provisions of religious documents involving non-doctrinal matters as long as the analysis can be done in purely secular terms. E.E.O.C. v. Catholic Univ. of Am., 83 F.3d at 466. However, Ms. Wilson has requested "any and every iteration in any and every document detailing or alluding to the Defendant's hiring practices." (Pl. ['s] Mot. to Compel. 2.) In order to prove the Academy's religious doctrines were a pretext for the gender-based discrimination she received, Ms. Wilson will use the documents she requested to show the decision to not hire her was based on personal, not religious, beliefs. Yet, in order to critique this decision, Ms. Wilson will not be analyzing on purely secular terms, but on very deep religious doctrinal terms. This is precisely what the court in Milivojevich desired to prevent. In accordance with precedent, Ms. Wilson's request for these documents should be denied.

Further, religious doctrines, beliefs, policies, and hiring practices of religious organizations are generally barred from discovery under the ministerial exception. Rojas v. Roman Catholic Diocese of Rochester, 557 F. Supp. 2d 387, 398 (W.D.N.Y. 2008). However, there is room for "marginal civil court review" when religious organizations act in bad faith for secular purposes. Milivojevich, 426 U.S.

at 713. To determine whether a discovery inquiry is marginal or extensive, courts must evaluate how much intrusion there is, how much investigative activity or monitoring there will be, and how great a potential for a genuine impact on religious activities is present. See Catholic Bishop of Chicago v. N.L.R.B., 559 F.2d 1112, 1115 (7th Cir. 1977) aff'd, 440 U.S. 490 (1979) (holding only minimal intrusions on religious conduct are tolerable); see Surinach v. Pesquera De Busquets, 604 F.2d 73, 80 (1st Cir. 1979) (reversing a decision because discovery was too intrusive upon internal religious affairs).

If extensive inquiry into the personnel policies and files of a religious organization will occur, then discovery is forbidden unless religious organizations act in bad faith for secular purposes. See Ohio Civil Rights Comm'n v. Dayton Christian Sch., Inc., 477 U.S. 619, 628 (1986) (holding religious organizations do not have blanket protection from discovery but do have protection from extensive inquiries).

Ms. Wilson has requested "any and every organizational chart for [the Academy] . . . for the last 10 (ten) years" and "[t]he job description for each and every person listed on the organization charts demanded." (Pl. ['s] Mot. to Compel. 1.) Although the Academy acknowledges the ministerial exception is not a complete bar to discovery request, Ms. Wilson's requests are highly intrusive upon the hiring practices of the Academy. Additionally, requiring the Academy to

disclose their organizational charts, and job descriptions for every person in those charts is extremely invasive. Ten years of these documents would certainly be an extensive inquiry and the Supreme Court has clearly defined this sort of inquiry as forbidden. Accordingly, the Academy's Motion to Quash Ms. Wilson's Request for Production should be granted.

CONCLUSION

For the foregoing reasons, we ask this Court to dismiss Ms. Wilson's complaint with prejudice for failure to state a cause for which relief can be granted. Alternatively, we ask this Court to deny Plaintiff's motion to compel because the hiring decisions of an internal church committee are protected by the religious clauses of the First Amendment.

Respectfully submitted,

/s/______________________

Team # 1210