

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLANDCHAMBERS OF
J. FREDERICK MOTZ
UNITED STATES DISTRICT JUDGE101 WEST LOMBARD STREET
BALTIMORE, MARYLAND 21201
(410) 962-0782
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August 21, 2015

MEMO TO COUNSEL RE: Thomas L. Curcio v. Board of Child Care of the United
Methodist Church, Inc., et al.
Civil No. JFM-15-1156

Dear Counsel:

I have reviewed the memoranda submitted in connection with plaintiff's motion to dismiss the counterclaim. The motion (document 11) is granted in part and denied in part. Specifically, it is granted in all respects except to the extent that the counterclaim asserts that plaintiff did not report information about the tax consequences of the deferred compensation plans and a consultant's recommendation for a compensation study to the Board of Directors.

As a matter of equity, defendants' position has appeal. However, the motion is directed to whether this court has subject matter jurisdiction, and that it is not in the interest of either side to inject an issue into the case that substantially affects the scope of the litigation and may be reversed on appeal.

Defendants are, of course, free to pursue the claims asserted in the counterclaim that are being dismissed in state court. Accordingly, I have concluded that the best course to follow is to ask defendants to advise me on or before October 9, 2015 whether they have instituted in state court a case against plaintiff asserting the claims that I am dismissing and whether they agree to pay the amounts allegedly due under the SRBP into an escrow account. If defendants (or one of them) do file such a state court action, and if they agree to pay the amounts allegedly due under the SRBP into an escrow account, I will administratively close this case, subject to being reopened upon notice of either party within 30 days of the conclusion of the state court litigation. I believe that this might be the best way to accommodate the competing interests that you have articulated.

Despite the informal nature of this letter, it should be flagged as an opinion and docketed as an order.

Very truly yours,

/s/

J. Frederick Motz
United States District Judge