

STATE OF INDIANA )  
 ) SS:  
COUNTY OF KOSCIUSKO )

IN THE KOSCIUSKO CIRCUIT COURT  
  
WARSAW, INDIANA

DOROTHY V. BARNES, )  
 )  
 ) Plaintiff, )  
 )  
 ) vs. )  
 )  
 )  
 )  
 ) NORTH INDIANA ANNUAL )  
 ) CONFERENCE OF THE UNITED )  
 ) METHODIST CHURCH, )  
 ) FRED AND JOYCE PHANEUF, and )  
 ) NUMEROUS INTERVENING )  
 ) DEFENDANTS, )  
 )  
 ) Defendants. )

CAUSE NO. 43C01-9109-CP-00732  
  
Honorable Michael Reed

PETITION TO THE COURT

The EFAC Board of Directors have met and have been unable to reach unanimous consent in appointing the 5<sup>th</sup> Director. The Directors also request clarification on two issues in the orders.

Pursuant to the April 15, 2014 Agreed Order Granting Relief Pursuant to T.R.60 Through Modified Judgment (Judgment) Paragraph 14 (c) (iii) which states:

- iii. 1 director whose initial appointment is to be made by this Court and thereafter will be made by unanimous consent of the 4 elected Directors and if unanimous vote of the Directors cannot be reached then by appointment by the Kosciusko Circuit Court on petition of any lot owner in Epworth Forest.

As the President of the EFAC Board of Directors and as a lot owner in Epworth Forest, I petition the court to appoint the 5<sup>th</sup> director.

Two candidates were interviewed from August to December. Lt. John Sullivan, retired Indiana Conservation Officer with 35 years experience in DNR was interviewed three times from August to December. (Phone: 574-551-9729). Lindsey Grossnickle, Attorney with Bloom Gates & Whiteleather, with experience as a mediator was interviewed in December. (Phone 260-248-8900). Neither candidate achieved unanimous vote of the Directors.

The initial agreed criteria for the 5<sup>th</sup> Director were:

- Not a resident of Lake Webster or North Webster
- Residence not on a lake
- Knowledge of DNR regulations
- Individual having no direct relationship with any Director

The Directors also request clarification on two issues in the Judgment.

### **1) Liability Insurance:**

Paragraph 14 (k) in the Judgment and Section 6 (f) in the Bylaws address Liability insurance.

- k) Every owner that seeks a pier must show proof to the EFAC of adequate liability insurance in such reasonable amounts as determined by the EFAC.
- f) To verify each Off-shore owner who requests a pier has adequate liability insurance in such reasonable amounts as determined in the sole discretion of the Board of Directors.

Question: Does this require or allow the Board to also require a release of liability from the Off-shore owner to:

- protect the EFAC on the use of the Easement and the Community Pier
- protect the On-shore property owners on the use of their property to access the Off-shore pier

### **2) Pier Assignments:**

In the January 21, 2014 Order, in the section “The Court FURTHER FINDS and ORDERS as follows:”, Paragraph 7 (c) states:

- c) Requests for pier sites and/or pier slips should be assigned in the order they are received by the Conference. If it is impossible to fulfill all requests, a waiting list shall be maintained. Any requests which are received at the same time, and which cannot all be fulfilled, should be resolved by a lottery.

This appears to conflict with the 4/15/2011 Epworth Forest Pier Administration Policy which was included in the January 21, 2014 Order as Exhibit C. Paragraph 9 of the Administration Policy states:

Pier Transfers: In the event of a change of ownership of a property with assigned pier access, the new owner shall apply to the Committee for a transfer of the pier assignment utilizing the “APPLICATION/CHANGE FOR PIER ASSIGNMENT: form. Pier assignments are not deeded with the property nor are all non-lakefront property owners guaranteed a pier assignment. However, it is the intent to retain the original assignments where possible as long as such assignments are in compliance with current guidelines. As it is the understanding that lakefront property pier transfers shall be considered automatic,

lakefront owners are reminded to submit updated contact information as a lakefront property changes.

Question: Does the pier assignment of the Off-shore property continue with the Off-shore property or does the new owner of the Off-shore property go to the bottom of the pier request list? Is the policy different if the Off-shore property is inherited or transferred to a close family member of the Off-shore owner?

Arguments for the assignment staying with the property are property value of current Off-shore owner, inherited property, and past method.

Arguments for going to the bottom of the list are that all lake shore pier assignments are full therefore someone on the assignment waiting list could never get an assignment, property values of Off-shore with no assignment, and violation of the intent of Paragraph 7 (c).

Respectfully submitted,

Richard Presser  
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January 19, 2015

Clerk, Kosciusko Circuit Court  
Kosciusko County Courts  
121 N. Lake Street  
Warsaw, IN 46580

Re: Barnes v. North Indiana Annual Conference of the United Methodist Church, et al.,  
Kosciusko Circuit Court, Cause No. 43C01-9109-CP-00732

Dear Clerk:

Enclosed is a petition to the court requesting the assignment of the 5<sup>th</sup> director for the EFAC and clarification of the Judgment.

Thank you for your assistance in this matter. Should you have questions, please do not hesitate to call.

Very truly yours,

Richard Presser  
President EFAC