

IN THE KOSCIUSKO CIRCUIT COURT  
KOSCIUSKO COUNTY, INDIANA

KOKOMO GRACE UNITED  
METHODIST CHURCH, INC.,  
Plaintiff

v.

CASE NUMBER: 43C01-1710-PL-105

EPWORTH FOREST ADMINISTRATION  
COMMITTEE, INC.,  
Defendant

**RESPONSE TO DEFENDANT'S MOTION TO ADD PARTIES**

COMES NOW Kokomo Grace United Methodist Church, Inc.  
(hereinafter "Kokomo Grace") and for response to the Defendant's  
Motion to Add Additional Parties shows the Court as follows:

1. As asserted by Defendant, Epworth Forest Administration Committee, Inc. (hereinafter "EFAC") the unnamed additional parties are to be joined pursuant to Trial Rule 19(A)(2). That Trial Rule does hold that a person shall be joined as a party if "he claims an interest relating to the subject of the action" and is "situated" such that the disposition of the action may impede or impair "his ability to protect that interest".
2. EFAC apparently thinks the term "interest" is intended to mean a person is "curious about" rather than a legal interest. Euler v. Seymour National Bank, 519 N.E. 2d 1242 (Indiana Appellate 1988) specifically holds that additional parties must have "an interest in the subject of the present action". In the present action, Kokomo Grace does not seek to alter assignments of boat slips on group piers, nor to seek to tell EFAC where to place a group pier. Kokomo Grace simply requests the same

rights to designate 24-feet of riparian use as have been awarded to all other parties by the judgments, orders, and bylaws. The subject matter of this case is definitely not whether persons assigned to pier slots have any legal right or interest in those pier slots.

3. The pending case is primarily directed at requiring EFAC to follow prior orders of this Court, and its own procedures, with regard to an onshore owner being entitled to select frontage for a pier location on the property of that onshore owner. The essence of the case is that Kokomo Grace has not yet made that selection and now wishes to do so.
4. Indiana Code 34-14-1-12 states that the purpose of the Declaratory Judgment Act is to be remedial and is to afford relief from uncertainty "with respect to rights, status, and other legal relations". Please note the word "legal" as opposed to some sort of vague, general interest.
5. *Elkhart v. Middleton*, 356 N.E. 2d 207 (Indiana 1976) holds that "impleader is basically a procedural device of expedience..." and that certain circumstance may cause it to fail in its purpose when the addition of a party could contribute more problems than it would eliminate or alleviate. "It is clear that a party cannot have its third party claims adjudicated in the same action as of right".
6. There is a potential that the so called "community pier," operated by EFAC on the shoreline owned by Kokomo Grace, may need to be relocated or adjusted. This is likely because Kokomo Grace is absolutely entitled to

select 24-feet of frontage on their own lakeshore for the installation of their own pier and riparian uses.

7. EFAC and its predecessor, Indiana Conference of the United Methodist Church, have maintained a group pier/community pier in the general vicinity of frontage owned by Kokomo Grace and Huntington Trinity Churches. Some adjustment may be required in the location of the group pier/community pier by reason of Kokomo Grace exercising its rights to select a 24-foot riparian area.
8. However, the group pier/community pier operated by EFAC contains boat slips, to which certain persons have been assigned from year-to-year.
9. There is no absolute right of any person to the assignment of a pier slip, nor to the assignment of a pier slip at the present location of the group pier/community pier.
10. The Trial Rule makes reference to a person claiming an interest or having an impairment of his ability to "protect that interest". Clearly the intent of the rule is the protection of a legal interest. Equally clearly, persons being assigned a boat slip on this community pier do not have a legal interest in the pier or lakeshore.
11. Kokomo Grace has repeatedly requested that EFAC point out any single place in the 1994 order or the 2014 order or 2014 judgment or its own Bylaws which somehow vest a legal right in a boat slip on the community pier to any particular person. No response has been received because EFAC is not capable of pointing out such a thing. The

users of the boat slips do not have a legal right or interest in the boat slips.

12. The 1994 judgment and subsequent Court rulings have regularly included definitions and regulations of the riparian rights of onshore owners, and the riparian rights of offshore owners to "a pier and a boat" as assigned by EFAC. Those same rules and regulations speak in terms of 24-feet of frontage for an onshore owner, and 16-feet of frontage for an offshore owner.
13. There is no provision for any specific legal rights in a pier slip on or associated with a group pier/community pier.
14. The motion by EFAC to add additional parties also contains no specificity as to who those parties might be. And the motion does not indicate whether the request is for those parties to be added as Plaintiffs or as Defendants.
15. Certainly the claim that they should be made additional parties "as there (sic) interest will be affected" is not accurate inasmuch as none of them have a legal interest to be affected.
16. In addition, EFAC apparently believes that those pier slip users are not only vested with some legal right, but also that EFAC cannot provide them with a community pier at another location, contrary to the current request by EFAC pending before the Natural Resource Commission for exactly that thing. Nor has EFAC demonstrated that a community pier cannot be located elsewhere than the present location. EFAC simply assumes

these things to be the case. Before joinder of any additional parties occurs, these things should be demonstrated at least on a prima facie basis and a motion should not be decided simply upon the mere opinion of EFAC as to what might or might not happen.

17. Last, but certainly not least, is the fact that by adding twenty or more additional parties to this litigation the administration of justice will be significantly disrupted, with a great likelihood of a multitude of pleadings and multiple attorneys arguing exactly the same issues, none of which issues actually constitute any legal right or legal interest in a pier slip.
18. The purpose of a motion is purely a subterfuge to deflect criticism of EFAC by pier slip users.
19. The motion to join additional parties should be denied by the Court.

ROCKHILL PINNICK LLP

By: 

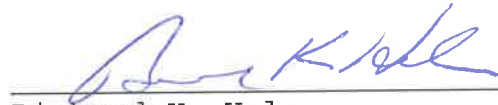
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**CERTIFICATE OF SERVICE**

I certify that the foregoing document is electronically filed using the Indiana E-filing System (IEFS) and that the foregoing document was served upon the following person(s) using the service contact entered in the IEFS via IEFS this 16th day of Jan., 2018:

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