

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

LAURENCE KAPLAN, on behalf of himself,  
individually, and on behalf of others similarly  
situated,

Plaintiff,

v.

SAINT PETER'S HEALTHCARE SYSTEM,  
RONALD C. RAK, an individual, SUSAN  
BALLESTERO, an individual, GARRICK  
STOLDT, an individual, and JOHN and JANE:  
DOES, each an individual, 1-20,

Defendants.

Civil Action No. 13-2941 (MAS)(TJB)

**ORDER**

This matter comes before the Court upon Defendants' motion to certify the Court's March 31, 2014 Order for interlocutory appeal pursuant to 28 U.S.C. § 1292(b) and to stay the proceedings pending an appeal to the Third Circuit. (Defs.' Mot., ECF No. 74.) Plaintiff opposed the motion (Pl.'s Opp'n, ECF No. 85) and Defendants replied. (Defs.' Reply, ECF No. 90). The Court has carefully considered the submissions and has decided the motion without oral argument pursuant to Local Civil Rule 78.1. Based on the foregoing and the Court's accompanying Memorandum Opinion filed today, and other good cause shown,

**IT IS** on this 19<sup>th</sup> day of September, 2014, **ORDERED** that:

- 1) Defendants' motion to certify the Court's March 31, 2014 Order for interlocutory appeal to the Third Circuit Court of Appeals (ECF No. 74) is **GRANTED**.
  - a) The following question presented in the March 31 Order and accompanying Memorandum Opinion (ECF Nos. 67-68) is hereby certified for interlocutory appeal pursuant to 28 U.S.C. § 1292(b): Whether an organization, a civil law corporation or otherwise, can both establish and maintain a "church plan," as defined in the Employee Retirement Income Security Act, 29 U.S.C. § 1002(33), if such organization is controlled by or associated with a church or a convention or association of churches.

- b) Defendants shall file its petition to the Third Circuit pursuant to 28 U.S.C. § 1292(b) within ten (10) days from the date of this order.
- 2) Defendants' motion to stay proceedings is **GRANTED** pending a decision by the Third Circuit Court of Appeals regarding Defendants' petition for an interlocutory appeal.

A handwritten signature in black ink, appearing to read "M. Shipp", written over a horizontal line.

MICHAEL A. SHIPP  
UNITED STATES DISTRICT JUDGE