

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM JASPER COUNTY
Court of Common Pleas

Richard E. Fields, Special Circuit Judge

Appellate Case No. 2012-213391

Lower Court Case No. 2012-CP-27-291

Barbara B. Clark, Warren E. Hatcher, Cassie Keeton, Daniel Green,
Powell Hampton, Amos Hatcher, Bobby Keeton, James Moseley,
Willie B. Oliver, Individually and as General Officers of the
RMUE Church.....Respondents

v.

Fred Henderson Moore.....Appellant

INITIAL BRIEF OF APPELLANT

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SC Court of Appeals

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TABLE OF CONTENTS

Table of Authorities	ii
Statement of Issues on Appeal.....	1
Statement of the Case.....	1
Factoral/Procedural History.....	2
Statement of Jurisdiction.....	5
Law/Analysis.....	5
1. Appellant’s Notice of Removal Deprived the State Court of any Jurisdiction to hear this Matter.....	5
2. Jasper County is an Improper Venue	8
3. The Court lacks Subject Matter Jurisdiction over This Matter Because it is Governed by Ecclesiastical Law.....	10
Conclusion.....	17

TABLE OF AUTHORITIES

CASES

<u>Bramlett v. Young</u> , 93 S.E. 2d 873 (S.C. 1956).....	10
<u>Gonzalez v. Archbishop of Manila</u> , 280 U.S. 1 (1929)	12, 13
<u>Harmon v. Dreher</u> , 17 S.C. Eq. (1 Speers) 87, (1843)	10, 11
<u>Knotts v. Williams</u> , 462 S.E. 2d 288 (S.C. 1995)	10, 11, 12
<u>MD & VA Church of God v. Church of God at Sharpsburg</u> , 396 U.S. 367, 369-370 (1970)	15
<u>Morris St. Baptist v. Dart</u> , 45 S.E. 753 (S.C. 1903)	11
<u>Pearson v. Church of God</u> , 478 S.E. 2d 849 (S.C. 1996)	13, 14
<u>Servian Eastern Orthodox v. Milivojevich</u> , 426 U.S. 696 (1976)	13
<u>Watson v. Jones</u> , 80 U.S. (13 Wall) 679 (1872)	10, 11, 12
<u>Wilson v. Presby. Church of Johns Is.</u> , 19 S.C. Eq. 192 (1846)	11

STATUTES

28 U.S.C. 1446(d)	4, 5, 6, 8
SC Code Ann. § 14-8-200 (1976)	5
SC Code Ann. § 15-7-30 (1976)	8, 9
SC Code Ann. § 15-7-50 (1976)	9

OTHER AUTHORITIES

Local Rule 5.05 Fed. Rules of Civil Procedure	6, 7
SC Rules of Evidence 201	8

STATEMENTS OF ISSUES ON APPEAL

1. WHETHER THE COURT ERRED IN PROCEEDING AND RULING ON A MOTION FOR TEMPORARY INJUNCTION HEARING HELD NOVEMBER 2, 2012 SUBSEQUENT TO APPELLANT'S NOTICE OF REMOVAL TO UNITED STATES DISTRICT COURT.
2. WHETHER THE COURT HAD SUBJECT MATTER JURISDICTION TO PROCEED ON A MOTION FOR TEMPORARY INJUNCTION ON NOVEMBER 2, 2012.
3. WHETHER THE COURT HAD PERSONAL JURISDICTION AND VENUE OVER THIS CASE.

Appellant, Fred Henderson Moore, by and through his undersigned counsel, hereby submits his Initial Brief of Appellant as follows:

STATEMENT OF THE CASE

On May 2, 2012, Barbara Clark brought this action seeking a declaration of the parties obligation to conduct themselves in accordance to the Reformed Methodist Union Episcopal Church, and seeking temporary and permanent injunction, and a restraining order against Bishop Fred Henderson Moore from the Reformed Methodist Union Episcopal Church. Bishop Moore answered alleging that the church is governed by a Book of Discipline (Exhibit 10) and the matters are strictly and quintessentially ecclesiastical, and that the court lacked jurisdiction over the subject matter and over the person.

On May 7, 2012, this matter was held before The Honorable Carmen Mullen in the Circuit Court and was taken under advisement. On October 12, 2012, an Amended Complaint was filed by Barbara Clark adding the General Officers as Plaintiffs which mirrored the original complaint. On November 1, 2012, Bishop Fred Moore filed a Notice of Removal to the United States District Court (Exhibit 1). Despite the Notice of Removal, on November 2, 2012, Special

Referee Judge Richard E. Fields held a hearing on the Amended Complaint. An Order was issued on November 3, 2012 granting Plaintiffs' motion.

FACTORAL/PROCEDURAL HISTORY

This issue arises out of an Order of November 3, 2012 by Special Referee Richard E. Fields of whether a Temporary Injunction/Restraining Order should be issued against Appellant. The underlying matter was initially instituted by the Respondent, Barbara B. Clark, in a matter styled Barbara B. Clark v. Reformed Methodist Union Episcopal Church and Fred Henderson Moore.

Prior to the filing of this action, Fred Henderson Moore was a Presiding Bishop of the Reformed Methodist Union Episcopal Church ("RMUE"), a religious organization which is an integral and subordinate union member of a hierarchical church structure governed with established internal rules and regulations by their doctrine of disciplines (See Exhibit 10).

On May 2, 2012, Respondent Barbara B. Clark, a former Secretary of Church Extension, filed a Complaint in Jasper County, State of South Carolina, against Reformed Methodist Union Episcopal Church (hereinafter "RMUE") and Bishop Fred Henderson Moore, both of Charleston County, State of South Carolina, although Plaintiff's claims are not entirely clear. Bishop Moore was served with the Motion for Temporary Injunctive Relief, but not together with the Summons and Complaint.

On May 7, 2012, five days after the filing of the Complaint, a hearing was held before Judge Carmen Mullen for Ms. Clark's request for a Temporary Injunctive Relief (a/k/a Temporary Restraining Order) to be entered against Bishop Moore seeking a declaratory judgment and that Bishop Moore be restrained and enjoined from purporting to handle church

matters. The Court advised Ms. Clark that it had no jurisdiction to enter into matters that were essentially ecclesiastical matters. Judge Mullen took the matter under advisement.

On July 9, 2012, Barbara Clark entered a voluntary dismissal of Defendant RMUE. On July 28, 2012, the case was referred to the Master of the lower court and later assigned to Special Referee Richard E. Fields by Order dated October 4, 2012. A Motion to Intervene was filed by Plaintiff requesting the Court to allow the General Officers to join as Plaintiffs in the case (Appellant notes that not all general officers signed the motion). An Order was entered and the Amended Complaint was filed on October 12, 2012. The Amended Complaint essentially mirrored the original Complaint which had already been heard by Judge Mullen and was the same subject matter of the May 7, 2012 hearing.

Although this issue was pending a decision by the circuit court, on October 31, 2012, a second Motion for an injunctive order was filed by Plaintiffs seeking to restrain and enjoin Bishop Fred Henderson Moore from interfering with the Annual Conference, interfering with RMUE funds, or purporting to serve as the RMUE Bishop.

On November 1, 2012, due to the nature of the original Complaint and the Amended Complaint, Bishop Moore filed a Notice of Removal to the United States District Court on the basis that the allegations of the Complaint involved the First Amendment and rights to religious freedom.

At approximately 3:00 p.m. that afternoon, Special Referee Richard E. Fields served a faxed Notice of Hearing on the motion to be held the following morning, giving Bishop Moore less than twenty-four (24) hours notice. At the very start of the hearing, prior to arguments and testimonies by the parties, Bishop Moore's counsel raised his objections to the proceeding.

As reflected by the record, Attorney Edward Brown served both Plaintiffs and the Court

with filed copies of the Notice of Removal to the United States District Court (Exhibit 1), which had been filed on November 1, 2012 thereby removing the action to the United States District Court. (Transcript Page 6 through Page 8).

Attorney Brown raised Defendant Moore's objection that pursuant to the Removal Statute, 28 U.S.C. 1446(d), that "the State is deprived the jurisdiction to, in fact, hear the matter". (Transcript Pages 7, line 16 through Page 8, line 8; Page 11, line 20 through Page 13, line 4).

Attorney Brown also raised an objection that jurisdiction is improper as the action was filed outside of Defendant's residential county. (Transcript Page 8, lines 9-24). Although Plaintiff initiated the action in Jasper County, State of South Carolina, both Bishop Moore and RMUE are residents of Charleston County, State of South Carolina.

Thirdly, Attorney Brown objected to the proceeding on the ground that the issue at hand was previously before the Judge Mullen, Circuit Court Judge, of which a ruling was pending. (Transcript Page 9, lines 1-7; Page 14, lines 19-25). Therefore, Special Referee Fields had no jurisdiction to hear the same issues again while the action was under advisement by Judge Mullen in circuit court.

Lastly, Attorney Brown raised the issue that the Court fails to have jurisdiction as the issues at hand are problems with faith, belief and doctrine and discipline, and area that the court is forbidden from ruling on as the Court has no authority to adjudicate ecclesiastical matters. (Transcript Page 15, lines 1-25).

Despite the removal and objections to the court's jurisdiction, Special Referee Richard E. Fields decided to proceed with the hearing and issue an Order. Therefore, Appellant Fred Moore seeks reversal of the Special Referee's Order of November 3, 2012. Appellant argues that Special Referee erred in proceeding with the hearing and issuing an Order.

STATEMENT OF JURISDICTION

Plaintiffs/Respondents brought their action, arising under equity, against Defendant/Appellant Fred Henderson Moore, which requested a declaratory judgment, temporary restraining order, temporary injunction, and a permanent injunction. When the complaint was filed, all parties resided in South Carolina. On November 3, 2012, Special Referee Fields issued an Order, granting Respondents' motion for a temporary restraining order and temporary injunction. The Appellant filed an appeal with the Court of Appeals of South Carolina.

Section 14-8-200(a) of the South Carolina Code of Laws 1976, as amended states:

The court has jurisdiction over any case in which an appeal is taken from an order, judgment, or decree of the circuit court, family court, a final decision of an agency, a final decision of an administrative law judge, or the final decision of the Worker's Compensation Commission. This jurisdiction is appellate only, and the court shall apply the same scope of review that the Supreme Court would apply in a similar case.

Since the Appellant appeals from the order of the Special Referee entered November 3, 2012, this Court has subject matter jurisdiction over this matter.

LAW/ANALYSIS

A. Appellant's Notice of Removal Deprived the State Court of any Jurisdiction to hear this Matter.

Pursuant to 28 U.S.C. §1446(d), once a case is removed to federal court, the state court is deprived of jurisdiction over the matter, unless and until the federal court remands the case back to state court. The federal court will take the case as it stood in the state court just prior to effective removal. Thus, any action made by the state court made after effective removal will be void. There are two interpretations of when the removal becomes effective, when it deprives the

state court of jurisdiction. However, under both interpretations, the Appellant properly adhered to the removal procedure, as dictated by 28 U.S.C. §1446, prior to the November 2, 2012 Hearing. Therefore, the Order issued on November 3, 2012, pursuant to the November 2, 2012 Hearing, should be vacated.

Under the first interpretation, the filing of the Notice of Removal with the federal court completes the removal and divests the state court of jurisdiction. Appellant filed and served the Notice of Removal on November 1, 2012, as evidenced by the electronic time-stamp (Exhibit 1). Since the hearing took place on November 2 and the order was issued on November 3, the state court lacked jurisdiction to issue the November 3 Order. As a result, the Order should be vacated and declared void. It should also be noted that the Special Referee, Richard E. Fields, did not issue the Notice of Hearing for the November 2 Hearing until approximately 3:00 PM on November 1, 2012. The Appellant had fewer than twenty-four (24) hours of notice prior to the hearing. Despite the limited notice for the November 2nd Hearing, immediately upon the commencement of the hearing, the Appellant introduced the Notice of Removal into evidence.

Under the second interpretation, the removal becomes effective once the removing party has given all adverse parties written notice of the Notice of Removal and filed a copy of the Notice of Removal with the state court. At the latest, the Appellant provided written notice at the outset of the November 2 Hearing when the Notice of Removal was entered into evidence. However, there is some debate between the parties as to how to serve the notice upon the adverse parties.

At the November 2nd Hearing, the Respondents claimed that Local Rule 5.05 of the Local Civil Rules for the United States District Court, District of South Carolina required documents to be served electronically, and that Respondents had not received the electronic notice of the

Notice of Removal prior to the hearing. (*See* Transcript, Page 26, Lines 23-25). However, Respondents' contention is incorrect. Local Rule 5.05 says, "[d]ocuments **may be** served by electronic means...." The rule does not say that the documents "must be" or "shall be," merely that they "may be" served electronically. The local rule allows attorneys, if they choose, to serve those registered as a Filing User filed documents by electronic means; it merely includes electronic service as a proper means of service. It clearly was not meant to invalidate traditional means of service, which would be the result if the Respondents' contention is to be accepted. In fact, the last sentence of the local rule provides that those not registered as a Filing User "shall be served according to these Local Rules, the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure." Thus, the Appellant was not required to serve Respondents by electronic means; he was merely required to promptly provide Respondents with written notice of the Notice of Removal.

On November 1, 2012, after filing the Notice of Removal with the federal court, the Appellant faxed the notice of the Notice of Removal to both the Clerk of Court and the Respondents. The fax cover sheets and the fax logs entered into evidence during the November 2 Hearing are all dated November 1, 2012. The fax logs also provide the time that the Appellant faxed the notices: the fax addressed to the Clerk of Court was sent at 4:47 PM, and the fax addressed to the Respondents was sent at 5:01 PM. (*See* Transcript and Exhibit 1, November 2, 2012 Hearing). The Appellant provided the Respondents with written notice of the Notice of Removal on November 1, 2012. Therefore, removal became effective on November 1, 2012,

At the outset of the November 2 Hearing, the Appellant introduced the Notice of Removal into evidence. Once the Notice of Removal was admitted into evidence, the Court took judicial notice of the filing of the Notice of Removal with federal court. The Court recognized

and accepted as conclusive the fact that the Appellant filed a Notice of Removal with the federal court on November 1, 2012. S.C.R.E. 201. In addition to the judicial notice, the Appellants provided the Respondents with a copy of the Notice of Removal that was entered into evidence. Thus, the admission of the Notice of Removal into evidence during the hearing on November 2, 2012, gave the Respondents written notice of the Notice of Removal, as required by 28 U.S.C. §1441(d). At the moment the Notice of Removal was entered into evidence, the removal became effective, and the state court no longer had jurisdiction over the matter. Therefore, any actions taken by the state court after the Hearing were made when the federal court had the exclusive jurisdiction over the matter.

In sum, the state court lacked jurisdiction when it issued the November 3 Order. As a result, the Order should be vacated.

B. Jasper County is an Improper Venue

South Carolina Code Section 15-7-30 governs proper venue in South Carolina. Generally, proper venue is based on the defendant, which is the Appellant. According to S.C. Code Ann. §15-7-30(A)(11), a “resident individual” means a person who is domiciled in South Carolina. A person’s domicile is determined by the address on his driver’s license, tax return, voter registration, and the like. Subsection (C) governs proper venue when the defendant is a “resident individual.” “A civil action tried pursuant to this section against a resident individual defendant **must be brought and tried** in the county in which (1) the defendant resides at the time the cause of action arose; or (2) the most substantial part of the alleged act or omission giving rise to the cause of action occurred.” S.C. Code Ann. §15-7-30(C). However, the defendant may consent to allow a court with improper venue to hear the case. S.C. Code Ann.

§15-7-50. Basically, before the case can be heard in a court with improper venue, the defendant must consent. S.C. Code Ann. §15-7-50.

The Respondents filed the complaint in Jasper County, South Carolina. However, the Appellant resides in Charleston County, South Carolina, and he resided in Charleston County during the time of his alleged actions. Thus, according to §15-7-30(C)(1), Charleston County is the proper venue. Additionally, RMUE Church's principal place of business is located in Charleston County. Since the Respondents' complaint is in regards to the Appellant's actions as Bishop of the RMUE Church, the most substantial part of the alleged act giving rise to Respondents' claim occurred in Charleston County. Thus, even under §15-7-30(C)(2), Charleston County is the proper venue.

The defendant's consent is the only way for Jasper County to be the proper venue for this case. As the record indicates, the Appellant has consistently asserted that Charleston County, not Jasper County, is the proper venue. Although §15-7-50 does not clarify whether the consent must be express or can be implied by not objecting to the venue, the Appellant clearly did not consent. At each step of this case, the Appellant objected to Jasper County as venue and did not waive his objection. However, the Special Referee overruled all the objections. After the objections were overruled, the Appellant answered and defended himself against the allegations made by the Respondents. It would be unjust to consider the Appellant's continuing his defense after his objections were overruled as consent to Jasper County as the venue. If such was considered to be consent, then the courts would either force the defendants to consent to the improper venue or force the defendants to accept a default judgment because responding to the allegations after the objection is overruled would be implied consent.

In sum, Charleston County was the proper venue, and the Appellant did not consent to Jasper County as the venue.

C. The Court lacks Subject Matter Jurisdiction over This Matter Because it is Governed by Ecclesiastical Law.

South Carolina has a long and well-established history of limiting the role of the civil courts in ecclesiastical matters. In other words, the “civil courts have no jurisdiction [over] ecclesiastical questions and controversies, but do have jurisdiction as to civil, contract, and property rights, which are involved in a church controversy.” Bramlett v. Young, 93 S.E. 2d 873, 882 (S.C. 1956). Additionally, “[i]t is not the function of the courts, however, to dictate procedures for a church to follow. Knotts v. Williams, 462 S.E. 2d 288, 291 (S.C. 1995).

In the landmark case of Harmon v. Dreher, 17 S.C. Eq. (1 Speers) 87 (1843), the Court of Appeals of South Carolina refused to review ecclesiastical matters. Harmon arose from a schism within St. Peter’s Lutheran Church over the minister’s expulsion by the Synod. The minister’s supporters attempted to close the church to the Synod’s supporters. Additionally, the minister’s supporters executed a deed in the attempt to vest the title of the church property to their faction. The parties asked the Court to determine which faction constituted the true church of St. Peter’s. The Court held that it lacked subject matter jurisdiction over the dispute. It further held:

It belongs not to the civil power to enter into or review the proceedings of the Spiritual Court. The structure of our government has, for the preservation of Civil Liberty, rescued the Temporal Institutions from religious interference. On the other hand, it has secured Religious Liberty from the invasion of the Civil Authority. The judgments, therefore, of religious associations, bearing upon their own members are not examinable here.

Id. Subsequently, the United States Supreme Court used this case as a guide in Watson v. Jones, 80 U.S. (13 Wall) 679 (1872), and described this case as “[o]ne of the most careful and well-

considered judgments on the subject.” Id. at 730. Harmon continues to guide South Carolina courts when faced with ecclesiastical disputes.

Three years after the Harmon decision, the South Carolina Supreme Court reaffirmed its refusal to determine ecclesiastical matters in Wilson v. Presbyterian Church of John’s Island, 19 S.C. Eq. 192 (1846). This case grew from a division within the church over who was entitled to church property, which had been obtained through multiple sources and held under various trusts. The Court rejected “altogether, any authority to decide on questions of religious faith, or on the fitness and propriety of the forms of government which a church or congregation may adopt, if it inculcates nothing that is prohibited by law or subversive good morals.” Id.

In Morris Street Baptist Church v. Dart, 45 S.E. 753 (S.C. 1903), the South Carolina Supreme Court further clarified the courts’ ability to decide certain church disputes. Morris Street, which has been one of the more influential cases in this area, began due to the church’s attempt to terminate the pastor and enjoin him from engaging in any pastoral duties for the church. The church claimed that the pastor had been properly dismissed. However, the pastor denied it and contended that a majority of the church members supported him. The Court held:

The civil courts will not enter into the consideration of church doctrine or church discipline, nor will they inquire into the regularity of the proceedings of the church judicatories having cognizance of such matters. To assume such jurisdiction would not only be an attempt by the civil courts to deal with matters of which they have no special knowledge, but it would be inconsistent with complete religious liberty, untrammelled by state authority. On this principle, the action of the church authorities in the deposition of pastors and the expulsion of members is final.

Id. at 754. Ultimately, the only questions that the Court found were within its jurisdiction were “did the congregation meet and did it depose the defendant pastor.” Id.

The South Carolina Supreme Court applied the Morris Street rule in Knotts v. Williams, 462 S.E. 2d 288 (S.C. 1995). In this case, the congregation split into factions over the dispute of

whether to retain or terminate the pastor. A meeting to determine the pastor's fate was scheduled then cancelled, but was held despite the cancellation. Eighty-three of the eighty-eight votes cast were to terminate the pastor. The pastor claimed that the termination was invalid because the meeting was held despite the cancellation, meaning that the meeting did not comply with the church procedures. The parties asked the trial court to determine the percentage of no-confidence votes required to remove the pastor and which of the attendees were entitled to vote. The Court explicitly held that the court's function is not to dictate procedures for the church to follow; the Court is limited to interpreting the church's final action, not the propriety of that action. Id. at 290-291.

The United States Supreme Court decisions are consistent with the South Carolina decisions discussed above. In Watson v. Jones, 80 U.S. (13 Wall.) 679, the Supreme Court held that the court's authority in ecclesiastical disputes is limited to solely enforcing the decision of the church's highest authority.

In Gonzalez v. Archbishop of Manila, 280 U.S. 1 (1929), the parties asked the Court to determine whether the last will and testament of the previous chaplain, which named the petitioner as chaplain, was enforceable. According to the Archbishop of Manila, he refused to appoint the petitioner as chaplain because the archbishop did not believe the petitioner possessed the required qualifications for the position. The Court made clear that the authority to determine who has the qualifications required for and who should hold church positions is vested solely within the governing church authority, not the civil courts. The Court shall not subsequently replace the decision of the church's highest authority with its own. Id. at 16. However, in dicta, the Court made three exceptions to the general rule: "In the absence of fraud, collusion, or arbitrariness, the decisions of the proper church tribunals on matters purely ecclesiastical,

although affecting civil rights, are accepted in litigation before the secular courts as conclusive, because the parties in interest made them so by contract or otherwise.” Id.

In Serbian Eastern Orthodox Diocese v. Milivojevich, 426 U.S. 696 (1976), the Supreme Court held that where the resolution of the civil dispute requires the resolution of an ecclesiastical dispute, the Court shall accept the final decision of the highest ecclesiastical authority and decide the civil dispute in light of that decision. In this case, the parties asked the Court to determine who was entitled to certain church property. However, the resolution of the property dispute depended on determining the propriety of the respondent’s defrockment. The Court held that the civil courts shall not inquire into whether the relevant governing church body, under religious law, had the power to decide a dispute or decided that dispute in accordance with its interpretation of its law. “To permit civil courts to probe deeply enough into the allocation of power within a hierarchical church so as to decide ...religious law (governing church policy) ... would violate the First Amendment in much the same manner as civil determination of religious doctrine.” Id. at 709 (*quoting MD and VA Churches v. Sharpsburg Church*, 396 U.S. 367, 369 (1970) (Brennan, J., concurring). Additionally, the Court eliminated the arbitrary exception outlined in Gonzalez on the basis that a determination of whether an action was arbitrary necessitates a detailed-review of church procedure, discipline, and/or administration, which is specifically forbidden.

In Pearson v. Church of God, 478 S.E. 2d 849 (S.C. 1996), the South Carolina Supreme Court succinctly stated the general principles that have emerged from the state and federal case law:

- (1) [C]ourts may not engage in resolving disputes as to religious law, principle, doctrine, discipline, custom, or administration;
- (2) courts cannot avoid adjudicating rights growing out of civil law;
- (3) in resolving such civil law disputes, courts must accept as final and binding the decisions of the highest

religious judicatories as to religious law, principle, doctrine, discipline, custom, and administration.

Id. at 853.

Thus, two threshold questions must be addressed before the courts may exercise jurisdiction over a church dispute. First, does the dispute arise from a civil, property, or contract right? Secondly, can the dispute be resolved using objective, well-established, and neutral principles of law; can it be resolved without interpreting ambiguous religious law and usage or relying on religious precepts? Id. at 851-852. If the dispute meets those threshold questions, then the courts have subject matter jurisdiction over the case. However, should the dispute fail to meet either threshold question, then the courts are forbidden from deciding the case for lack of subject matter jurisdiction.

Based on the requested relief in the Respondents' complaint, the civil courts lack subject matter jurisdiction over the case. The Respondents' complaint requests the trial court issue a declaratory judgment as to the legality and validity of their suspensions as General Officers and the Appellant's termination as Bishop. Essentially, the disputes are whether the Respondents are still the General Officers of the RMUE Church and whether the Appellant is still the Bishop of the RMUE Church. Neither of the disputes arises from a civil, property, or contract right. The disputes arise from the parties' conflicting interpretations of the Discipline, which is the governing law for the RMUE Church. Thus, the disputes fail to satisfy the first threshold question.

Even if the disputes did arise from a civil, property, or contract right, the disputes fail to satisfy the second threshold question. The Respondents asked the trial court to resolve a matter of religious administration, which the civil courts are forbidden to resolve. Pearson at 853. In order to resolve the disputes, the trial court would be required to determine the propriety of the

Respondents' suspensions and the Appellant's termination. The Respondents claim that they were wrongfully suspended from their positions and they properly terminated the Appellant as Bishop. However, the propriety of the suspensions and termination are not determined by South Carolina law, but by the Discipline. In other words, according to the Respondents, their suspensions were invalid because the rules outlined in the Discipline were not followed; and their subsequent termination of the Appellant as Bishop was valid because they followed the rules outlined in the Discipline. In order to determine the validity of these actions, the trial court would be required to carry out a detailed-review of the Discipline and determine whether the procedures laid out by the Discipline were adequately followed. Both the United States Supreme Court and the South Carolina Supreme Court forbid the civil courts from engaging in such reviews. Specifically, "where the identity of the governing body or bodies that exercise general authority within a church is a matter of substantial controversy, civil courts are not to make the inquiry into religious law and usage that would be essential to the resolution of the controversy." MD and VA Church of God v. Church of God at Sharpsburg, 396 U.S. 367, 369-370 (1970).

Should there be any doubt regarding whether the civil courts have subject matter jurisdiction over this case, the Order issued on November 3, 2012, makes clear that any attempt by the civil courts to resolve this case would impermissibly intrude into ecclesiastical matters. The Order exceeded the bounds of the civil courts' subject matter jurisdiction in at least three specific ways. Firstly, the Order demanded that the Annual Conferences be cancelled and rescheduled, who should preside over the Annual Conference, and the content of the Annual Conference. (Exhibit 8 - Order ¶¶ 1-2, 4, and 8). The Annual Conference is where the leaders of the RMUE Church are decided. By issuing an order that dictated the content and control of the Annual Conference, the Court, through the Special Referee, impermissibly intruded into the

RMUE Church's affairs, forcing it to make decisions that would immensely affect the Church's leadership and control.

Secondly, the Order details exactly how the RMUE Church shall handle the appeal of the Appellant's termination. (Exhibit 8-Order ¶¶ 5-7). It explains what to do should the Appellant appeal and what to do should he not. In fact, the Order explicitly replaces the Church's policies and procedures with what the Special Referee considers to be better. Paragraph 6 states that "the Defendant shall have the right to appeal to an **expedited** General Conference to be **scheduled by this Court....**" (Exhibit 8-Order ¶ 6). The General Conference is held once every four years; and any additional sessions must be called by the Bishop or General Officers with at least two-thirds of the Annual Conference members in agreement. Discipline at 99. In essence, the Special Referee is forcing the Church to hold an additional General Conference, scheduled by the Special Referee, who also decided the business to be held at the General Conference.

Lastly, the Order removes the Appellant from the position of Bishop. (Exhibit 8-Order ¶ 3). The Order specifically states that the leadership "shall be in a suspended state until the newly [sic] Annual Conference is held as above directed." Id.. Until the Church holds an Annual Conference in accordance with how the Special Referee believes it should be held, the RMUE Church must function without leadership. The Special Referee not only removed the Appellant from his Bishop's position, but the Special Referee will not allow the Church to have leadership unless and until he is satisfied that the Church conducted business the way he wanted. There is absolutely no doubt that civil courts are not allowed to use its power to remove a Church's leader.

In sum, the disputes at issue are whether the Respondents are still General Officers of the RMUE Church and whether the Appellant is still the Bishop of the RMUE Church. The disputes

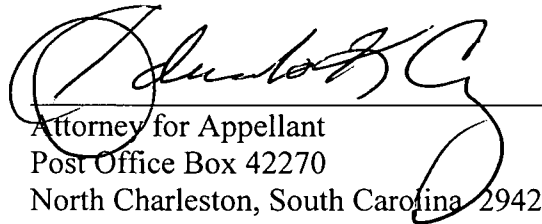
do not arise from a civil, property, or contract right. Even if they did, their resolutions would require the civil court to engage in a detailed review of and interpret religious law, which is beyond the purview of the civil courts. Therefore, the Court lacks subject matter jurisdiction over this matter because it is governed by ecclesiastical law.

CONCLUSION

Wherefore, based upon the foregoing facts and arguments, Appellant request this Court to reverse the Order of November 3, 2012 and lift any current injunctions and/or restraining orders against Bishop Fred Moore.

RESPECTFULLY SUBMITTED,

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Dated: 9-11-13

THE STATE OF SOUTH CAROLINA

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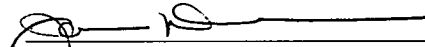
Fred Henderson Moore.....Appellant

Appellate Case No. 2012-213391

PROOF OF SERVICE

The undersigned hereby certifies that a true copy of the **APPELLANT'S INITIAL BRIEF**, has been served upon opposing counsel by hand delivery, email, or by mailing a copy properly addressed with sufficient postage affixed thereto this 11 day of September 2013 to the following:

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