RECEIVED

May 21 2026

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

ON PETITION FOR WRIT OF CERTIORARI TO THE

SOUTH CAROLINA COURT OF APPEALS

Appellate Case No. 2025-001623

Trial Court Case No. 2019-CP-23-06363

Consolidated with Trial Court Case No. 2017-CP-23-06127

Enoree Fork Baptist Church, ... Plaintiff,

v.

Sylvester Jackson, Stepping-Stones Ministries, Inc., William M. Landreth, Landreth Properties, LLC, Cordell Porter, Donald Cox, Ernest Murray, CresCom Bank/Formerly Greer State Bank, and Rodney Butler, ... Defendants,

AND

Sylvester Jackson, Karen Robinson, Michael Robinson, Dorothy Williams, John Woodfold, Ernest "Terry" Murray, Donald Cox, Timothy McBee, Derrick Cox, Reginald Jackson, Willie Foster, Cynthia Robinson, Zelma Brown, Telek Cobb, Sarah Thomason, and Thurshia Jamison-Jackson, ... Respondents,

v.

Charles "Bennie" Smith, Robin Smith, Larry Dawkins, Mable Dawkins, Jimmy Davis, Brenda Davis, Dorothy Thomason, L.C. Thomason, and James Sims, ... Petitioners.

PETITION FOR WRIT OF CERTIORARI

A Circuit Court has imposed binding governance commands on a religious corporation through an Order entered in an action where the corporation was not named as a defendant. Enoree Fork Baptist Church is the plaintiff in 2017-CP-23-06127. The Order was entered in 2019-CP-23-06363. The Order's coercive provisions reach the Church in its corporate capacity. The Court of Appeals dismissed the merits appeal from that Order under Rules 207 and 208, SCACR, and in

the same order disposed of Enoree Fork Baptist Church's separately-filed Rule 240 motion in a single footnote. Petitioners seek this Court's review of that footnote disposition and of the substantial constitutional and procedural issues underlying the Circuit Court Order.

Petitioners Charles "Bennie" Smith, Robin Smith, Larry Dawkins, Mable Dawkins, Jimmy Davis, Brenda Davis, Dorothy Thomason, L.C. Thomason, and James Sims, joined by non-party Enoree Fork Baptist Church, petition under Rule 242, SCACR for a writ of certiorari to the South Carolina Court of Appeals. Two Orders are under review. The first is the Court of Appeals' March 19, 2026 Order dismissing the appeal in Appellate Case No. 2025-001623. The second is the Court's April 22, 2026 Order denying reinstatement, which the Court of Appeals construed as a Petition for Rehearing.

I. Questions Presented for Review

1. Whether the Court of Appeals erred by disposing of Enoree Fork Baptist Church's Rule 240, SCACR motion in a footnote to an unrelated dismissal order. The motion was a non-party religious corporation's jurisdictional challenge that the Court of Appeals itself had treated as independently significant by granting supersedeas and ordering separate briefing.

2. Whether two cases consolidated for trial under Rule 42(a), SCRCP retain their separate procedural identities under *McKinney v. Greenville Ice & Fuel Co.* and *Kennedy v. Empire State Underwriters*. The premise of the Order below is that they do not.

3. Whether a Circuit Court Order may bind Enoree Fork Baptist Church as a corporate entity by selecting its bylaws, directing its congregational vote, and retaining jurisdiction over its internal governance. The Order was entered in 2019-CP-23-06363, in which the Church is not a defendant. The Church is the plaintiff in the consolidated sibling case 2017-CP-23-06127. Rule 19, SCRCP and basic principles of personal jurisdiction over non-parties answer the question.

4. Whether the First Amendment, Article I, Section 2 of the South Carolina Constitution, and the ecclesiastical abstention doctrine forbid the equitable decree below. The decree selects a church's bylaws, directs its congregational vote, and retains civil-court supervision of compliance.

5. Whether a bench trial of consolidated equitable causes of action may resolve facts that would otherwise be decided by the jury on the plaintiff's preserved legal claims in the sibling case. The plaintiff is not a defendant in the equitable case. The Master-in-Equity found the legal and equitable issues "so intertwined that a trial on the equitable issues alone would be virtually impossible." Article I, Section 14 of the South Carolina Constitution and this Court's decisions in *Baughman*, *Hucks*, and *Gardner* require that the jury decide its facts first.

II. Statement of the Case

A. Nature of the Case.

A church asked for a jury in October 2017. Eight and a half years later, it has not received one. This case arises from a dispute over the governance and finances of Enoree Fork Baptist Church ("EFBC"), a South Carolina religious corporation in Greenville County. The dispute began in 2016, when EFBC's Treasurer and other members raised concerns about the misuse of church funds by the then-pastor, Sylvester Jackson, and associated individuals. EFBC pleaded four legal causes of action for the recovery of those funds and demanded a jury trial on the face of its complaint. No jury has been seated. The four legal causes of action remain untried.

B. The Two Consolidated Cases.

On September 26, 2017, EFBC filed Civil Action No. 2017-CP-23-06127 in Greenville County Court of Common Pleas against Sylvester Jackson, Stepping-Stones Ministries, Inc., William M. Landreth, Landreth Properties, LLC, Cordell Porter, Donald Cox, Ernest Murray, CresCom Bank (formerly Greer State Bank), and Rodney Butler. On October 4, 2017, EFBC filed an Amended Summons and Amended Complaint for Compensation and Equitable Relief. The caption of the Amended Complaint contains the words "Jury Trial Demanded" directly beneath the title.

The Amended Complaint pleaded four legal causes of action for the recovery of money: Civil Conspiracy, Breach of Contract Accompanied by a Fraudulent Act, Fraud and Fraudulent Concealment, and Negligent Mismanagement of Assets. Each is an action at law. Each is triable to a jury under Rule 38(a), SCRCP.

Separately, in 2019, Sylvester Jackson and fifteen other individuals filed Civil Action No. 2019-CP-23-06363 against Petitioners, seeking declaratory judgment concerning church governance. That action was pleaded in equity.

C. Consolidation for Trial, Not Merger.

By Order of February 3, 2020, the Honorable Perry H. Gravely consolidated 2017-CP-23-06127 with 2019-CP-23-06363 and referred the consolidated matter to the Master-in-Equity. The Order stated that the cases "shall be merged and proceed under Civil Action No. 2019CP2306363," but did not realign EFBC as a defendant in the Jackson action, did not extinguish EFBC's four separately pleaded legal causes of action, and made no ruling concerning EFBC's jury demand.

Under *McKinney v. Greenville Ice & Fuel Co.*, 101 S.E.2d 659 (S.C. 1958), and *Kennedy v. Empire State Underwriters*, 24 S.E.2d 78 (S.C. 1943), the substance of a consolidation order controls over its label. Cases are merged only when the order's text and the subsequent treatment of those cases actually effect merger. Cases consolidated for trial under Rule 42(a), SCRCP retain separate identities regardless of the vocabulary used.

The record here is unanimous. Judge Verdin's December 16, 2021 Order denied a motion to "deconsolidate." That vocabulary presupposes cases still capable of being deconsolidated, which true merger would not permit. Judge Morgan's May 8, 2023 Order recognized that "Plaintiff did request a jury trial in its Amended Complaint filed October 4, 2017." That reference is to EFBC's pleading in its own case, incoherent in a merged action. Master Simmons's May 10, 2023 Order returned "the cases," plural, to the Circuit Court "jury roster for immediate trial of any and all issues." Judge Fant's April 23, 2025 Order named EFBC's four causes of action in 2017-CP-23-06127 by their precise titles and promised to place them "back on the trial docket," distinguishing them from the declaratory causes of action in 2019-CP-23-06363. Judge Fant's July 31, 2025 Order, the order from which this appeal was taken, bears the caption of 2019-CP-23-06363 alone. The Greenville County Clerk of Court has maintained 06127 and 06363 as separate case numbers on the docket throughout the eight-and-a-half-year pendency of this matter.

These subsequent orders defined and limited the scope of any merger Judge Gravely's order might otherwise be read to have effected. Under *McKinney* and *Kennedy*, the cases were functionally consolidated for trial. They retained their separate identities. EFBC's procedural

rights, including its properly preserved jury demand on the four legal causes of action pleaded in 2017-CP-23-06127, remain undisturbed.

D. Two Judges Confirmed the Jury Demand Was Preserved.

On May 4, 2023, Judge G.D. Morgan, Jr. initially concluded that the jury trial demand had not been made and was waived. Four days later, on May 8, 2023, Judge Morgan entered a corrected Order finding that "Plaintiff did request a jury trial in its Amended Complaint filed October 4, 2017" and that "there has been no waiver." No stipulation withdrawing the demand had been entered of record. The May 8 Order directed that jury issues "will be determined by the Master-In-Equity at the trial of the case."

E. The Master-in-Equity Returned the Cases to the Jury Roster.

On May 10, 2023, Master-in-Equity Charles B. Simmons, Jr. entered an Order finding that "the legal issues are so intertwined with the equitable issues that a trial on the equitable issues alone would be virtually impossible" and that the legal claims would have to be tried by a jury even after a non-jury trial. The Master "reluctantly" referred the consolidated matter back to the Circuit Court jury roster "for immediate trial of any and all issues."

F. The April 23, 2025 Promise and the July 31, 2025 Departure.

On March 11, 2025, Judge Patrick C. Fant, III appointed a receiver. On April 23, 2025, after Rule 59(e) motions, Judge Fant reversed himself and withdrew the receiver appointment. He promised that after the declaratory judgment was heard, the Court would direct the Clerk to place EFBC's four legal causes of action "back on the trial docket."

A non-jury trial was held June 20, 2025 on the declaratory causes of action. At the close of evidence, Petitioners moved for directed verdict on grounds of failure to join EFBC as an indispensable party under Rule 19, SCRCP, ecclesiastical abstention, and non-justiciability of relief against a non-party religious corporation. Counsel distinguished *McCain v. Brightharp*, 399 S.C. 240, 730 S.E.2d 916 (Ct. App. 2012), on two grounds. First, the church in *McCain* was named as a party; EFBC was not a defendant in 2019-CP-23-06363. Second, the relief in *McCain* was declaratory and prospective; the July 31 Order is coercive, with retained jurisdiction to police the

church's congregation, governance, and meetings. The Circuit Court denied the directed verdict motion, preserving these issues for review.

On July 31, 2025, Judge Fant entered the "Order Regarding Plaintiffs' Causes of Action for Declaratory Judgment" in 2019-CP-23-06363. The Order reinstated EFBC's 1996 Constitution and Bylaws. It restored "the status quo of EFBC" as of April 3, 2017. It directed "the congregation of EFBC" to meet and vote under specified procedures. It reinstated individuals to membership and leadership. It retained jurisdiction over "both factions of EFBC" to ensure compliance. The Order did not place the four legal causes of action in 2017-CP-23-06127 back on the trial docket.

G. Post-Judgment Proceedings, Rule 240 Motion, and EFBC's Standing to Seek Cert.

Petitioners filed Rule 59(e) motions raising the non-party, consolidation, jury-demand, and ecclesiastical abstention issues. Defendants' Supplemental Memorandum in Support of the Rule 59(e) Motion, filed August 8, 2025, raised the First Amendment by name. The Memorandum invoked both the Establishment and Free Exercise Clauses. It addressed and rebutted the neutral-principles defense. It cited *Banks v. St. Matthew Baptist Church*, 406 S.C. 156, 750 S.E.2d 605 (2013). On August 12, 2025, Judge Fant denied all post-judgment motions by form order. Petitioners filed a Notice of Appeal on August 15, 2025, and a writ of supersedeas petition on August 18, 2025.

On August 14, 2025, Enoree Fork Baptist Church filed a Motion for Notice of Appearance and Limited Representation for Non-Party Church Entity under Rule 240, SCACR. On August 29, 2025, the Court of Appeals granted a stay of the July 31 Order pending appeal but took "no action" on EFBC's Rule 240 motion, directing briefing and stating it would consider the motion on return and reply. The return and reply were timely filed. The Court of Appeals did not act on the motion.

Enoree Fork Baptist Church joins this Petition to seek review of the Court of Appeals' footnoted disposition of its Rule 240 motion. The Church moved before the Court of Appeals on August 14, 2025 to be heard as a non-party whose corporate interests were bound by the order on appeal. The Court of Appeals' grant of supersedeas and order of separate briefing recognized the motion's independent significance. The Court held the motion without action for seven months. The March 19, 2026 footnote declining to act is the disposition the Church asks this Court to

review. The Church asks for that review on Question 1, and on Questions 3 and 4 derivatively. Both turn on the validity of the Order that binds EFBC as a non-party.

H. The Transcript Request, December 16 Letter, and Procedural Default.

On September 15, 2025, Petitioners' counsel submitted an online transcript request to the South Carolina Office of Court Administration for the June 20, 2025 declaratory judgment trial before Judge Fant. OCA confirmed receipt that day and assigned the request to Legal Eagle, Inc. Velvet Mills, Transcript Manager at Legal Eagle, emailed counsel the same day with an estimated cost of $510 for a projected 120-page transcript and stated that production would commence "[o]nce you have authorized us to proceed by responding to this email."

Production did not commence in September. On October 3, 2025, a status conference was held before the Honorable Marvin H. Dukes, III. The consolidated cases were on the Greenville Common Pleas Jury Trial Roster for the week of October 6, 2025, first trial, date certain. Judge Dukes stayed the case pending the appeal.

On December 16, 2025, the Court of Appeals issued a letter advising counsel that the transcript should have been delivered, that no extension had been granted, and that no initial brief had been received, directing a response within ten days or face dismissal. The next day, December 17, 2025, Petitioners' Legal Administrator authorized Legal Eagle to proceed with production and contacted the Office of Court Administration regarding the invoice. Legal Eagle confirmed the same day that the transcript had been "put into production."

The transcript was delivered on January 5, 2026, accompanying Invoice No. 109076 for 243 pages at $4.25 per page. The transcript ran substantially longer than the original 120-page estimate. The Record on Appeal was not filed thereafter. No initial brief was filed.

Petitioners acknowledge candidly that the delay between the September 15, 2025 transcript request and the December 17, 2025 production authorization is attributable to counsel's office, not to the court reporter or to the Office of Court Administration. Petitioners further acknowledge that no separate status update was filed with the Court of Appeals Clerk in response to the December 16, 2025 letter. Petitioners do not contend that the Court of Appeals' dismissal under Rules 207 and 208 was procedurally erroneous as to the merits appeal prosecuted by the Smith petitioners. They seek this Court's review on grounds independent of, and not derivative of, that dismissal: the

Court of Appeals' separate footnote disposition of Enoree Fork Baptist Church's Rule 240 motion, and the substantial constitutional and procedural issues underlying the Circuit Court's July 31, 2025 Order. Those grounds are addressed in Section III below.

I. The Dismissal, the Reinstatement Motion, and the Order Under Review.

On March 19, 2026, the Court of Appeals dismissed the appeal under Rules 207 and 208, SCACR, for failure to file the status update and initial brief. The Order directed that the remittitur be sent as provided by Rule 221(b), SCACR. In a footnote, the Order stated that no further action would be taken on the Church's Rule 240 motion due to the dismissal.

On March 27, 2026, Petitioners filed a Motion to Reinstate Appeal, invoking the inherent authority of the Court of Appeals. The Motion described the procedural history, the delayed transcript delivery, and the substantial and meritorious issues raised by the appeal. The Motion further represented that counsel had not received the December 16, 2025 letter. Subsequent review of counsel's office email records establishes that the letter was transmitted to counsel's email address on December 16, 2025. Counsel withdraws that prior representation, regrets the misstatement, and corrects it here. On April 22, 2026, the Court of Appeals entered an Order that read in full: "After careful consideration of the motion to reinstate, which we construe as a petition to rehear the dismissal, the court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied." This Petition follows.

III. Reasons Why Certiorari Should Be Granted

Certiorari is warranted under Rule 242(a), SCACR. Three independent grounds justify review. First, the Court of Appeals disposed of a non-party's jurisdictional motion under Rule 240 by footnote to an unrelated dismissal order, collapsing two procedurally distinct duties into one. Second, the dismissal allows to stand a Circuit Court judgment that conflicts with prior decisions of this Court on consolidation and jury-trial preservation. Third, the dismissal leaves unreviewed substantial constitutional issues of exceptional public importance about the relationship between civil courts and religious corporations. Each ground independently warrants the writ.

A. The Court of Appeals Merged What the Rules Keep Separate.

EFBC's Rule 240, SCACR motion was a non-party religious corporation's jurisdictional challenge to a Circuit Court Order that bound it without naming it as a defendant. The Court of Appeals treated that motion as independently significant. By Order of August 29, 2025, it granted supersedeas of the July 31, 2025 Order, directed separate briefing on the Rule 240 motion, and stated that it would consider the motion "upon receipt of the requested return and reply." The return and reply were timely filed. The Court of Appeals did not act on the motion.

On March 19, 2026, the Court of Appeals dismissed the merits appeal under Rules 207 and 208, SCACR for failure to file a status update and initial brief. A single footnote then disposed of EFBC's still-pending Rule 240 motion: "No further action will be taken on the Motion for Notice of Appearance and Limited Representation for Non-Party Church Entity filed on August 19, 2025, due to the dismissal of this appeal." (The motion was filed August 14, 2025; the August 19 date in the Court of Appeals' footnote appears to refer to the docket entry date for service of the motion on respondents.)

That disposition was error. EFBC's Rule 240 motion raised a jurisdictional challenge by a non-party, distinct from and not derivative of the merits appeal prosecuted by the Smith defendants. It asserted that the July 31 Order was void as to EFBC because EFBC was never named as a defendant in 2019-CP-23-06363, never served, and never afforded an opportunity to be heard as a party. It invoked the Court of Appeals' authority under Rule 240 to permit limited appearance by a non-party whose rights were directly regulated by the order on appeal. The two vehicles could not be more structurally distinct. One was a merits appeal governed by Rules 207 and 208. The other was a non-party's jurisdictional motion governed by Rule 240. The failure of the former did not, and could not, dispose of the latter.

The error has doctrinal consequences beyond this case. Jurisdictional challenges by non-parties cannot be waived by the procedural default of other parties in related appellate proceedings. A non-party's assertion that a judgment is void as to it is a challenge to the court's power to have entered the judgment in the first place. That question may be raised at any time. *Black v. Town of Springfield*, 217 S.C. 413, 60 S.E.2d 854 (1950); *Ballington v. Paxton*, 327 S.C. 372, 488 S.E.2d 882 (Ct. App. 1997). If the disposition below stands, any non-party facing an adverse order entered in a case to which it was not a party will lose its jurisdictional objection whenever the related merits appeal is dismissed for procedural default. That result is incompatible with the non-

waivability of jurisdictional challenges. It would let a court perfect its exercise of power over a non-party through the procedural default of unrelated parties.

The South Carolina rule on point is settled. A judgment entered without personal jurisdiction over the party it purports to bind is void. *BB&T v. Taylor*, 369 S.C. 548, 633 S.E.2d 501 (2006). No order affecting a person's rights may be entered without proper notice and an opportunity to be heard. The Court of Appeals applied that rule in *Ex Parte S.C. Dep't of Revenue*, 350 S.C. 404, 566 S.E.2d 196 (Ct. App. 2002), holding that a master's order purporting to bind a non-party state agency was void for want of personal jurisdiction and that "attempting to bind a non-party to a judgment . . . changes the scope of the original judgment and extends beyond the relief contemplated" by the Rules. Both authorities control here. EFBC was not named as a defendant in 2019-CP-23-06363. EFBC was not served with process. EFBC did not appear as a party. The July 31 Order nonetheless binds EFBC's corporate conduct, dictates its governing document, prescribes its membership, and retains continuing jurisdiction over its internal affairs. Under *BB&T* and *Ex Parte SCDOR*, those provisions of the Order are void. Rule 19, SCRCP and S.C. Code Ann. § 33-56-180(A) reinforce that result by requiring joinder of charitable entities whose interests are directly at stake. The constitutional defect comes first: a court cannot bind whom it has not summoned.

The anticipated counterargument is that EFBC's Rule 240 motion died with the appeal. Rule 240 and Rule 60(b)(4), SCRCP do different work. Rule 60(b)(4) vacates the judgment in the trial court. Rule 240 secured the Church's voice in the appeal before the Court of Appeals while the supersedeas was in place. The motion raised a jurisdictional defect that survives procedural default. Procedural default by the Smith petitioners on their Rule 208 obligations cannot waive EFBC's independent jurisdictional challenge. EFBC was never a party to the merits appeal and was never subject to its briefing timeline.

This Petition does not ask this Court to revisit how the Court of Appeals denied rehearing. It asks whether Rule 240's non-party machinery can be terminated by the procedural default of unrelated parties in a separate merits appeal. The Court of Appeals merged what the Rules keep separate.

This Court should grant certiorari to correct that error. At minimum, the Court should vacate the footnoted disposition of EFBC's Rule 240 motion and remand for the Court of Appeals

to adjudicate that motion on its merits. The Rule 240 motion addressed a jurisdictional question, whether the circuit court had power to bind EFBC as a non-party, that survives the procedural dismissal of the Smith defendants' merits appeal.

B. The Decision Below Conflicts with This Court's Decisions on Consolidation.

This Court's settled rule is that subsequent treatment controls vocabulary. In *McKinney v. Greenville Ice & Fuel Co.*, 101 S.E.2d 659 (S.C. 1958), and *Kennedy v. Empire State Underwriters*, 24 S.E.2d 78 (S.C. 1943), this Court held that cases consolidated for trial do not merge but retain their individual identities, pleadings, parties, and procedural rights. A consolidation order effects true merger only when its text and the court's subsequent treatment of the cases in fact fuse them into one. The vocabulary used in the consolidation order is not controlling where the record of subsequent proceedings contradicts it.

Although Judge Gravely's February 3, 2020 order contained the word "merged," every judge after Judge Gravely treated the cases as consolidated rather than merged. Section II.C of this Petition lays out the record. Under *McKinney* and *Kennedy*, that subsequent treatment controls. The cases were functionally consolidated for trial under Rule 42(a), SCRCP. EFBC remained the plaintiff in 06127. EFBC's jury demand on its four legal causes of action remained preserved.

Respondents may argue that *McKinney* and *Kennedy* permit looking past consolidation language only when the order is ambiguous. The argument misstates the rule. The rule of *McKinney* is functional, not ceremonial. Courts look to how the cases were actually treated, not the vocabulary the order happened to use. The record here is unambiguous on subsequent treatment: separate docket numbers throughout, separate pleadings, separate plaintiffs, an unwithdrawn jury demand in one case, and a Master-in-Equity referral that returned both cases to the jury roster as separate actions for joint trial.

The Circuit Court's July 31, 2025 Order nonetheless treated the two cases as functionally merged. The Order was entered in 2019-CP-23-06363, the Jackson declaratory judgment action, in which Enoree Fork Baptist Church is not a defendant. Yet the Order imposes ongoing remedial obligations on EFBC as a corporate entity, directs its congregation to meet and vote, selects its operative bylaws, and retains jurisdiction over its internal governance. That disposition is only possible if the consolidated cases had been merged. Absent merger, EFBC's role as a plaintiff in

06127 cannot make EFBC a defendant in the Jackson action. Plaintiffs in one case are not defendants in another.

By allowing this disposition to stand unreviewed, the Court of Appeals has functionally created a new rule that consolidation for trial does merge cases, at least for purposes of remedial equitable control. That new rule is inconsistent with this Court's long-established precedent. Certiorari is warranted to restore the correct rule. A jury demand made in a case consolidated for trial cannot be extinguished by a bench trial of the companion case. A plaintiff in the consolidated case cannot be remedially bound by that bench trial either.

C. The Order Below Violates the First Amendment and Article I, Section 14 of the South Carolina Constitution.

The Order below selects a church's bylaws, schedules its congregational vote, identifies who counts as a member, and retains jurisdiction to police the result. *Knotts v. Williams*, 319 S.C. 473, 462 S.E.2d 288 (1995), forbids each of those acts. The trial judge in *Knotts* had decided what vote was required to remove a pastor and who was eligible to vote. The Supreme Court vacated. The Court held that "it is not the function of courts . . . to dictate procedure for a church to follow." *Id.* at 290. The July 31 Order does precisely what *Knotts* forbade. It selects EFBC's governing document. It dictates the procedure for a congregational vote. It identifies who counts as a member eligible to vote. It prescribes the time, place, and conduct of the meeting at which the vote will occur. It retains continuing jurisdiction to police compliance. *Knotts* vacated an order doing less.

Respondents will frame the Order as a "neutral principles" resolution of who validly speaks for the Church. The neutral-principles doctrine resolves property and contract disputes by reference to corporate documents. It does not authorize a court to select which of two competing sets of corporate documents binds a church, to schedule its congregational vote on a court-prescribed date and place, to define who counts as an eligible voter, or to retain jurisdiction over compliance with the result. The July 31 Order does all four. Those acts cross the line *Knotts* drew. They also cross the line this Court drew in *Banks v. St. Matthew Baptist Church*, 406 S.C. 156, 750 S.E.2d 605 (2013), which held that "howsoever a suit may be labeled, once a court is called upon to probe into a religious body's selection and retention of clergymen, the First Amendment is implicated." *Id.* at 168. The July 31 Order directs a congregational vote on whether to terminate the pastor.

The Order's retention of jurisdiction over "both factions of EFBC" is the entanglement the ecclesiastical-abstention doctrine was developed to prevent. As this Court quoted from the Supreme Court in *Banks*, religious organizations must be given "an independence from secular control or manipulation, in short, power to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine." *Id.* at 161 (quoting *Kedroff v. St. Nicholas Cathedral*, 344 U.S. 94, 116 (1952)). The Order does the opposite. It places the Church under continuing civil-court supervision of its meetings, votes, membership, and governance.

The same principle controls *Williams v. Wilson*, 349 S.C. 336, 563 S.E.2d 320 (2002), and *Pearson v. Church of God*, 325 S.C. 45, 478 S.E.2d 849 (1996). The federal authorities run parallel. *See Hosanna-Tabor Evangelical Lutheran Church & School v. EEOC*, 565 U.S. 171 (2012); *Presbyterian Church in U.S. v. Mary Elizabeth Blue Hull Memorial Presbyterian Church*, 393 U.S. 440 (1969); *Watson v. Jones*, 80 U.S. 679 (1872).

The Order also violates the right to trial by jury. Article I, Section 14 of the South Carolina Constitution provides that the right of trial by jury "shall be preserved inviolate." EFBC made a proper jury demand on October 4, 2017. The main purpose of EFBC's suit is the recovery of money damages on four legal causes of action; that main purpose determines the jury right. *Baughman v. American Telephone & Telegraph Co.*, 298 S.C. 127, 378 S.E.2d 599 (1989). Rule 38(d), SCRCP provides that the demand "may not be withdrawn without the consent of the parties." No consent was given.

Respondents may argue that EFBC's jury claims have not been denied because they remain on the docket. That framing misstates the constitutional harm. Master Simmons found that the legal and equitable issues are "so intertwined that a trial on the equitable issues alone would be virtually impossible." He found that "after such trial, the case would necessarily be tried again by a jury on the legal issues." He returned the cases to the Circuit Court jury roster "for immediate trial of any and all issues." Judge Fant then conducted a bench trial of the equitable claims alone. The bench trial resolved facts that the jury was constitutionally required to decide first: which set of bylaws governed EFBC, who counted as a member, whether the congregation met to terminate Pastor Jackson, and what the April 3, 2017 status quo looked like. Those facts will bind the jury

on the legal claims by issue preclusion. The harm is not that the jury was refused. The harm is that the court decided the facts the jury was supposed to decide.

Gardner v. Travis, 316 S.C. 315, 450 S.E.2d 54 (Ct. App. 1994), addresses this exact structural problem. *Gardner* holds that the legal claim must be tried first absent the most imperative circumstances. *Gardner* also holds that separate trials may not be structured to deprive a party of full jury determination of legal issues. *First-Citizens Bank & Trust Co. v. Hucks*, 305 S.C. 296, 408 S.E.2d 222 (1991), reinforces that legal claims retain the jury right when properly demanded alongside equitable claims. *Deutsche Bank v. Houck*, 440 S.C. 409, 892 S.E.2d 280 (2023), abolished the compulsory-counterclaim framework prospectively, but did not reach the legal-equitable intertwining doctrine. *Houck* concerned the interaction of compulsory counterclaims with res judicata in foreclosure actions. It did not consider, and did not purport to overrule, the rule that legal and equitable claims pleaded together preserve the jury demand on the legal claims when the two sets of issues turn on common facts. *Hucks*, *Gardner*, and *Baughman* remain the law on that question.

Article I, Section 14's inviolability requires that the jury decide the facts committed to it before the court does. The July 31 Order violates that requirement.

D. If the Order Stands, Civil Courts Can Govern Religious Corporations Through Cases Where the Corporation Is Not a Defendant.

Consider the rule the disposition below creates. A religious corporation may make a proper jury demand. Two judges may confirm the demand is preserved. The Master-in-Equity may return the case to the jury roster for trial of any and all issues. The Circuit Court may then resolve, in a bench trial of a consolidated sibling case, the same facts the jury was demanded to decide. The corporation has no remedy. Eight and a half years have passed since the jury demand was filed. Seven circuit judges and the Master-in-Equity have held the file. No jury has been empaneled on any of the four pleaded legal causes of action.

The consequence for religious liberty is no less serious. A religious corporation has been placed under continuing judicial supervision of its governance, bylaws, meetings, and membership. That supervision was imposed in an action in which the corporation was not named as a defendant. It was imposed without any opportunity for the corporation to be heard as a party.

And it now stands without meaningful appellate review of the jurisdictional, procedural, and constitutional defects underlying it. Whether civil courts can do that to a religious body is a question of profound and recurring public importance.

Certiorari is warranted. Three protections of state and federal law should not be lost to a chain of procedural decisions that never reach them: the inviolate jury right, the consolidation rule, and the separation of civil authority from religious governance.

E. Trial Courts Need This Court's Guidance on Three Settled but Eroding Limits on Their Power.

South Carolina trial courts increasingly confront disputes involving religious corporations whose internal governance is sought to be regulated through judicial decree. This case presents the Court an opportunity to clarify three propositions long settled in its prior decisions but at risk of erosion if the disposition below stands.

First, a judgment cannot bind a non-party. *BB&T v. Taylor*, 369 S.C. 548, 633 S.E.2d 501 (2006), is foundational. The disposition below, if unreviewed, communicates that the rule has a workaround: sue the officers as individuals and obtain declaratory relief operating on the entity. The trial bench would benefit from a clear statement that the rule applies whether the affected entity is a corporation, a charitable trust, or a religious body, and whether the relief is styled as coercive or declaratory.

Second, a declaratory judgment cannot accomplish indirectly what a coercive order cannot accomplish directly. The July 31 Order is styled as declaratory, but its operative provisions are coercive: they reinstate persons to membership, direct a future congregational meeting on a court-prescribed schedule, dictate vote procedures, and retain jurisdiction to police compliance. A coercive order doing those things against a non-party would be void. The same result must follow under a declaratory caption.

Third, the internal governance of a religious corporation is not within civil-court jurisdiction. *Knotts v. Williams*, 319 S.C. 473, 462 S.E.2d 288 (1995), said so thirty years ago. Reaffirmation from this Court that *Knotts* is not bounded by the procedural posture of the case in which the church-autonomy issue arises would serve the trial bench, the bar, and the religious institutions whose governance is at stake.

F. The Issues Raised Are Preserved for Review.

A court's lack of jurisdiction to bind a non-party may be raised at any time and is not subject to waiver or procedural default. *Black v. Town of Springfield*, 217 S.C. 413, 60 S.E.2d 854 (1950); *Ballington v. Paxton*, 327 S.C. 372, 488 S.E.2d 882 (Ct. App. 1997). The defect was preserved both in Defendants' pretrial Rule 19 motion and in the directed-verdict objections at trial. EFBC's non-party status is not contested. The Court of Appeals' August 29, 2025 Order characterizes EFBC as a "Non-Party Church Entity." Question 3 of this Petition is properly before this Court regardless of any concern under Rule 242(d)(2), SCACR. The provisions of the July 31 Order that bind EFBC as a corporate entity may be vacated on this independent jurisdictional ground.

Question 4's First Amendment ground was preserved in Defendants' Supplemental Memorandum in Support of Rule 59(e) Motion, filed August 8, 2025. The Memorandum invoked the Establishment and Free Exercise Clauses by name. It rebutted the neutral-principles defense in advance, by name and on the merits. It cited *Banks v. St. Matthew Baptist Church*, 406 S.C. 156, 750 S.E.2d 605 (2013). Judge Fant denied the Supplemental Motion by Form Order on August 12, 2025. The constitutional ground is properly before this Court.

IV. Conclusion

A church asked for a jury eight and a half years ago and has not received one. The Court of Appeals dismissed the merits appeal on procedural grounds, but in the same order extinguished by footnote a separately-filed jurisdictional motion by the Church itself, an entity that was never a party to the action it was bound by. One Order, entered in a case where the Church is not a defendant, now governs how that church chooses its bylaws, who counts among its members, and how it votes. The questions presented are whether civil procedure, the First Amendment, and the constitutional right to trial by jury still mean what they say in the modern courts of this State.

PRAYER FOR RELIEF

Petitioners respectfully request that this Court:

1. **Grant** the writ of certiorari to review the Orders of the South Carolina Court of Appeals filed March 19, 2026 and April 22, 2026 in Appellate Case No. 2025-001623;

2. **Direct** the Court of Appeals to reinstate the appeal and allow Petitioners a reasonable period within which to file the Record on Appeal and the Appellants' Initial Brief;

3. **Direct** the Court of Appeals to consider and rule upon Enoree Fork Baptist Church's Motion for Notice of Appearance and Limited Representation for Non-Party Church Entity Under Rule 240, SCACR, which was held without action for more than seven months and mooted without adjudication by the March 19, 2026 dismissal;

4. **Preserve** the stay of the July 31, 2025 Circuit Court Order during the pendency of the reinstated appeal; and

5. **Grant** such other and further relief as this Court may deem just and proper.

Respectfully submitted,
s/Fletcher N. Smith, Jr.
FLETCHER N. SMITH, JR., ESQ.
S.C. Bar No.: 005165
P.O. Box 10496, F.S.
112 Wakefield Street
Greenville, SC 29603
(864) 232-6541
fnsmith@bellsouth.net
ATTORNEY FOR PETITIONERS

Greenville, South Carolina

Dated: May 21, 2026