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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Daniel Coble,
Circuit Judge

Case Number 2025-CP-40-07916
Appellate Case No. 2026-001516

Eric William Ruschky,Plaintiff/Appellant,

-v.-

The First Presbyterian Church of Columbia and Catawba
Presbytery of the General Synod of the Associate
Presbyterian Church, Defendants.

-of whom-

The First Presbyterian Church of Columbia isRespondent.

INITIAL BRIEF OF APPELLANT

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ERIC WILLIAM RUSCHKY**

October 5, 2026

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STATEMENT OF ISSUE ON APPEAL

I.

Did the Circuit Court err in dismissing Mr. Ruschky's defamation cause of action for lack of subject matter jurisdiction when that claim is susceptible to resolution through neutral principles of law?

STATEMENT OF THE CASE

This appeal concerns a defamatory statement made and published by Respondent, First Presbyterian Church of Columbia ("FPC"), regarding Appellant, Eric William Ruschky (the "Appellant" or "Mr. Ruschky").

Mr. Ruschky filed his Complaint on November 25, 2025, naming as Defendants FPC and Catawba Presbytery of the General Synod of the Associate Presbyterian Church ("Catawba"). (Complaint, ROA ____).

Five Causes of Action were pleaded in the Complaint, only one of which is the subject of this appeal – the Second Cause of Action which alleged the tort of defamation. (Complaint, ROA ____).

Neither FPC nor Catawba filed an answer. Both filed motions to dismiss under Rules 12(b)(1) and 12(b)(6), SCRCP (the "Motions to Dismiss"). FPC's Motion to Dismiss was filed on February 9, 2026, and Catawba's on March 11, 2026. (FPC and Catawba Motions to Dismiss, ROA ____ and ____, respectively). Catawba filed a Memorandum in Support of its Motion to Dismiss on April 28, 2026 (Catawba's Memorandum in Support, ROA ____), and FPC filed a Memorandum of Law in Support of its Motion to Dismiss on April 29, 2026 (FPC's Memorandum in Support, ROA ____).

Mr. Ruschky filed a Return to the Motions to Dismiss on May 4, 2026. (Return, ROA ____).

The circuit court heard argument on the Motions to Dismiss on May 5, 2026. (May 5, 2026, Transcript of Hearing, ROA ____). On May 8, 2026, the circuit court entered a Form 4 Order granting the Motions to Dismiss, indicating a formal order would follow. (Form 4 Order, ROA ____). On May 21, 2026, the formal Order Granting the Motions to Dismiss was filed (Formal Order, ROA ____). On June 1, 2026, Mr. Ruschky moved under Rules 52(b) and 59(e), SCRCP, asking the circuit court to alter or amend its May 21, 2026, Formal Order dismissing his Complaint with prejudice. (Rule 52(b) and Rule 59(e) Motion, ROA ____). The circuit court denied Mr. Ruschky's motion on June 12, 2026 (June 12, 2026, Form 4 Order, ROA ____). Mr. Ruschky's Notice of Appeal regarding May 21, 2026, and June 12, 2026, Orders was timely filed on July 7, 2026.

STATEMENT OF FACTS

Mr. Ruschky was a member of FPC. (Complaint, paragraph 2, ROA ____). In October 2024, Mr. Ruschky applied to become a member of another church, and in mid-December learned he had been accepted as a member of another church. (Complaint, paragraph 7, ROA ____). On December 31, 2024, Mr. Ruschky notified FPC that he had withdrawn his membership in FPC. (Complaint, paragraph 8, ROA ____). Notwithstanding its knowledge of his withdrawal of his membership in FPC, FPC initiated an internal disciplinary process against Mr. Ruschky, and on January 27, 2025, FPC declared Mr. Ruschky guilty of the offense of contumacy and published that finding to the FPC membership. (Complaint, paragraph 12, ROA ____). FPC's declaration that Mr. Ruschky was a contumacious person, was without basis in fact, was wrongful and damaged Mr. Ruschky's reputation for which Mr. Ruschky was entitled to judgment against FPC for an amount to be determined by the court. (Complaint, paragraphs 17, 18, 19, and prayer for relief paragraph 2, ROA ____ and ____).

STANDARD OF REVIEW

Whether subject matter jurisdiction exists is a question of law. *S.C. Pub. Interest Found v. Wilson*, 437 S.C. 334, 340, 878 S.E.2d 891, 894 (2022). Accordingly, the Court of Appeals reviews the circuit court's jurisdictional findings de novo, granting no particular deference to the decision of the lower court. *Id.*¹

ARGUMENT

The Circuit Court erred in dismissing Mr. Ruschky's defamation cause of action for lack of subject matter jurisdiction because his defamation claim is susceptible to resolution through neutral principles of law.

- I. The circuit court erred in dismissing Mr. Ruschky's defamation cause of action because South Carolina law does not confer categorical immunity from tort liability on religious organizations.

In *Pearson v. Church of God*, 325 S.C. 45, 478 S.E. 2d 849 (1996), Pearson sued Defendant Church claiming it breached the terms of its retirement plan. Pearson's breach of contract claim was tried to a jury which returned a verdict in his favor. *Id.* at 48, 478 S.E. 2d at 850. Defendant Church appealed and the South Carolina Court of Appeals reversed, concluding that "... the controversy could not be resolved without 'analysis of the substantive criteria by which a matter of fundamental church administration and polity are decided.'" *Id.*, 478 S.E. 2d at 850 - 51. Judge Conner concurred in the result, saying that the contract dispute between Pearson and Defendant Church "... did not require extensive inquiry into the religious law of [Defendant Church] but that it could be resolved by application of neutral principles of contract law." *Id.*, 478 S.E. 2d at 851.

¹ "...[B]ecause the Plaintiff seeks to have this Court regulate the Defendants' disciplinary process, subject matter jurisdiction does not exist, and as such the Plaintiff's Complaint fails to state a claim (sic) [under Rule 12(b)(6), SCRCP]...." (Formal Order, pages 5 and 11, ROA ____ and ____). Because the circuit court's Rule 12(b)(6) conclusion expressly flowed from its determination that subject matter jurisdiction did not exist, the dispositive issue in this appeal is the correctness of that jurisdictional determination.

In addressing the First and Fourteenth Amendment issues present in many cases where a Church or religious organization is a party, the South Carolina Supreme Court concluded that South Carolina's First and Fourteenth Amendment jurisprudence is generally in line with that of the United States Supreme Court and, quoting *Morris Street Baptist Church v. Dart*, 67 S.C. 338, 45 S.E. 753, 754, said, "[w]hen a civil right depends upon an ecclesiastical matter, it is **the civil court**, and not the ecclesiastical, which is to decide...." The court further observed that while civil courts cannot resolve disputes involving religious law, principle, doctrine, discipline, custom or administration, civil courts cannot avoid adjudicating rights growing out of civil law. *Id.* at 52, 478 S.E. 2d at 853.

In *Banks v. St. Matthew Baptist Church*, 406 S.C. 156, 750 S.E. 2d 605 (2013), a case the circuit court relied heavily on but misapplied, Plaintiffs, Trustees of the Defendant Church, brought various claims against the Church and its Pastor, including a defamation claim, based on statements made by the Pastor at a Church congregational meeting, where the Pastor accused the Trustees of mishandling or mismanaging Church assets, including Church money. *Id.* at 158, 750 S.E. 2d at 606.

The circuit court dismissed the Trustees' claims on First Amendment grounds. The South Carolina Court of Appeals affirmed those dismissals except for the dismissal of the defamation claim, concluding that the defamation claim could be determined using "neutral principles of law..." *Id.* The South Carolina Supreme Court granted certiorari to review the Court of Appeals' reversal of the circuit court's dismissal of the Trustees' defamation claim. *Id.*

The *Banks* analysis begins with the noncontroversial statement that

"...Our constitutional freedom of religion and corresponding separation of church and state enshrined in the First Amendment of the United States constitution, [provides that] 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 160, 750 S.E. 2d at 607, citing *Kedroff v. St. Nicholas Cathedral*, 344 U.S. 94, 116 (1952).

The Defendant Pastor’s allegedly defamatory statements were, “... declarative statements about the actions of the Trustees [and] ... the truth or falsity of such statements can easily be ascertained by a court without any consideration of the religious issues or doctrines.” Thus, the *Banks* court concluded that the Trustees’ defamation claims could be adjudicated under neutral principles of defamation law without implicating First Amendment concerns.

The circuit court’s Formal Order said that *Banks* was “... decided using ‘neutral principles [of law] which the United States Supreme Court has held can be used in cases involving property rights.” (Formal Order, page 10, ROA ____). The circuit court’s conclusion in this regard partially tracks FPC’s Memorandum in Support of its Motion to Dismiss, “[f]urther, *Banks*, was decided using ‘neutral principles,’ which the United States Supreme Court has held can only be used in cases involving property rights....” (FPC Memo. in Support, page 10, ROA ____). However, no United States Supreme Court decision holds that the “neutral principles of law” analysis is confined to church property disputes. While an earlier United States Supreme Court “neutral principles of law” case involved a church property dispute,² the Supreme Court has never said this analysis must be confined to church or religious organization property, a fact recognized by the

² In *Presbyterian Church v. Hull Church*, 393 U.S. 440 (1969), the Supreme Court reversed a Georgia Supreme Court decision regarding church property, remanding the case to that court saying that it would have to find some other way of resolving church property disputes that did not draw state courts into religious controversies, but the Court did not specify what “other method” the Georgia court should adopt. On remand the Georgia Supreme Court determined it could apply what it called “neutral principles of law” to determine the property question at issue and did so. The party aggrieved by that decision petitioned the Supreme Court for certiorari, which was denied. *See also Jones v. Wolf*, 443 U.S. 595, 599-600 (1979).

dissenting opinion in *Banks*, “...[t]he [neutral principles of law] doctrine frees civil courts completely from entanglement in questions of religious doctrine, polity, and practice and permits the application of property, **corporate or other forms of law** to church disputes....” *Id.* at 164, 750 S.E. 2d at 610, citing *All Saints Parish Waccamaw v. Protestant Episcopal Church in the Diocese of S.C.*, 385 S.C. 428, 445, 685 S.E. 2d 163, 172 (2009), (Toal, CJ, dissenting)(emphasis added).

Both *Banks* and this case involve defamatory statements whose truth or falsity can be determined without resolving questions of religious doctrine.

Like the allegedly defamatory statements in *Banks*, the defamatory statement here is a “declarative statement about” Mr. Ruschky’s character, the truth or falsity of which can be ascertained by a court without consideration of religious issues or doctrines.

Banks recognized that a different result may obtain where the allegedly defamatory statement itself requires a civil court to determine whether a person “had violated church law.” *Id.* at 161, 750 S.E.2d at 608. Mr. Ruschky’s Complaint did not ask the circuit court to interpret FPC’s Book of Discipline or determine whether FPC correctly applied its religious law to one of its *members*. The question presented by the pleadings and this appeal is whether FPC could properly obtain a dismissal of Mr. Ruschky’s defamation claim on the incorrect premise that Mr. Ruschky remained subject to FPC’s ecclesiastical authority even though the Complaint specifically alleges that he had withdrawn his membership before FPC made and published the defamatory statement. Resolution of that question does not require a civil court to determine the meaning or correctness of FPC’s religious doctrine.

The Complaint asserts that the defamatory statement was the declaration of FPC that Mr. Ruschky was guilty of “contumacy.” Quoting the Book of Discipline 2.1.2, the circuit court order

defines contumacy as “... any conduct which demonstrates contempt, dishonor and disrespect for proper and legitimate authority.” Just like the Pastor’s allegations of mismanagement by the Trustee in *Banks* could be assessed and considered under the neutral principles of the law of defamation, the inquiry here does not require the court to determine whether FPC's doctrine authorized continued discipline of a former member.

As discussed below, the pleaded civil facts in the Complaint include the allegation that Mr. Ruschky had withdrawn from membership in FPC before the defamatory statement was made and published.

- II. The circuit court’s dismissal of Mr. Ruschky’s defamation cause of action was based on the erroneous factual premise that Mr. Ruschky was a member of FPC when the defamatory statement was made, and when it began the process by which FPC claims it concluded Mr. Ruschky was someone who is contumacious.

As alleged in the Complaint, Mr. Ruschky was a member of FPC until he withdrew his membership in December 2024. (Complaint, paragraph 2, ROA ____). In October 2024, Mr. Ruschky applied to become a member of another church, and in mid-December learned he had been accepted as a member of another church. (Complaint, paragraph 7, ROA ____). On December 31, 2024, Mr. Ruschky notified the Clerk of FPC in writing that he had withdrawn his membership in FPC. (Complaint, paragraph 8, ROA ____). Notwithstanding its knowledge of his withdrawal of membership in FPC, FPC initiated an internal disciplinary process against Mr. Ruschky, and on January 27, 2025, FPC declared Mr. Ruschky to be contumacious and published that conclusion to the FPC membership. (Complaint, paragraph 12, ROA ____). FPC’s declaration that Mr. Ruschky was a contumacious person was without basis in fact, was wrongful and damaged Mr. Ruschky’s reputation for which Mr. Ruschky was entitled to judgment against FPC for an amount to be determined by the Court. (Complaint, paragraphs 17, 18, 19, and prayer for relief paragraph 2, ROA ____ and ____).

Accordingly, the Complaint alleges that Mr. Ruschky was no longer an FPC member when the challenged statement was published. On those pleaded and uncontradicted facts, the dismissal of Mr. Ruschky's defamation cause of action could not be premised on Mr. Ruschky's supposed continuing 'consent' to the disciplinary process.

1. Because the FPC submitted no contrary evidence, the circuit court could not resolve the membership issue against Mr. Ruschky and in favor of FPC under FPC's Rule 12(b)(1) motion.

The circuit court's Formal Order correctly observed that when subject-matter jurisdiction is challenged, in appropriate circumstances the court may consider evidence outside the pleadings. But that principle did not permit the circuit court to disregard the Complaint's allegations that Mr. Ruschky was no longer an FPC member when the defamatory statement was made, particularly given that FPC presented no evidence contradicting that allegation.

The Formal Order relied on *Graham v. Lloyd's of London*, 296 S.C. 249, 371 S.E.2d 801 (Ct. App. 1988). *Graham* explains that a jurisdictional motion may either challenge the sufficiency of the jurisdictional allegations on the face of a complaint or operate as a "speaking" motion challenging "the existence of jurisdiction in fact." *Id.* at 260 n.1, 371 S.E.2d at 807 n.1. Only in the latter circumstance is the court "not confined to the allegations of the complaint," but permitted to consider "affidavits or other evidence to determine its jurisdiction." *Id.*

Nothing in *Graham*, however, permits a court to reject a pleaded fact merely because the party challenging jurisdiction denominates its motion as such a challenge. Indeed, *Graham* cautioned against using a preliminary jurisdictional motion to decide questions properly belonging to the merits of the case. The *Graham* court held that questions concerning the ultimate liability of the defendants in that case were "questions on the merits" more appropriately determined by summary judgment or trial. In so holding, the *Graham* panel relied on *Thornhill Publishing Co.*

v. General Telephone & Electronics Corp., 594 F.2d 730 (9th Cir. 1979), for the proposition that an attack on jurisdiction that requires consideration of the merits should not result in dismissal for want of jurisdiction. *Graham*, 296 S.C. at 259, 371 S.E.2d at 806.

Thornhill makes this limitation explicit. Although a court considering a factual attack on subject-matter jurisdiction may resolve disputed jurisdictional facts, it may do so only where “the jurisdictional issue is separable from the merits of the case.” 594 F.2d at 733. Conversely, where the purported jurisdictional issue is intertwined with the substantive merits, the court may not simply resolve the merits dispute under the relaxed procedures applicable to a jurisdictional “speaking motion.” *Id.* at 733–35.

This distinction is important here. The Complaint alleged that Mr. Ruschky was not a member of FPC when the defamatory statement was made. That fact is important because FPC sought to characterize the challenged communication as an internal ecclesiastical matter involving one of its members and thereby bring Mr. Ruschky’s common-law defamation claim within the protection of the First Amendment.

Yet FPC submitted no affidavit or other evidence establishing that Mr. Ruschky remained a member on the relevant date. The affidavit of Rev. Benjamin Glaser, attached to the Defendant Catawba’s Motion to Dismiss, did not say that Mr. Ruschky continued to be an FPC member at the time of the defamatory statement. Rev. Glaser says only that he was familiar with Mr. Ruschky’s ecclesiastical proceeding before Catawba, that he had requested additional information from Mr. Ruschky’s counsel, and that no response had been received. Rev. Glaser Affidavit, ROA ____.

More significantly, the contemporaneous email attached to Rev. Glaser’s affidavit demonstrates that he did not know and was inquiring specifically about Mr. Ruschky’s

membership status. Rev. Glaser expressly asked Mr. Ruschky’s counsel: “can you share with me where Mr. Ruschky’s church membership currently stands so that I can pass that along to the Shepherding commission?” Rev. Glaser Affidavit, ROA ____.

Thus, rather than contradicting the Complaint's allegation of nonmembership, the only affidavit submitted to the circuit court—an affidavit submitted by Catawba, a non-party to this appeal—demonstrates, at most, Catawba's uncertainty concerning Mr. Ruschky's membership status.

This is not a case in which competing affidavits created a factual dispute concerning an independent jurisdictional fact that the circuit court was required to resolve. The Complaint alleged that Mr. Ruschky was not a member when the defamatory statement was made, and nothing submitted by FPC established otherwise or even challenged that assertion.

Moreover, even if FPC had presented contrary evidence, Mr. Ruschky’s membership status was not a jurisdictional fact “separable from the merits” within the meaning of *Thornhill*. It was central to FPC’s substantive contention that adjudication of Mr. Ruschky’s defamation claim would impermissibly require the civil courts to intrude upon an internal ecclesiastical dispute. Deciding whether Mr. Ruschky remained an FPC member therefore necessarily implicated the factual and legal merits of FPC’s First Amendment defense. *Thornhill* recognizes that when jurisdiction and the substantive issues are “so intermeshed that the question of jurisdiction is dependent on decision of the merits,” a court may not simply resolve the disputed merits fact as an ordinary jurisdictional fact. 594 F.2d at 734–35.

The circuit court’s error in this regard is particularly significant because subject-matter jurisdiction concerns the court’s authority to adjudicate the class of cases before it. The Complaint asserted an ordinary South Carolina tort claim for defamation, a claim plainly within the general

jurisdiction of the circuit court. Whether the First Amendment ultimately precludes liability because adjudicating that claim would require resolution of an ecclesiastical question is analytically different from whether the circuit court possesses subject-matter jurisdiction over a defamation action in the first instance. Whatever the proper characterization of FPC's First Amendment contention, FPC could not obtain dismissal under Rule 12(b)(1) by treating an intertwined merits fact as an independently established jurisdictional fact.

The circuit court therefore had no evidentiary basis upon which to reject the Complaint's allegation that Mr. Ruschky was not an FPC member when the defamatory statement was made. At a minimum, that allegation could not be resolved adversely to Mr. Ruschky through a Rule 12(b)(1) "speaking motion" when the FPC produced no evidence contradicting that assertion and when the fact itself was intertwined with the merits of the FPC's First Amendment defense.

The dismissal for lack of subject-matter jurisdiction should therefore be reversed.

III. *Guinn v. The Church of Christ of Collinsville*, 775 P.2d 766 (Okla. 1989), provides persuasive authority concerning the constitutional significance of Mr. Ruschky's withdrawal from FPC membership before the defamatory statement was published.

No reported South Carolina case appears to address whether a former church member may maintain a tort action based on church conduct occurring after withdrawal from church membership. However, *Guinn* presents a fact pattern similar to the facts here and is, Mr. Ruschky respectfully submits, persuasive authority supporting his argument that the circuit court erred in dismissing his defamation claim for want of subject matter jurisdiction.

Guinn does not employ precisely the same First Amendment analytical framework as the South Carolina Supreme Court does in *Banks*. In considering the constitutional protection afforded religiously motivated conduct, the *Guinn* court discusses whether governmental interference was justified by a threat to public safety, peace, or order. 775 P.2d at 773–75. South Carolina, however,

asks whether the civil claim can be adjudicated through neutral principles of law without requiring the court to resolve questions of religious doctrine, polity, or practice. *Banks*, 406 S.C. at 160–62, 750 S.E.2d at 607–08.

Mr. Ruschky does not cite *Guinn* for the constitutional standard governing this appeal; *Banks* supplies that standard. *Guinn* is persuasive authority, however, because it addresses the closely related question presented here—the constitutional significance of a church member's withdrawal of membership before the church undertakes the conduct giving rise to the asserted tort—and recognizes that withdrawal terminates the consent to ecclesiastical governance that accompanies voluntary church membership.

Plaintiff, Marion Guinn (“Guinn”), was a member of Defendant, Church of Christ of Collinsville (“Church”). While a member, Guinn was rumored to have engaged in a sexual relationship with someone to whom she was not married. When confronted with this rumor by Church Elders, Guinn admitted its truth. The Elders then initiated the Church’s “biblically mandated disciplinary procedure...” After the disciplinary process began, Guinn realized that the procedure involved the public recitation of Guinn’s transgressions to the Church congregation as a whole. Upon realizing this, Guinn, in writing to the Elders, withdrew her membership from the Church. After her written withdrawal from Church membership, the Elders nevertheless informed the Church congregation of Guinn’s transgressions and later sent the same information to four area Church of Christ congregations.

Guinn sued the Elders for outrage and invasion of privacy. Her invasion of privacy claim was based, in part, on her assertion that the Elders “unreasonably publicized private facts about her life by communicating her transgressions...” to the congregation and the four other area Church of Christ congregations.

The Oklahoma Supreme Court first addressed whether the actions undertaken by the Elders **before** Guinn withdrew from Church membership were proper matters to submit to a civil court jury. The Oklahoma Supreme Court ruled they were not.

Quoting *Watson v. Jones*, 80 U.S. [13 Wall.] 679, 728 – 29 (1872), the court said:

The right to organize voluntary religious associations to assist in the expression and dissemination of any religious doctrine, and to create tribunals for the decision of controverted questions of faith within the association, and for the ecclesiastical government of all the individual members, congregations, and officers within the general association, is unquestioned. All who unite themselves to such a body do so with an implied consent to this government, and are bound to submit to it.

Id. at 774.

The *Guinn* court concluded that under the First Amendment’s Free Exercise Clause, members of the Church had the right to participate in the practices and beliefs of the Church without fear of governmental interference. Further, “... the Elders had the right to rely on [Guinn’s] consensual participation in the congregation when they disciplined her as one who voluntarily elected to adhere to their doctrinal precepts...” *Id.* at 774. By her Church membership, Guinn “inherently consented”³ to Church discipline and that consensual membership, and the Elders’ reliance on that consent, shielded the Church’s “prewithdrawal, religiously-motivated discipline from scrutiny through secular judicature.” *Id.* Therefore, the court held, “[i]nsofar as [Guinn] seeks vindication for the actions taken by the Elders before her membership’s (sic) withdrawal, her claims are to be dismissed.” *Id.* at 775.

The Oklahoma Supreme Court came to a different conclusion, however, in analyzing Guinn’s post-membership-withdrawal claims.

³ See Formal Order, page 10, ROA ___, “Hence the announcement which [Mr. Ruschky] alleges was defamation was, in fact, a required act under the Book of Discipline and to which [Mr. Ruschky] inherently consented as a member of First Presbyterian.”

Guinn argued that her withdrawal of membership from the Church terminated her consent to submit to the Church's "beliefs and ecclesiastical disciplinary procedures...." and therefore precluded the Church from sanctioning her as if she was a current member and that by doing so, i.e., by publicizing her sexual transgression to her former Church congregation and four other area congregations, the Elders invaded her privacy exposing them to civil tort liability.

The Elders argued that there was no "doctrinal provision for withdrawal of membership..." from the Church and that a member remains a part of the Church's congregation for life. Thus, the trial court's determination that Guinn had withdrawn her membership from the Church was itself a "constitutionally impermissible state usurpation of religious discipline accomplished through [civil] judicial interference." *Id.* at 776.

The Oklahoma Supreme Court rejected the Elders' argument. It held that, "[j]ust as freedom to worship is protected by the First Amendment, so also is the liberty *to recede* from one's religious allegiance...." *Id.*, emphasis in the original, (citing *Prince v. Massachusetts*, 321 U.S. 158, 177 (1944) (Jackson, J., dissenting)). By voluntarily joining the Church, Guinn impliedly agreed to be subject to its ecclesiastical governance, but she did not agree to give up her right to remove herself from that governance if she chose to do so. The Establishment Clause of the First Amendment prohibits courts from adjudicating or interfering with the Church's doctrine of, in essence, "once a member always a member." However, after Guinn exercised her freedom of association protected by the First Amendment to separate herself from the Church, the court's consideration of Guinn's civil tort claims for the Church's actions following that separation did not implicate the Church's First Amendment rights. The Oklahoma Supreme Court did not purport to determine whether the Church's doctrine of lifetime membership was religiously correct. Rather,

it held that, whatever the Church might believe as a matter of doctrine, Guinn retained the civil and constitutional right to withdraw her consent to ecclesiastical governance.

Guinn is persuasive because it demonstrates the significance of withdrawal from voluntary church membership to the First Amendment inquiry here. Mr. Ruschky's Complaint alleges he withdrew from FPC before the publication of the defamatory statement. FPC presented no evidence establishing otherwise. The circuit court therefore erred by assuming Mr. Ruschky's continuing membership in FPC, and the continuing consent to ecclesiastical governance that such membership entails, as the factual predicate for dismissing Mr. Ruschky's civil defamation claim.

CONCLUSION

The First Amendment protects a church's authority to govern its members and decide matters of faith, doctrine, and internal discipline. It does not categorically immunize a religious organization from liability under generally applicable civil law. Under *Banks*, Mr. Ruschky's defamation claim is not barred from civil adjudication if its truth or falsity can be determined through neutral principles of law without requiring a civil court to decide an ecclesiastical question.

As pleaded, Mr. Ruschky's defamation claim cannot be held categorically beyond civil adjudication without first assuming that he remained subject to FPC's ecclesiastical authority when the challenged statement was published.

The circuit court's error stems from its assumption that Mr. Ruschky remained a member of FPC and continued to consent to its ecclesiastical authority. The Complaint specifically alleges that Mr. Ruschky withdrew his membership before FPC published the challenged statement, and FPC presented no evidence establishing otherwise. The circuit court could not resolve that disputed premise adversely to Mr. Ruschky through a Rule 12(b)(1) speaking motion when membership was intertwined with the merits of FPC's First Amendment defense. *Guinn* further demonstrates

the constitutional significance of withdrawal from voluntary church membership and the resulting termination of consent to ecclesiastical governance.

Accordingly, Mr. Ruschky respectfully requests that this Court reverse the order dismissing his defamation cause of action and remand that claim to the circuit court for further proceedings.

Respectfully submitted,

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