

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM MCCORMICK COUNTY  
COURT OF COMMON PLEAS  
Judge Frank Addy, Jr., Circuit Court Judge

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**SC Court of Appeals**

CASE NO.: 2013-002236

Samuel L. McPherson, as Presiding Elder of the )  
Abbeville-Greenwood District of the African )  
Methodist Episcopal (A.M.E.) Church, )  
Appellant-Respondent, )  
v. )  
Henry Banks, Mary Robinson, Delois Phillips, )  
Naomi Mattison, and Frank Mattison, )  
Respondents-Appellants. )

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**FINAL REPLY BRIEF OF APPELLANT-RESPONDENT**

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    II.   The monies collected were deposited in an account labelled Rockford A.M.E. Church. Those funds were used for both operating costs and to create a fund for repairs to the Rockford A.M.E. Church. The Reply Brief argues that the entire fund was a trust for repairs to the Rockford Church. Either defendants have breached the purported trust or that trust was not created. . . . . 2

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## ARGUMENTS

### I.

The trustees of Rockford Church instituted a cause of action to have its property transferred to the trustees of the Rockford A.M.E. Church. Thereafter only the Trustees of Rockford A.M.E. Church could transfer the property. They have not, and the property belongs to the Trustees of Rockford A.M.E. Church.

The Reply Brief of Appellant seeks to convert All Saints Parish Waccamaw v. The Protestant Episcopal Church in the Diocese of South Carolina, 685 S.E.2d 163, 385 S.C. 428 (2009) to a case holding that the local congregation always wins. All Saints does not reach that far. In All Saints the denomination had quitclaimed the property to the local congregation. The denomination could not then by its internal rules undo its act of having divested itself of the property. In this case, it is the local congregation, with full knowledge of the rules of the denomination, transferred property originally owned locally to trustees associated with the denomination. In fact the local church initiated an action to have title confirmed in the Trustees of the Rockford A.M.E. Church. (R-18). Had it chosen to do so, it could have attempted to have title confirmed in the Rockford Church. It evidenced a then held intent that only trustees of the Rockford A.M.E. Church could transfer title. There is no evidence that trustees of the Rockford A.M.E. church have such a power. They have not done so. None of defendants are trustees of the A.M.E. Church. The property belongs to the A.M.E. Church.

## II.

The monies collected were deposited in an account labelled Rockford A.M.E. Church. Those funds were used for both operating costs and to create a fund for repairs to the Rockford A.M.E. Church. The Reply Brief argues that the entire fund was a trust for repairs to the Rockford Church. Either defendants have breached the purported trust or that trust was not created.

At a time when there was no Rockford church, only a Rockford A.M.E. Church, members of the Rockford A.M.E. Church contributed funds for operating expenses and for a fund to repair the Rockford A.M.E. Church (R-205), R-76, lines 2 – 77, line 11) (R-367-371). The Court below held that the funds were held in an account for the Rockford Church and thus belonged to the Rockford Church. Its opinion did not mention that those funds have been transferred (R-19).

Respondents now rely on an alternate holding that the court below “could also find” namely that the funds were intended as a “trust in favor of the Rockford Church sanctuary.” (R-19). In doing so, Respondents fail to explain how those “trust funds” could be used for operating expenses. The members contemplated that the funds would be used for both purposes. At the time they gave, they gave for the benefit of the only organization then in existence, the Rockford A.M.E. Church. If, as Respondents argue, the trust was to repair the sanctuary, the use for ordinary expenses would be a breach of that trust. Neither the donors nor the trustees of the Rockford A.M.E. Church contemplated an exclusive trust for the sanctuary. The court below was correct in holding that ownership was in the entity on the account. It was wrong in failing to recognize or even mention the unauthorized transfer of the account for trustees of the Rockford


A.M.E. Church to trustees of the Rockford Church. The transfer was not made by trustees of the Rockford A.M.E. Church. The Brief of Respondent, like the opinion of the circuit judge, fails to address this critical fact. The funds belong to the Trustees of the Rockford A.M.E. Church.

If, of course, title to the church property is in the Rockford A.M.E. Church, under any theory the funds would be held by Trustees of the Rockford A.M.E. Church.

Respectfully submitted,

JOHNSON, TOAL & BATTISTE, P.A.

BY: \_\_\_\_\_



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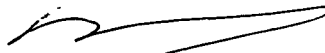
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**CERTIFICATION**

I certify that this Final Reply Brief complies with Rule 211(b), SCACR.

JOHNSON, TOAL & BATTISTE, P.A.

  
\_\_\_\_\_  
William T. Toal

Columbia, South Carolina

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**CERTIFICATE OF SERVICE BY MAIL**

I, Melisa Y. McClurkin, employee of Johnson, Toal & Battiste, P.A., Attorneys for the Appellant-Respondent, in the above-captioned case, hereby certify that I have served the **Final Reply Brief of Appellant-Respondent** on Marvin R. Watson, Esquire - Counsel for Respondents-Appellant, by mailing one copy of the same, postage prepaid and return address clearly indicated on said envelope on December 15, 2014, at the following addresses:

Marvin R. Watson, Esquire  
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Columbia, South Carolina  
December 15, 2014