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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM NEWBERRY COUNTY
Court of Common Pleas

James Verner, Esquire – Special Referee

Case Number: 2013-CP-36-00645

St. Paul Independent Church Pomaria, Inc. Appellant,

v.

African Methodist Episcopal Church, Inc., St. Paul A.M.E. Church, Inc., Elder Joseph Postell (in his capacity as an Elder for the A.M.E. Church, Inc., Respondents,

v.

Shirley Wise, Lisa Houseal, and Thomas Flemon, in their capacities as former Trustees of St. Paul A.M.E. Church Pomaria, Inc., Third Party Appellants.

MOTION AND MEMORANDUM FOR DETERMINATION OF AUTOMATIC STAY

NOW COMES the Appellant, who, by and through their undersigned counsel of record listed below, requests that this Honorable Court enforce the automatic stay of the Order Granting Summary Judgment as provided by SCACR 241(a). The grounds for this motion are as follows:

UNDISPUTED FACTS

The appeal at issue deals with the issuance of an Order Granting Summary Judgment in favor of Respondents. Appellant initially filed a Summons and Complaint on December 23, 2013 requesting a declaratory judgment as to the ownership of real and personal property (hereinafter referred to as the “Church”) located at 1945 Hope Station Road in Pomaria, South Carolina, as well

as a request for a Temporary and Permanent Injunction against Respondents. A hearing on Appellant's request for a Temporary Injunction was held on January 6, 2014 and a subsequent agreed upon Form 4 Order was issued allowing the Appellant and Respondents shared use of the Church with each party alternating their church's worship time on Sundays and both parties sharing equally in the bills associated with the Church. Also included in this Form 4 Order was a referral of the matter to James Verner, Esquire as Special Referee. Respondents filed their Answer and Counterclaims on January 16, 2014 also seeking a declaratory judgment as to ownership of the Church. On January 27, 2014 Respondents filed a Third-Party Complaint against the Third-Party Appellants seeking damages regarding causes of action for fraudulent conveyance and breach of fiduciary duty. These causes of actions were not addressed in the Order Granting Summary Judgment in favor of Respondents. Via an Order Granting Summary Judgment in favor of Respondents dated March 30, 2015 and filed April 7, 2015, Special Referee Verner granted Respondent's Motion for Summary Judgment, ordering the Church was owned by Respondents and striking the quit-claim deed executed by Appellants.¹ On April 14, 2015, Appellants timely filed and served a Notice of Appeal on Respondents.² Thereafter, correspondence was sent to Respondents confirming the existence of an automatic stay pursuant to SCACR 241(a). Due to Respondents' disagreement with Appellant's position, Appellant contacted Special Referee Verner via correspondence dated April 17, 2015 requesting a determination from him regarding the presence of an automatic stay. Special Referee Verner communicated to counsel for the Appellant on April 29, 2015 that he felt the Court of Appeals was the proper venue for Appellant's request for a

¹ A copy of this Order is attached to this Motion as Attachment A and incorporated herein.

² A copy of Appellant's Notice of Appeal with Proof of Service is attached to this Motion as Attachment B and incorporated herein.

determination of the presence of an automatic stay and that he did not feel he had jurisdiction to rule.³

NO EXCEPTION TO THE STAY ON APPEAL APPLIES IN THIS CASE

Rule 241, SCACR (formerly numbered as Rule 225), entitled “Stay and Supersedeas in Civil Actions,” provides in pertinent part as follows:

(a) General Rule. As a general rule, the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order, judgment, decree or decision on appeal, and to automatically stay the relief ordered in the appealed order, judgment, decree or decision. This automatic stay continues in effect for the duration of the appeal unless lifted by order of the lower court, the administrative tribunal, appellate court, or judge or justice of the appellate court. The lower court or administrative tribunal retains jurisdiction over matters not affected by the appeal including the authority to enforce any matters not stayed by the appeal.

(b) Exceptions. The exceptions to the general rule are found in statutes, court rules, and case law. Where specific conditions must be met before the exception applies, those conditions must be strictly complied with. A list of some, but not all, of the exceptions to the general rule is:

- (1) Money judgments as provided in S.C. Code Ann. § 18-9-130.
- (2) Judgments directing the assignment or delivery of documents or personal property as provided in S.C. Code Ann. § 18-9-150.
- (3) Judgments directing the execution of conveyances or other instruments as provided in S.C. Code Ann. § 18-9-160.
- (4) Judgments directing the sale or delivery of possession of real property as provided in S.C. Code Ann. § 18-9-170.
- (5) Judgments directing the sale of perishable property as provided in S.C. Code Ann. § 18-9-220.
- (6) Family court orders regarding a child or requiring payment of support for a spouse or child as provided in S.C. Code Ann. § 63-3-630.

³ A copy of this correspondence is attached to this motion as Attachment C and incorporated herein.

(7) Worker's compensation awards as provided in S.C. Code Ann. § 42-17-60.

(8) An appeal from an order granting an injunction or temporary restraining order.

(9) Family court orders awarding temporary suit costs or attorney's fees as provided in S.C. Code Ann. § 63-3-530(A)(2).

(10) Ejectment orders as provided in S.C. Code Ann. §27-37-130 and S.C. Code Ann. § 27-40-800.

(11) Appeals from administrative tribunals as provided in S.C. Code Ann. § 1-23-380(A)(2) and § 1-23-600(G)(5).

This is consistent with S.C. Code Ann. § 18-9-220, which provides:

In cases not provided for in Sections 18-9-130 [(judgments directing payment of money)] and 18-9-150 to 18-9-180 [(judgments requiring delivery of documents or personalty, judgments directing execution of conveyance or other instrument, judgments directing sale of land or delivery of possession of land, judgments stayed by bond or undertaking conditions having been met)], the notice of appeal shall stay proceedings in the court below upon the judgment appealed from[.]⁴

The order on appeal does not fall within any of the exceptions. The order determines the owner of the Church and orders that the December 6, 2013 deed be stricken from the public records. It did not render any judgment falling within any of the exceptions to the general rule that “the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order, judgment, decree or decision on appeal, and to automatically stay the relief ordered in the appealed order, judgment, decree or decision[.]” Rule 241(a), SCACR. While Respondents’ base their opposition to the automatic stay on the exception detailed in S.C. Code Ann. §18-9-170, this reasoning is flawed. Neither party has ever requested the sale or delivery of possession of real property, only the determination of the rightful owner of the land. Additionally, a cursory review of

S.C. Code Ann. §18-9-170 reveals that this code section details issues which would be faced in regards to foreclosure actions and other similarly situated actions; a very different class of actions than the situation faced by Appellant and Respondents. Appellant's argument of S.C. Code Ann. §18-9-170 applying to foreclosure actions and not an action wherein an Order determines the owner of a piece of land and strikes a deed from the public records finds support in South Carolina case-law which clearly details that S.C. Code Ann. §18-9-170 is to be applied in cases of Orders directly ordering the sale or delivery of possession of property as in the case of foreclosures. C-Sculptures, LLC, No. 3 v. Brown, 393 S.C. 27, 32, 709 S.E.2d 705, 708 (Ct. App. 2011). See Gerald v. Gerald, 31 S.C. 171, 182, 9 S.E. 792, 796 (1889) ("This language [found in the predecessor to section 18-9-170] shows that the intention was to embrace appeals from *judgments of foreclosure*, for that is a judgment directing the sale of real property....") (emphasis added). Furthermore, there exists no threat of waste or harm to the disputed property as a stay of Special Referee Verner's Order Granting Summary Judgment would allow **both** parties access to the property with **both** parties sharing in the expenses of the property pursuant to the Form 4 Order. Respondents previously took no issue to the sharing of the Church while the underlying action was ongoing at the trial court level and willingly consented to such an arrangement. For the Respondents to now make an argument of potential waste occurring feels disingenuous and dishonest as to the reality of the situation.

Accordingly, the Appellant's filing of a notice of appeal in this matter automatically stays what was decided in Special Referee Verner's Order; that is, the appeal stays the issue of which party owns the disputed property and the validity of the quit-claim deed executed by Appellants and the prior Form 4 Order ordering the parties to share use of the Church would remain in effect until

⁴ The omitted portion of this section deals with conditions specific to judgments directing the sale of perishable property.

such time as the appeal has concluded and the Appellant would respectfully request an Order from this Honorable Court to that effect.

THE RESPONDENTS HAVE NOT SHOWN WHY THE STAY SHOULD BE LIFTED

Pursuant to Rule 241, SCACR, the burden in this matter does not fall on the Appellant to show why the general rule of the appellate stay ought to continue to operate; that is just the law. The burden, a high one, rests with Respondents to show why the court ought to deviate from the law.

First, the Respondents have provided nothing to address what the Appellate Court Rules indicates is the court's primary concern regarding whether to lift the appellate stay: whether an order lifting the stay "is necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot." Rule 241(c)(2), SCACR. It is easy to see why: lifting the appellate stay – something the Respondents have never actually sought in this case⁵ - is *not* necessary to preserve jurisdiction of the appeal and is *not* necessary to prevent a contested issue from becoming moot. In fact, based on the circumstances surrounding this action and the behavior of the Respondents throughout the action and especially after the issuance of the Order Granting Summary Judgment, an appellate stay in this matter is incredibly necessary.

Second, the Respondents have not offered to put up any security in order to protect the Appellants from the potential harm they may suffer if while the appeal is pending the stay is lifted, the Respondents have unfettered access to the disputed property and Appellant's quit-claim deed struck from the public records, and the Appellant ultimately prevails on appeal and must return to property potentially destroyed and wasted by Respondents. Implicit in Rule 241(c)(3), SCACR, is that the conditions for changing the general rule of an appellate stay are to be met by the party

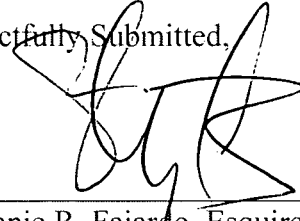
⁵ The Respondents have only maintained, at least up to the time of the writing of this motion, that the appellate stay is not in effect. As discussed previously, that contention is incorrect.

seeking the change in the operation of that rule (here, the Respondents), not imposed on the *other* party (here, the Appellant), who only seeks for the law on appellate stays to operate by its terms. To require the Appellant to meet conditions in order for the law on appellate stays to operate by its terms (and for the Respondents to have to do nothing in order for it to obtain an order altering the rule of the appellate stay) would be most unfair.

CONCLUSION

Because the Appellant has timely filed a Notice of Appeal in this matter and the circumstances of the action do not fall within any exception detailed in Rule 241, SCACR, the Appellant would respectfully request an Order from this Honorable Court determining the existence of an automatic stay in this matter and reinstating the Form 4 Order ordering the parties to share use of the Church.

Respectfully Submitted,



Stephanie R. Fajardo, Esquire
The Fajardo Law Firm, LLC
Post Office Box 2177
Irmo, South Carolina 29063
Phone: (803) 391-8980
Facsimile: (877) 365-5340

Attorney for Appellant and Third-Party Appellants

April 30, 2015
Irmo, South Carolina

ATTACHMENT

A

STATE OF SOUTH CAROLINA
COUNTY OF NEWBERRY
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2013 CP 36-00645

St. Paul Independent Church Pomaria, Inc.

AME Church, Inc., et al

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Special Referee

Attorney for : Plaintiff Defendant
or
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 43(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.
Additional Information for the Clerk :

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

Judge Code

Date

Special Referee

March 30 2015

For Clerk of Court Office Use Only

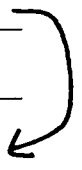
FILED
NEWBERRY COUNTY
2015 APR 7 AM 10:33
JACKIE S. DEER
CLERK OF COURT
TRIBUNAL

This judgment was entered on the 7th day of April 20 15 and a copy mailed first class or placed in the appropriate attorney's box on this 9th day of April 20 15 to attorneys of record or to parties (when appearing pro se) as follows:

Stephanie Fajardo
2117 Park St
Columbia, SC 29201
ATTORNEY(S) FOR THE PLAINTIFF(S)

Charles J Boykin PO Box 11844 Columbia, SC
29211; Shirley Wise 15 Hunt Cliff Ln
Newberry, SC 29108;
ATTORNEY(S) FOR THE DEFENDANT(S)

Jackie Bowers (mum)
CLERK OF COURT



Court Reporter:

Lisa Houseal
258 Oberlin Rd.
Columbia, SC 29202

Thomas Flemon
162 St Paul Rd
Pomaria, SC 29126

STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

St. Paul Independent Church Pomaria, Inc.,

Plaintiff,

vs.

African Methodist Episcopal Church, Inc., St. Paul A.M.E. Church, Inc., Elder Joseph Postell (in his capacity as an Elder of the AME Church, Inc.),

Defendants/Third-Party Plaintiffs,

vs.

Shirley Wise, Lisa Houseal, and Thomas Flemon, in their capacities as former Trustees of St. Paul A.M.E. Church Pomaria, Inc.,

Third-Party Defendants.

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

C.A. No. 2013-CP-36-00645

**ORDER GRANTING DEFENDANT
ST. PAUL A.M.E. CHURCH'S
MOTION FOR
SUMMARY JUDGMENT**

FILED
NEWBERRY COUNTY
2015 APR 7 AM 10 33
JACKIE S. BOWENS
CLERK OF COURT

BACKGROUND

This matter came before the Court upon Plaintiff and Defendants/Third-Party Plaintiffs opposing Motions for Summary Judgment. Plaintiff filed this action seeking a declaration that it was the owner of certain real property in Newberry County to the exclusion of Defendants. Defendant St. Paul A.M.E. Church filed a counterclaim seeking a declaration that it was the owner of the same real property claimed by Plaintiff. Plaintiff submitted a Memorandum on December 5, 2014, and Defendants submitted a responsive Memorandum on January 9, 2015. Finding no genuine issue of material fact and based upon the following, this Court grants Defendant St. Paul A.M.E. Church's Motion for Summary Judgment.

FACTS

St. Paul A.M.E. Church was established in or around 1883, and the first church building was established in 1897. In a deed dated and recorded March 14, 1885, James C. Hope conveyed title to the property, now located in Newberry County at 1945 Hope Station Road, Pomaria, South Carolina, 29126 (hereinafter "subject property"), to the "Trustees of St. Paul A.M.E. Church." St. Paul A.M.E. Church has maintained an affiliation with the national African Methodist Episcopal Church, Inc., ("A.M.E.") for more than 100 years, as evidenced in the admissions and testimony of Plaintiff's witnesses. For example, former St. Paul A.M.E. Trustees Shirley Wise and Thomas Flemon testified that St. Paul A.M.E. Church obtains its pastors through assignment by the national A.M.E. Church, Inc. Additionally, Plaintiff's 30(b)(6) deponent, Frederick Houseal, testified that St. Paul A.M.E. Church Trustees became Trustees "through the A.M.E. Church" and were governed by the A.M.E. Church.

In 2013, St. Paul A.M.E. Church had five (5) Trustees: Shirley Wise, Thomas Flemon, Lisa Houseal, Laura Flemon, and Derrick Flemon. On or about November 14, 2013, several persons who were in the process of organizing Plaintiff St. Paul Independent Church held a meeting. Of the persons present during the meeting, some were members of St. Paul A.M.E. Church and some were not. Among those in attendance were the following Trustees of St. Paul A.M.E. Church: Shirley Wise, Thomas Flemon, and Lisa Houseal. During the meeting, eleven out of sixteen persons present voted to disaffiliate from the A.M.E. Church. The organizers of the November 14 meeting developed a list of twenty-six persons identified as persons wishing to leave St. Paul A.M.E. Church to join St. Paul Independent Church, including Shirley Wise, Thomas Flemon, and Lisa Houseal.

By certified letter dated, November 15, 2013, Plaintiff notified the leadership and governing persons of St. Paul A.M.E. Church of the decision to disaffiliate. Included among the

persons listed as joining in the disaffiliation were former St. Paul A.M.E. Trustees, Shirley Wise, Thomas Flemon, and Lisa Houseal. Following this notice, Plaintiff took additional steps to complete its legal organization. St. Paul Independent Church was incorporated with the South Carolina Secretary of State on November 26, 2013. On or about December 5, 2013, Dorothy Houseal, a remaining member and trustee of St. Paul A.M.E. Church noticed that the St. Paul A.M.E. sign had been changed by having the letters A.M.E. and the pastor's name painted over. On December 6, 2013, the former Trustees of St. Paul A.M.E. Church, Shirley Wise, Thomas Flemon, and Lisa Houseal, signed a quitclaim deed purporting to convey the property of St. Paul A.M.E. Church to "St. Paul Independent Church." The following Sunday, December 8, 2013, St. Paul Independent Church Pomaria members assumed complete control of the church property and contacted law enforcement seeking the removal of the remaining members of St. Paul A.M.E. Church and Elder Postell from the subject property.

On December 11, 2013, Plaintiff filed a Motion for a Temporary Restraining Order seeking to prohibit Defendants "from taking adverse action which would interfere with St. Paul Church's real or personal property rights or interests, as well as its lawful and legal business operations and/or the conduct of its worship services." The Court granted Plaintiff's motion on December 23, 2013 and Plaintiff filed an Amended Summons and Complaint. Defendants filed a Motion for Summary Judgment on September 30, 2014, and Plaintiff subsequently filed a Motion for Summary Judgment on or about October 27, 2014. This Court heard oral arguments on both summary judgment motions on November 5, 2014.

STANDARD OF REVIEW

This court must resolve this church dispute pursuant to the "neutral principles of law" formulation articulated in the South Carolina Supreme Court's decisions in All Saints Parish Waccamaw v. Protestant Episcopal Church in the Diocese of South Carolina, 385 S.C. 428, 685

S.E.2d 163 (2009) and Pearson v. Church of God, 325 S.C. 45, 478 S.E.2d 849 (1996). South Carolina civil courts “have jurisdiction as to civil, contract and property rights which are involved in a church controversy, even though they have no jurisdiction of ecclesiastical questions and controversies.” Pearson, 325 S.C., at 51 (quoting Bramlett v. Young, 229 S.C. 519, 93 S.E.2d 873, (1956)). Therefore, the neutral principles of law approach expressly permits the application of property, corporate, and other forms of law to church disputes. All Saints, 385 S.C. at 444.

The Court must apply property law to determine whether the persons purporting to convey real property titled in the name of the “Trustees of St Paul A.M.E. Church” possessed the requisite authority to convey the subject property to Plaintiff. Id.

CONCLUSIONS OF LAW

The 1885 deed does not declare a use for the property or impose any duties on the “Trustees of St. Paul A.M.E. Church.” In the absence of a declared, or clearly implied, trust, the trustees of a church hold the property solely for the congregation whose officers they are at the time of the conveyance. Brock v. Bennett, 313 S.C. 513, 518, 443 S.E.2d 409, 412 (S.C. App. 1994). A deed to a person in the capacity as a trustee does not purport to create a property interest in that person, except to the extent he, as trustee, held legal title for the church and would benefit as a member of the church. Id. Once a trustee abandons his membership in a church, he likewise forfeits his right to remain a trustee of the church. Id. at 319 (finding a former church trustee forfeited his interest in the church’s real property when he abandoned his membership in the church and was not acting as trustee). Accordingly, Thomas Flemon, Shirley Wise, and Lisa Houseal were not trustees of St. Paul A.M.E. Church on December 6, 2013, the date they executed the quitclaim deed purportedly transferring title to the subject property from the Trustees of St. Paul A.M.E. Church to St. Paul Independent Church.

When requesting a Temporary Restraining Order, Plaintiff submitted the following evidence to the Court:

- (a) Certified letter dated, November 15, 2013, to A.M.E. Church leadership noticing the St. Paul Church's congregation and *officers'* disaffiliation effective November 24, 2013, which included former Trustees Thomas Flemon, Lisa Houseal, and Shirley Wise; (Emphasis added?)
- (b) Meeting Minutes from November 14, 2013, which references the affirmation of former Trustees Thomas Flemon, Lisa Houseal, and Shirley Wise in the decision to disaffiliate;
- (c) List of signatures of individuals purporting to withdraw from St. Paul A.M.E. Church, including former Trustees, Shirley Wise, Lisa Houseal and Thomas Flemon.

(See Motion for Temporary Restraining Order, filed December 23, 2013). Thereafter, on December 23, 2013, Plaintiff filed its Amended Summons and Complaint which stated:

On November 14, 2013, at a duly called meeting of the St. Paul AME Church, eleven out of sixteen members present motion to separate from affiliation with the AME Church and 21 out of 24 members signed a petition to separate from the A.M.E. affiliation. Former Trustees Thomas Flemon, Lisa Houseal, and Shirley Wise were participants in the November 14, 2013 meeting and in the signing of the petition.

(Amended Summons and Complaint, ¶ 6). Plaintiff's Memorandum of Law in Support of the Motion for Preliminary Injunction also included the following admissions:

At a duly called regular meeting of St. Paul Church held on November 14, 2013, eleven out of sixteen members present at the meeting voted in favor of terminating affiliation with the A.M.E. Church, and 21 out of 24 of St. Paul Church's members and officers, including Trustees Shirley Wise, Thomas Flemming [sic] and Lisa Houseal, signed a petition to terminate St. Paul's affiliation with the A.M.E. Church . . . By certified letter on November 15, 2013 and by hand delivery on November 24, 2013, the officers and congregation of St. Paul Church informed the A.M.E. Church of the congregation's decision to disaffiliate and that the services of any A.M.E. pastor, elder, bishop, or the like would no longer be needed.

(See p. 2)

In these court documents, Plaintiff admitted that former Trustees Thomas Flemon, Lisa Houseal, and Shirley Wise voted to disaffiliate from the A.M.E. Church at the November 14, 2013 meeting and signed the petition to disaffiliate. As such, there were no actions taken by former St. Paul A.M.E. Trustees Thomas Flemon, Lisa Houseal, and Shirley Wise in furtherance of the interests St. Paul A.M.E. Church after the November 14, 2013 meeting.

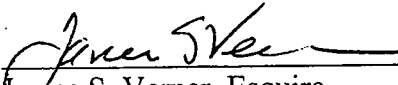
Although each of these former St. Paul A.M.E. trustees asserted in subsequent deposition testimony that they continued to attend St. Paul A.M.E. Church services in December 2013, the record clearly shows that the disaffiliation of these former trustees of St. Paul A.M.E. Church divested them of any further authority to act as trustees. I therefore find each of the former St. Paul A.M.E. trustees who executed the deed lacked the requisite legal authority to take any action in their capacity as trustee of St. Paul A.M.E. Church, including alienating church property titled in their name. Thus, the transfer of property initiated by them was void or invalid.

Furthermore, the conveyance to St. Paul Independent Church was by quitclaim deed, which means that the parties signing the deed conveyed only the interests they had in the property. Bennett v. Investors Title Ins. Co., 370 S.C. 561, 574, 635 S.E.2d 660, 667 (S.C. Ct. App. 2006) (“A quitclaim deed . . . [conveys] only the right, title, and interest of the grantor.”). Because Shirley Wise, Lisa Houseal, and Thomas Flemon ceased being members and trustees of St. Paul A.M.E. Church, I find they retained no interest in the subject property to convey to St. Paul Independent Church. Accordingly, the attempt to convey the property by quitclaim deed is invalid and must be set aside.

For the aforementioned reasons, this Court finds that there is no genuine issue of material fact and Defendant St. Paul A.M.E. Church’s Motion for Summary Judgment is hereby granted.

The Court orders that:

- (1) all property that is the subject of this litigation, real or personal, is fully and exclusively owned by the Trustees of St. Paul A.M.E. Church; and
- (2) the deed dated and recorded on December 6, 2013, in Deed Book 1733 at page 25, be stricken from the public records.


James S. Verner, Esquire
Special Referee

March 30th, 2015
Newberry, South Carolina

ATTACHMENT B

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM NEWBERRY COUNTY
Court of Common Pleas

James Verner, Esquire – Special Referee

Case Number: 2013-CP-36-00645

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St. Paul Independent Church Pomaria, Inc. Appellant,

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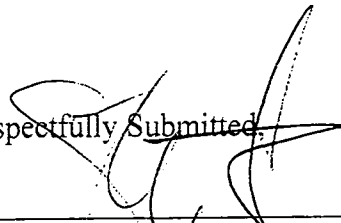
v.

Shirley Wise, Lisa Houseal, and Thomas Flemon, in their capacities as former Trustees of St. Paul A.M.E. Church Pomaria, Inc., Third Party Appellants.

NOTICE OF APPEAL

PLEASE TAKE NOTICE that the above referenced Appellant and Third Party Appellants hereby appeal the grant of summary judgment to Respondents entered by Order of James S. Verner, Esquire, Special Referee signed March 30, 2015 and filed April 7, 2015. Trial Counsel's address was incorrect on the filed Order and therefore trial counsel received a copy of this Order Granting Defendant St. Paul A.M.E. Church's Motion for Summary Judgment on April 13, 2015 through Appellant.

Respectfully Submitted,



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Facsimile: (877) 365-5340
Trial Counsel for Appellant and
Third Party Appellants

April 13, 2015

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THE STATE OF SOUTH CAROLINA

In The Court of Appeals --

APPEAL FROM NEWBERRY COUNTY

Court of Common Pleas --

James Verner, Esquire – Special Referee

Case Number: 2013-CP-36-00645

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Shirley Wise, Lisa Houseal, and Thomas Flemon, in their capacities as former Trustees of St. Paul A.M.E. Church Pomaria, Inc.,..... Third Party Appellants.

PROOF OF SERVICE

I certify that I have served the **Notice of Appeal** in the above matter on opposing counsel of record, by depositing a copy of the same in the United States Mail, postage prepaid, on April 13, 2015, addressed as follows:

Charles J. Boykin, Esquire
Post Office Box 11844
Columbia, South Carolina 29211



Stephanie R. Fajardo, Bar #80159
The Fajardo Law Firm, LLC
Attorney for Appellant and Third-Party
Appellants

ATTACHMENT C

FILE

THE FAJARDO LAW FIRM, LLC

April 30, 2015

VIA FACSIMILE & U.S. MAIL
James S. Verner, Esquire
Law Offices of James S. Verner
Post Office Box 484
Newberry, South Carolina 29108

Re: St. Paul Independent Church Pomaria, Inc. vs. African Methodist Episcopal Church, Inc., St. Paul A.M.E. Church Pomaria, Inc., Elder Joseph Postell (in his capacity as an Elder of the A.M.E. Church, Inc.) vs. Shirley Wise, Lisa Houseal, and Thomas Flemon, in their capacities as former Trustees of St. Paul A.M.E. Church Pomaria, Inc.
Civil Action No.: 2013-CP-36-00645

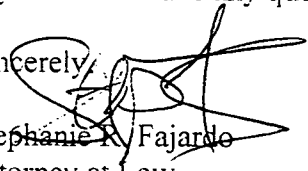
St. Paul Independent Church Pomaria, Inc., Appellant v. African Methodist Episcopal Church, Inc., St. Paul A.M.E. Church Pomaria, Inc., Elder Joseph Postell (in his capacity as an Elder of the A.M.E. Church, Inc.), Respondents v. Shirley Wise, Lisa Houseal, and Thomas Flemon, in their capacities as former Trustees of St. Paul A.M.E. Church Pomaria, Inc., Third-Party Appellants

Dear Attorney Verner:

I hope this letter finds you well. Please allow this correspondence to serve as confirmation of our telephone conversation wherein you advised me that you felt that the proper venue for my request of a grant of an automatic stay in this matter would be in the Court of Appeals. If I am incorrect in stating your position, please let me know immediately.

If you should have any questions or concerns, please do not hesitate to contact me.

Sincerely,


Stephanie R. Fajardo
Attorney at Law

Cc: Kenneth Davis, Esquire (via facsimile only)

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THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM NEWBERRY COUNTY

Court of Common Pleas

James Verner, Esquire – Special Referee

Case Number: 2013-CP-36-00645

RECEIVED

MAY 01 2015

SC Court of Appeals

St. Paul Independent Church Pomaria, Inc. Appellant,

v.

African Methodist Episcopal Church, Inc., St. Paul A.M.E. Church, Inc., Elder Joseph Postell (in his capacity as an Elder for the A.M.E. Church, Inc., Respondents,

v.

Shirley Wise, Lisa Houseal, and Thomas Flemon, in their capacities as former Trustees of St. Paul A.M.E. Church Pomaria, Inc.,..... Third Party Appellants.

PROOF OF SERVICE

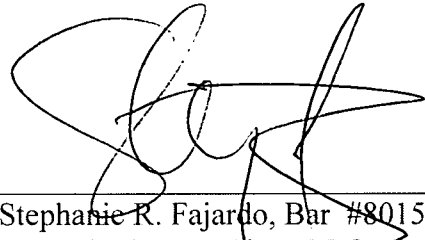
I certify that I have served the MOTION AND MEMORANDUM FOR DETERMINATION OF AUTOMATIC STAY in the above matter on opposing counsel of record, by depositing a copy of the same in the United States Mail, postage prepaid, on May 1, 2015, addressed as follows:

Charles J. Boykin, Esquire

Kenneth Davis, Esquire

Post Office Box 11844

Columbia, South Carolina 29211



Stephanie R. Fajardo, Bar #80159
The Fajardo Law Firm, LLC
Attorney for Appellant and Third-Party
Appellants