The Supreme Court of South Carolina

Ira Banks, James Bell and Vernon Holmes, Respondents,

v.

St. Matthew Baptist Church, and Unincorporated Association, and Clinton Brantley, of whom Clinton Brantley is the, Petitioner.

The Honorable John M. Milling
Charleston County
Trial Court Case No. 2007-CP-10-00896

ORDER

For good cause having been shown, the time for serving and filing the Brief of Respondent in the above entitled matter is hereby extended until May 18, 2012.

IT IS SO ORDERED.

JEAN H. TOAL, CHIEF JUSTICE

BY Brenda F. Shealy
Chief Deputy Clerk

Columbia, South Carolina

April 19, 2012

cc: Weston Adams, III, Esquire
Gunnar Nistad, Esquire
Helen F. Hiser, Esquire
Thomas O. Sanders, IV, Esquire
Richard C. Thomas, Esquire
Matthew G. Gerrald, Esquire

SANDERS LAW FIRM, LLC

1738 THREE OAKS AVENUE
CHARLESTON, SOUTH CAROLINA 29407
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THOMAS O. SANDERS, IV, ATTORNEY AT LAW
Certified Mediator by S.C. Supreme Court

MICHAEL A. WHITSITT, ATTORNEY AT LAW

Tel. (843)573-8828
Fax. (843)573-9288
E-mail tosanders@sanderslawfirm.com

April 17, 2012

The Honorable Daniel E. Shearouse, Clerk of Court
Attn.: Ms. Linda Allen, Deputy Clerk of Court
South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

RE: Banks, Ira v. Brantley, Clinton, 2007-CP-10-896

Dear Ms. Allen:

As we discussed on the phone today, my Respondents' Brief is due April 25, 2012. Because I am first for trial in a construction case on Monday, April 23, 2012 in Clarendon County, I respectfully request a second extension of time until May 18, 2012.

Attached is my check # 3228 in the amount of $25.00 for the fee.

Thank you very much for your help with this matter.

Respectfully,

Thomas O. Sanders, IV

TOS/jm
cc: Mr. Ira Banks (by email)
Estate of James Bell
Mr. Vernon Holmes (by email)
Weston Adams, III, Esquire (by email)
Richard C. Thomas, Esquire (by email)

RECEIVED
APR 18 2012
S.C. SUPREME COURT
pm 4-17-12

The Supreme Court of South Carolina

Ira Banks, James Bell and Vernon Holmes, Respondents,

v.

St. Matthew Baptist Church, and Unincorporated Association, and Clinton Brantley, of whom Clinton Brantley is the, Petitioner.

The Honorable John M. Milling
Charleston County
Trial Court Case No. 2007-CP-10-00896

ORDER

For good cause having been shown, the time for serving and filing the Brief of Respondent in the above entitled matter is hereby extended until April 25, 2012.

IT IS SO ORDERED.

JEAN H. TOAL, CHIEF JUSTICE

BY Brenda J. Shealy
Chief Deputy Clerk

Columbia, South Carolina

March 28, 2012

cc: Weston Adams, III, Esquire
Gunnar Nistad, Esquire
Helen F. Hiser, Esquire
Thomas O. Sanders, IV, Esquire
Richard C. Thomas, Esquire
Matthew G. Gerrald, Esquire

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable John M. Milling, Circuit Court Judge

Civil Action No. 2007-CP-10-896

Ira Banks, James Bell and Vernon Holmes, — Respondents,

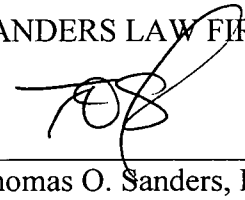
v.

St. Matthew Baptist Church and Clinton Brantley of whom Clinton Brantley is the — Petitioner.

MOTION FOR EXTENSION OF TIME TO FILE RESPONDENTS' BRIEF

With consent of both Weston Adams, III (for Petitioner Clinton Brantley) and Richard P. Thomas, Esquire (for St. Matthew Baptist Church), Respondents Ira Banks, James Bell and Vernon Holmes move for a thirty (30) day extension of time to file their Respondents' Brief from March 28, 2012 to April 27, 2012.

SANDERS LAW FIRM, LLC



Thomas O. Sanders, IV
1738 Three Oaks Avenue
Charleston, South Carolina 29407
(843)573-8828
ATTORNEY FOR RESPONDENTS

March 21, 2012
Charleston, South Carolina

Other Counsel of Record:

Weston Adams, III, Esquire
PO Box 12519
Columbia, SC 29211-2519
(803)779-2300
Attorney for Petitioner Brantley

Richard C. Thomas, Esquire
PO Box 8448
Columbia, SC 29202
(803)799-1111
Attorney for St. Matthew Baptist Church

SANDERS LAW FIRM, LLC
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CHARLESTON, SOUTH CAROLINA 29407
WWW.SANDERSLAWFIRM.COM

THOMAS O. SANDERS, IV, ATTORNEY AT LAW
Certified Mediator by S.C. Supreme Court

MICHAEL A. WHITSITT, ATTORNEY AT LAW

Tel. (843)573-8828
Fax. (843)573-9288
E-mail tosanders@sanderslawfirm.com

March 27, 2012

BY FAX TO (803)734-1499
The Honorable Daniel E. Shearouse, Clerk of Court
Attn.: Ms. Linda Allen, Deputy Clerk of Court
South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

RE: Banks, Ira v. Brantley, Clinton, 2007-CP-10-896

Dear Ms. Allen:

As we discussed on the phone today, it is my understanding that you needed a reason from me as to why I needed an extension of time in which to file Respondents' Brief. Additional time is needed because of my trial schedule.

If you need any further detail, then please call me to discuss. Again, thank you very much for your help with this matter.

Respectfully,

Thomas O. Sanders, IV

TOS/jm
cc: Mr. Ira Banks (by email)
Estate of James Bell
Mr. Vernon Holmes (by email)
Weston Adams, III, Esquire (by email)
Richard C. Thomas, Esquire (by email)

tosanders@sanderslawfirm.com

From: Weston Adams [wadams@mgclaw.com]
Sent: Friday, March 16, 2012 11:36 PM
To: tosanders@sanderslawfirm.com
Cc: Thomas, Richard C.; Helen Hiser
Subject: Re: Banks, Bell & Holmes v. Brantley

TO
No objection. Hope all is well
Weston

On Mar 16, 2012, at 10:36 PM, "tosanders@sanderslawfirm.com" <tosanders@sanderslawfirm.com> wrote:

> Weston and Rick,
>
> Do you have any objection to my getting a 30 day extension to file my Reply Brief?
>
> Thanks in advance.
>
> T.O. Sanders
> Certified Mediator by S.C. Supreme Court
> Sanders Law Firm, LLC
> 1738 Three Oaks Avenue
> Charleston, SC 29407
> (843)573-8828
>
>

tosanders@sanderslawfirm.com

From: Richard Thomas [Richard@basjlaw.com]
Sent: Friday, March 16, 2012 10:39 PM
To: tosanders@sanderslawfirm.com
Subject: Re: Banks, Bell & Holmes v. Brantley

I have no objection because I have no standing to object. Hope you have a good weekend.

From: tosanders@sanderslawfirm.com [mailto:tosanders@sanderslawfirm.com]
Sent: Friday, March 16, 2012 10:36 PM
To: wadams@mgclaw.com <wadams@mgclaw.com>; Richard Thomas
Subject: Banks, Bell & Holmes v. Brantley

Weston and Rick,

Do you have any objection to my getting a 30 day extension to file my Reply Brief?

Thanks in advance.

T.O. Sanders
Certified Mediator by S.C. Supreme Court
Sanders Law Firm, LLC
1738 Three Oaks Avenue
Charleston, SC 29407
(843)573-8828

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable John M. Milling, Circuit Court Judge

Civil Action No. 2007-CP-10-896

Ira Banks, James Bell and Vernon Holmes, Respondents,

v.

St. Matthew Baptist Church and Clinton Brantley of whom Clinton Brantley is the Petitioner.

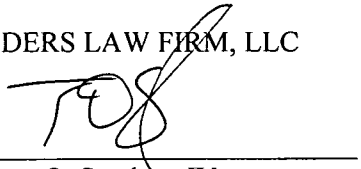
PROOF OF SERVICE

I certify that I have served the *Motion for Extension of Time to file Respondents' Brief* on Petitioner Clinton Brantley and upon St. Matthew Baptist Church, an unincorporated association by depositing a copy of it in the United States Mail, postage prepaid, on March 21, 2012, addressed to all attorneys of record:

Weston Adams, III, Esquire
PO Box 12519
Columbia, SC 29201-2519
Attorney for Petitioner Clinton Brantley

Richard C. Thomas, Esquire
PO Box 8448
Columbia, SC 29202
Attorney for St. Matthew Baptist Church

SANDERS LAW FIRM, LLC



Thomas O. Sanders, IV
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ATTORNEY FOR RESPONDENTS

March 21, 2012
Charleston, South Carolina

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MICHAEL A. WHITSITT, ATTORNEY AT LAW

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E-mail tosanders@sanderslawfirm.com

March 21, 2012

The Honorable Daniel E. Shearouse, Clerk of Court
Attn.: Ms. Linda Allen, Deputy Clerk of Court
South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

RE: Banks, Ira v. Brantley, Clinton, 2007-CP-10-896

Dear Ms. Allen:

Thank you for speaking with me on the phone today about my request for an extension of time to file my Respondent's Brief in the above-referenced matter.

Attached please find the following: 1) *Motion for Extension of Time to file Respondents' Brief*; and 2) *Proof of Service*. Please file the originals and return to me a clocked copy in the self-addressed, stamped envelope provided. Also attached is check #3210 from my trust account in the amount of $25.00 for the filing fee.

Again, thank you very much for your help with this matter.

Respectfully,

Thomas O. Sanders, IV

TOS/jm
cc: Mr. Ira Banks
Estate of James Bell
Mr. Vernon Holmes
Weston Adams, III, Esquire
Richard C. Thomas, Esquire

Check # 3210
$25.00

pm 3-28-12

McAngus Goudelock & Courie LLC

ATTORNEYS AT LAW

Reply To
WESTON ADAMS, III
Direct Dial: (803) 227-2322
wadams@mgclaw.com
COLUMBIA

February 23, 2012

VIA HAND DELIVERY
The Honorable Daniel E. Shearouse
Supreme Court of South Carolina
1231 Gervais Street
Columbia, South Carolina 29201

Re: Ira Banks, James Bell, and Vernon Holmes v. St. Matthew Baptist Church and Clinton Brantley
Civil Action No. 2008-105126
Claim No.: 10B21556
Date of Loss: May 22, 2006
Our File No.: 20402.07002

Dear Mr. Shearouse:

Enclosed for filing please find the original and 15 copies of the Brief of Petitioner Brantley in the above-referenced matter. Also, enclosed please find the original and one copy of the Proof of Service.

Also enclosed are an additional thirteen (13) copies if the Appendix in this matter.

Please file these documents and return clocked in copies to my courier. If you have any questions, please contact me.

Very truly yours,

McAngus Goudelock & Courie, LLC

Weston Adams, III

WAIII/lhs
Enclosures
cc: Richard C. Thomas, Esquire
Thomas O. Sanders, IV, Esquire
Ms. Margie Warren

proof of serv
2-23-12

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

January 26, 2012

Weston Adams, III, Esquire
Gunnar Nistad, Esquire
Helen F. Hiser, Esquire
McAngus Goudelock & Courie, LLC
P.O. Box 12519
Capitol Station
Columbia, SC 29211-2519

Re: Banks, Ira v. Brantley, Clinton

Dear Counsel:

Enclosed is the Order granting your Petition for Writ of Certiorari in the above entitled matter.

It will be necessary for you to furnish this office with an additional thirteen (13) copies of the appendix within thirty (30) days from the date of this letter.

Brief of Petitioner should be served and filed on or before February 27, 2012. The brief is not properly filed until we have proof of service.

Brief of Respondent should be served and filed within thirty (30) days after petitioner's brief is filed. We must have proof of service. Any reply brief should be served and filed within ten (10) days after filing of respondent's brief.

Very truly yours,

Daniel E. Shearouse DS

CLERK

DES/lda
Enclosure
cc: Thomas O. Sanders, IV, Esquire
Richard C. Thomas, Esquire
Matthew G. Gerrald, Esquire
The Honorable Tanya Gee

The Supreme Court of South Carolina

Ira Banks, James Bell and
Vernon Holmes, Respondents,

v.

St. Matthew Baptist Church, an
Unincorporated Association,
and Clinton Brantley, of whom
Clinton Brantley is the, Petitioner.

ORDER

We grant the petition for a writ of certiorari to review the Court of Appeals' decision in Banks v. St. Matthew Baptist Church, 391 S.C. 475, 706 S.E.2d 30 (Ct. App. 2011). The parties shall proceed to serve and file the appendix and briefs as provided by Rule 226(i), SCACR.

C. J.

J.

J.

J.

J.

Columbia, South Carolina

January 26, 2012

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM CHARLESTON COUNTY
COURT OF COMMON PLEAS

THE HONORABLE JOHN M. MILLING, CIRCUIT COURT JUDGE

CIVIL ACTION NO. 2007-CP-10-896

IRA BANKS, JAMES BELL, AND VERNON HOLMES,.....RESPONDENTS,

V.

ST. MATTHEW BAPTIST CHURCH, AN UNINCORPORATED ASSOCIATION,
AND CLINTON BRANTLEY,
OF WHOM
CLINTON BRANTLEY IS THE .....PETITIONER.

PETITION FOR WRIT OF CERTIORARI

Weston Adams, III
Gunnar Nistad
Helen F. Hiser
McAngus, Goudelock & Courie LLC
Meridian 10th Floor
1320 Main Street
PO Box 12519
Columbia, SC 29211-2519

Attorneys for Petitioner Clinton Brantley

QUESTION PRESENTED

1. Did the Court of Appeals err in holding that the Circuit Court could decide this defamation claim under the neutral principles of civil law doctrine?

STATEMENT OF THE CASE

Respondents Ira Banks, James Bell and Vernon Holmes ("Respondents") are members of the congregation of St. Matthew Baptist Church ("Church") located at 2005 Reynolds Avenue, in North Charleston, South Carolina. Petitioner Reverend Clinton Brantley is the pastor of the Church, a position he was appointed to in 2000. Respondents held positions on the Trustee Board of the Church up to and until a quarterly congregational meeting held on May 22, 2006, at which the congregation voted to remove them from that board based, in part, on statements made during the meeting by Reverend Brantley.

The Church is an independent Baptist church. According to its constitution, government of the Church "is vested in the body of believers who compose it." (Appx. p. 114). As a "sovereign and democratic Baptist church under the Lordship of Jesus Christ," the "membership retains unto itself the exclusive right of self-government in all phases of the spiritual and temporal life of the church." (Appx. p. 115). The Church constitution further states that the pastor (who was at all times relevant to this appeal Reverend Brantley) "is responsible for leading the church to function as a New Testament church." Id. In this role of "leader of pastorial [sic] ministries in the church," the pastor leads "the congregation, the organizations, and church staff to perform their tasks." Id. The organizations of the Church include a Trustee Board, which is responsible for the management of the Church's assets. However, as Respondent Holmes testified at his deposition, the role of a Trustee is also to "support . . . the spiritual ministry of the church." (Appx. p. 138, lines 2-18). (*See also* Appx. p. 144, lines 11-12 (discussing trustees "carrying out the trustee ministry")).

Respondents clearly understood that the congregation was the ultimate decision-maker within the Church. *See* (Appx. p. 139, lines 1-5) (Appx. p. 140, lines 9-11) (Appx. p. 148, lines 9-18). Respondents also understood that part of their role on the Trustee Board was to participate in church governance, *see* (Appx. p. 150, lines 20-23) (Appx. p. 137, lines 9-13) and that the election and removal of a trustee was a matter of church governance. (Appx. p. 151, lines 4-17).

In 2000, the Church's former location was sold to the South Carolina Department of Transportation to make way for the construction of the new Ravenel Bridge. The Church purchased property at its current location at 2005 Reynolds Avenue and relocated. Shortly after the move to Reynolds Avenue, the Church made a decision to purchase properties near or adjacent to the Reynolds Avenue property in an attempt to expand the Church's influence in its new neighborhood.

After some negotiations, the Trustee Board consummated a deal to purchase an apartment building at 1925 Grayson Street, close to the Church's Reynolds Avenue location. The strategy of purchasing land could only be put into action if approved by the congregation, which was done through a series of votes at regularly-scheduled congregational meetings. Therefore, in order to purchase the apartment building on Grayson Street, the Board of Trustees sought and obtained explicit and specific approval from the congregation at a June 14, 2004 meeting to borrow funds for the purchase and improvement of this property, the amount of which was not to exceed $200,000. (Appx. pp. 161-62). Subsequently, the Church purchased this and other properties on Grayson Street.

Respondent Holmes testified that the purchase of the Grayson Street apartment building was more than a means of generating income for the Church; it was "intertwined with the church's ministry." (Appx. p. 137, lines 4-8) (Appx. p. 135, line 7 – p. 136, line 21). Respondent Banks confirmed that he had been informed by Reverend Brantley that the purchase of the apartments was "part of the kingdom building process of St. Matthew being involved in the immediate community of the church." (Appx. p. 146, line 24 – p. 147, line 4); *see also* (Appx. p. 152, line 7 – p. 153, line 13) (Appx. p. 156, lines 21-23 (noting that Reverend Brantley "wanted to buy up everything around that church and make it a part of the church")). Furthermore, Respondent Holmes testified that his role as a Trustee in the selection and purchase of the apartment building "in that capacity, was to carry out the church's mission." (Appx. p. 133, lines 16-20).

These properties were held by the Church without incident for some time. However, a disgruntled tenant in the 1925 Grayson Street property set fire to an apartment causing damage to seven rental units. After the fire, the Church discovered that it did not have insurance on the 1925 Grayson Street property to cover the loss. Furthermore, a review of the closing documentation also revealed that the Reynolds Avenue Church property had been used as collateral to secure the loan for the Grayson Street apartment complex without any approval from the congregation. As managers of the Church's assets, it was the Trustees' responsibility to obtain congregational approval for using the Church property as collateral.

During the course of these events, the working relationship between Reverend Brantley and the Respondents began to deteriorate. According to Reverend Brantley, the Respondents' failure to communicate with him was creating difficulties in his ability to

effectively lead the congregation and to monitor the use of the Church's funds in outreach programs. (Appx. p. 121, line 14 – p. 122, line 7) (Appx. p. 123, lines 13-19) (Appx. p. 124, line 22 – p. 125, line 15) (Appx. p. 126, lines 12-20) (Appx. pp. 163-64). The growing controversy between Reverend Brantley and the Respondents led Reverend Brantley to the decision that Respondents should be removed from the Trustee Board and replaced with other members of the congregation. This issue was brought to the attention of the congregation at a regularly-scheduled quarterly congregational meeting on May 22, 2006. Shortly into the meeting, Reverend Brantley made a presentation to the congregation in which he outlined his reasons for asking that Respondents be removed from their positions on the Trustee Board. The statements made during this presentation are the basis for Respondents' defamation claims against Reverend Brantley. According to the written minutes of the meeting, Reverend Brantley stated that "the Church had been mortgaged and there was no insurance on the buildings that had been purchased," that a $300,000 mortgage had been placed on the church that he did not know about, and that he had been "constantly deceived throughout." (Appx. p. 163).

Following the presentation made by Reverend Brantley, the Respondents were allowed to address the congregation in response. (Appx. pp. 164-166). A motion was made to remove Respondents from their position on the Trustee Board. (Appx. p. 166). That motion was seconded and passed by a majority vote of the congregation. Respondents have not participated as members of the Trustee Board since that meeting but have remained members of the Church.

On or about March 5, 2007, Respondents filed an action against Petitioner Brantley and the Church alleging negligence, defamation and outrage against Reverend

Brantley and negligence against the Church. In their complaint, Respondents acknowledge that, "At all times herein, Defendant Brantley was acting within the course and scope of his employment and authority as pastor of St. Matthew Baptist and under the authority of St. Matthew Baptist." (Appx. p. 3). The defamation allegations in the complaint center on statements made by Reverend Brantley during the May 22, 2006 congregational meeting of the Church. (Appx. pp. 3-4). According to the Complaint, Reverend Brantley made various statements concerning a mortgage that had been placed on the Church in connection with the purchase of some nearby apartment buildings, that those buildings had not been insured, that Respondents had "mismanaged money" and that "money was missing from St. Matthew Baptist. Defendant Brantley told the congregation that he had been deceived constantly by Plaintiffs, and that Plaintiffs should be removed as Trustees of St. Mathew Baptist." (Appx. pp. 3-4).

Following extensive discovery, Petitioner Brantley and the Church moved for summary judgment and moved to have the matter dismissed for lack of subject matter jurisdiction. After hearing oral argument on the motions on September 15-16, 2008, Judge Milling granted Petitioner Brantley and the Church's motions. The Circuit Court found, among other things, that "according to the pleadings any alleged defamatory statements were made during the course of a congregational meeting where the [Respondents] continuing to serve as Trustees of the church was being discussed. The Court finds that it is not appropriate for it to intervene in such a church matter and that the Court does not have jurisdiction to intervene." (Appx. p. 2).

Respondents appealed this decision to the Court of Appeals, which affirmed in part and reversed in part the decision of the Circuit Court. (Opinion No. 4781, filed

January 26, 2011 ("Opinion"), Appx. pp. 172-175). In particular, the Court of Appeals upheld the Circuit Court's dismissal of the negligence and intentional infliction of emotional distress claims, but held that the trial court could decide the defamation claim against Petitioner Brantley "using solely legal principles without examining any religious questions." (Appx. p. 174).[1] Petitioner moved for rehearing, which was denied by the Court of Appeals. (Appx. pp. 169-171).

Petitioner now seeks a writ of certiorari to review the Court of Appeals' decisions in this case.

ARGUMENTS

I. The Court of Appeals erred when it held that the Circuit Court could decide this defamation claim under the neutral principles of civil law doctrine, because the claims involve fundamental issues of church governance and are thereby barred by the United States and South Carolina Constitutions' guarantee of freedom of religion.

The Court of Appeals failed to properly apply the church autonomy doctrine to the facts of this case when it stated that the Circuit Court could decide the defamation claim under the neutral principles of civil law doctrine. As a consequence, the Court of Appeals' decision would improperly extend the neutral principles of law doctrine to apply to issues relating to internal church governance and administration, an extension that no other court from South Carolina or any other jurisdiction has adopted or approved. This error directly raises a substantial constitutional issue, as well as a federal issue, and presents a conflict between South Carolina courts and other federal and state courts that have found the First Amendment bars state interference in matters of church governance and administration. Finally, because there is no South Carolina case law

[1] Petitioner Brantley agrees with the Court of Appeals' resolution of the negligence and intentional infliction of emotional distress issues and, therefore, is not appealing the portions of the Court of Appeals' Opinion addressing those issues.

directly on point, making this a novel issue of law in South Carolina, the Court failed to fully consider cases cited by Petitioner Brantley from other jurisdictions that have analyzed the precise issues raised in this case.

The First Amendment to the United States Constitution provides, in part, that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . ." This guarantee of freedom of religion applies to decisions of the federal courts and, through the Fourteenth Amendment, to the various states. Celnik v. Congregation B'Nai Israel, 131 P.3d 102, 106 (N.M. Ct. App. 2006), *citing* Kreshik v. Saint Nicholas Cathedral, 363 U.S. 190, 191, 80 S. Ct. 1037 (1960). In addition, the South Carolina constitution mirrors the grant of religious freedom found in the First Amendment. South Carolina Constitution, Article I, Section 2; Pearson v. Church of God, 325 S.C. 45, 51, 478 S.E.2d 849, 852 (1996). Under the First Amendment, courts have followed the general rule that they "should be loath to assert jurisdiction over internal church disputes; its exceptions are rare." Yaggie v. Indiana-Kentucky Synod, 860 F. Supp. 1194, 1198 (W.D. Ky. 1994), *citing* Serbian Eastern Orthodox Diocese v. Milivojevich, 426 U.S. 696, 96 S. Ct. 2372 (1976).[2]

The church autonomy doctrine provides that "churches have autonomy in making decisions regarding their own internal affairs. This church autonomy doctrine prohibits civil court review of internal church disputes involving matters of faith, doctrine, *church governance*, and polity." Bryce v. Episcopal Church in the Diocese of Colorado, 289 F.3d 648, 655 (10th Cir. 2002), *citing* Kedroff v. St. Nicholas Cathedral, 344 U.S. 94, 73

[2] As explained by the New Jersey Supreme Court, the Establishment Clause prohibits states from promoting a particular religion or becoming too entangled, either procedurally or substantively, in religious affairs. McKelvey v. Pierce, 800 A.2d 840, 849 (N.J. 2002) (citations omitted). The Free Exercise Clause forbids "governmental action from encroaching on the ability of a church to manage its internal affairs." Id. at 848.

S. Ct. 143 (1952) (emphasis added); *see also* Rayburn v. General Conf. of Seventh-day Adventists, 772 F.2d 1164, 1167 (4th Cir. 1985) (explaining that First Amendment protection guarantees to churches the right "to decide for themselves, free from state interference, matters of church government a well as those of faith and doctrine").[3] Thus, the protection of the First Amendment "extends beyond the selection of clergy to other internal church matters" including matters of church administration. Bryce, 289 F.3d at 656. Where issues of church governance are concerned, courts are limited to determining whether the church has actually spoken on an issue and, if it has, "this court inquires no further." Bowen v. Green, 275 S.C. 431, 435, 272 S.E.2d 433, 435 (1980).

South Carolina has long recognized the importance of maintaining a strict separation between church and state. Knotts v. Williams, 319 S.C. 473, 462 S.E.2d 288 (1995) (noting that the "maintenance of governmental neutrality in the court resolution of church disputes has been the consistent and dominant theme of the South Carolina cases in this area"). The South Carolina Supreme Court has specified that "civil courts will not enter into the consideration of church doctrine or church discipline, nor will they inquire into the regularity of the proceedings of the church judicatories having cognizance of such matters." To do otherwise would "be inconsistent with complete religious liberty untrammeled by state authority." Pearson, 325 S.C. at 51-52, 478 S.E.2d at 852, *quoting* Morris Street Baptist Church v. Dart, 67 S.C. 338, 45 S.E. 753 (1903). The exceptions to the prohibition against judicial involvement in internal church affairs – purely contractual and/or property disputes – do not apply to the case presently before the Court which

[3] The church autonomy doctrine arose out of the Free Exercise Clause but has been described as being rooted in both of the "Religion Clauses." McKelvey, 800 A.2d at 850-51.

arises out of an issue of fundamental church governance and a related internal power struggle.

Exceptions to the prohibition against court involvement in internal church affairs have been made only in narrow circumstances where the conduct or actions under question "invariably posed some substantial threat to public safety, peace or order." Sherbert v. Verner, 374 U.S. 398, 403, 83 S. Ct. 1790, 1793 (1963); *see also* McClure v. The Salvation Army, 460 F.2d 553, 558 (5th Cir. 1972) (holding that "only in rare instances where a 'compelling state interest in the regulation of a subject within the State's constitutional power to regulate' is shown can a court uphold state action which imposes even an 'incidental burden' on the free exercise of religion"). Defamation claims rarely, if ever, rise to this level of concern.

Because the decision to remove Respondents as Trustees was a decision affecting church governance, statements made during the congregational discussion leading up to that decision are protected by the First Amendment. This is not a case where Reverend Brantley randomly began to accuse the Respondents of various infractions. Nor is this a case where Reverend Brantley stood on a street corner telling the general public his reasons why Respondents should be removed as Trustees. Instead, Reverend Brantley's statements were made in a quarterly congregational meeting discussing issues directly related to church governance. Courts have held that claims based on statements made in the context of discussions of church policy or governance, regardless of whether the statements are "offensive" or even incorrect, cannot be adjudicated by civil courts without infringing on the First Amendment. Bryce, 289 F.3d at 658. This is because the "church autonomy doctrine is rooted in protection of the First Amendment rights of the

church to discuss church doctrine and policy freely." Id. Furthermore, contrary to the Court of Appeals' suggestion that a civil court can consider the defamation claim divorced from its religious setting, any examination of the defamation claim would necessarily involve an "inquiry into the good faith of the position asserted by [Reverend Brantley] . . . It is not only the conclusions that may be reached . . . which may impinge on the rights guaranteed by the Religion Clauses, but also the very process of inquiry." Scharon v. St. Luke's Episcopal Presbyterian Hosp., 929 F.2d 360, 363 (8th Cir. 1991). In Scharon, the Eighth Circuit rejected the petitioner's claim that the religious motives for her dismissal were "merely a pretext for the actual motive behind her dismissal." Id.

Courts faced with defamation claims in similar contexts have held that "defamation claims by church members against the religious organization itself and its officials are not justiciable under the Free Expression and Establishment Clauses" of the First Amendment. Anderson v. Watchtower Bible & Tract Soc. of N.Y., Inc., No. M2004-01066-COA-R9-CV, 2007 Tenn. App. LEXIS 29, *81 (Tenn. Ct. App. Jan. 19, 2007). "Under most circumstances, defamation is one of those common law claims that is not compelling enough to overcome First Amendment protection . . . because resolution of the claim would require impermissible inquiry into the church's bases for its action. . . . Questions of truth, falsity, malice, and the various privileges that exist often take on a different hue when examined in the light of religious precepts and procedures that generally permeate controversies over who is fit to represent and speak for the church." Patton v. Jones, 212 S.W.3d 541, 553-54 (Tex. App. 2006), *quoting* Heard v. Johnson, 810 A.2d 871 (D.C. 2002); *see also* Bourne v. Center on Children, Inc., 838 A.2d 371, 380 (Md. Ct. Spec. App. 2003) (holding that statements made during decisions

regarding "religious leadership positions" are protected by the First Amendment even if they are "invalid and unfair").

Clearly, where allegedly defamatory statements are based on issues relating to church governance, "resolution of the truth or falsity of those statements, a determination critical to a defamation action, would require courts to inquire into and resolve issues of church teachings and doctrine, clearly matters of ecclesiastical cognizance." Anderson, 2007 Tenn. App. LEXIS 29, at *98. In short, where allegedly defamatory statements are made within the context of a church deciding issues of church governance, they fall "squarely within the protective ambit of the First Amendment." Downs v. Roman Catholic Archbishop of Baltimore, 683 A.2d 808 (Md. Ct. Spec. App. 1996).

Even where the allegedly defamatory statements do not themselves express any "religious principles or beliefs," the fact that they are made in the context of an internal church conflict involving persons holding ministerial roles prohibits courts from exercising jurisdiction over the dispute. *See* Yaggie, 860 F. Supp. at 1198; *see also* Schoenhals v. Mains, 504 N.W.2d 233, 236 (Minn. Ct. App. 1993) (holding that where examination of the truth or falsity of alleged defamatory statements "would require an impermissible inquiry into Church doctrine and discipline," the claim was precluded by the First Amendment); Klagsbrun v. Va'ad Harabonim of Greater Monsey, 53 F. Supp. 2d 732, 741 (D.N.J. 1999) (dismissing defamation case where determining the veracity of statements that plaintiffs had entered into a second marriage without first obtaining a religious divorce would require the court to "inquire into areas of clear ecclesiastical concern"); Jae-Woo Cha v. Korean Presbyterian Church of Washington, 553 S.E.2d 511 (Va. 2001) (dismissing suit alleging defamatory statements regarding honesty of plaintiff

because adjudicating the issues would impermissibly involve the court in issues of the "church's governance, internal organization, and doctrine").

Any investigation into whether the remarks made by Reverend Brantley during the May 22 2006 congregational meeting regarding Respondents' fitness to serve as Trustees were true would necessarily thrust a civil court into an examination of the administration and governance of the Church, the spiritual and fiscal obligations of the Trustees, the Trustees' role in the spiritual life of the church, as well as issues of faith, doctrine and discipline. In fact, Respondents Banks and Holmes readily agreed that their role was part of the Church's governance, (Appx. p. 150, lines 20-23) (Appx. p. 137, lines 9-13), and all agreed that the purchase of the apartment buildings was part of the Church's spiritual mission. *See* (Appx. p. 137, lines 4-8) (Appx. p. 133, lines 16-20) (Appx. p. 146, line 24 – p. 147, line 4) (Appx. p. 152, line 7 – p. 152, line 13) (Appx. p. 156, lines 21-23).

Although the Court of Appeals concluded that the Respondents' defamation claims could be resolved "by neutral principles of law without disturbing the Church's decision to remove the Trustees from their positions," (Appx. p. 173), the "'neutral principles' doctrine has never been extended to religious controversies in the areas of church government, order and discipline, nor should it be." Hutchison v. Thomas, 789 F.2d 392, 396 (6th Cir. 1986). Instead, the neutral principles doctrine has been restricted to property disputes and contractual issues that could be decided without resort to involving matters of church doctrine or government. Id.; *see also* Downs, 683 A.2d at 622; Anderson, 2007 Tenn. App. LEXIS 29, ** 24-25. To date, this has been the case in South Carolina as well. *See* Morris Street, 67 S.C. at 342, 45 S.E. at 754.

Contrary to the conclusion reached in the Court of Appeals' Opinion, the neutral principles of law doctrine is a narrow exception to the church autonomy doctrine. The Court of Appeals cites Serbian Eastern Orthodox Diocese v. Milivojevich, 426 U.S. 696, 96 S. Ct. 2372 (1976), for the proposition that "there is a general constitutional command, based in the First Amendment, mandating . . . civil courts to 'decide church . . . disputes without resolving underlying controversies over religious doctrine.'" (Appx. p. 173). Taken out of context, this quote would appear to command civil courts to assert jurisdiction over church disputes. Expanding the quote from Milivojevich reveals a significantly different position:

> *First Amendment* values are plainly jeopardized when church property litigation is made to turn on the resolution by civil courts of controversies over religious doctrine and practice. If civil courts undertake to resolve such controversies in order to adjudicate the property dispute, the hazards are ever present of inhibiting the free development of religious doctrine and of implicating secular interests in maters of purely ecclesiastical concern . . . . [T]he [First] Amendment therefore commands civil courts to decide church property disputes without resolving underlying controversies over religious doctrine.' [citation omitted] This principle applies with equal force to church disputes over church polity and church administration.

426 U.S. at 709-10, 96 S. Ct. at 2381-82.

The Court of Appeals relies on Jones v. Wolf, 443 U.S. 595, 99 S.Ct. 3020 (1979), for the proposition that states are "constitutionally entitled to adopt the neutral principles of law approach as a means of adjudicating church disputes," (Appx. p. 174), which Petitioner Brantley does not dispute so long as the doctrine is properly applied. However, the issue before the United States Supreme Court in Jones involved a property dispute, and the quoted language specifically is limited to the same: "We therefore hold that a State is constitutionally entitled to adopt neutral principles of law as a means of

adjudicating a church *property* dispute." 443 U.S. at 604, 99 S.Ct. at 3026 (emphasis added); *see also* Hutchison, 789 F.2d at 396 (observing that the "'neutral principles' of law doctrine [was] most recently discussed in Jones v. Wolf, 443 U.S. 595, 99 S.Ct. 3020 (1979). That Court expressly noted, however, that the 'neutral principles' exception to the usual rule of deference applies only to cases involving disputes over church property").[4] Although the neutral principles of law doctrine has been expanded to reach contract cases and purely secular employment cases,[5] neither the Court of Appeals nor Respondents have unearthed a single case applying that doctrine to a case of internal church governance.

Instead, the Court of Appeals' decision in this case is the first to expand the application of that doctrine to cases dealing with issues of internal church governance. South Carolina courts applying the neutral principles of law doctrine have done so only in the limited areas of property and contract law. *See* Bramlett v. Young, 229 S.C. 519, 93 S.E.2d 873 (1956) (applied the neutral principles of law doctrine to a property rights issue); Pearson v. Church of God, 325 S.C. 45, 51, 478 S.E.2d 849, 852 (1996) (civil courts could consider a dismissed pastor's contractual right to retirement benefits without infringing on the First Amendment); All Saints Parish Waccamaw v. Campbell, 385 S.C. 428, 685 S.E.2d 163 (2009) (applied the neutral principles of law doctrine to decide (1) an issue relating to property rights and (2) whether certain Articles of Amendment were adopted in compliance with the South Carolina Non-Profit Act); *c.f.*, Knotts v. Williams,

[4] Note that, even within the arena of determining property rights, "where the deed, the corporate charter, or the constitution of the general church incorporates religious concepts in the provisions relating to the ownership of property . . . [where] the interpretation of the instruments of ownership would require the civil court to resolve a religious controversy, then the court must defer to the resolution of the doctrinal issue by the authoritative ecclesiastical body." Jones, 443 U.S. at 604, 99 S.Ct. at 3026.

[5] *See* Heard v. Johnson, 810 A.2d 871, 880 (D.C. 2002) (civil courts may have jurisdiction over property and contract disputes, as well as over "employment disputes where the employee provides a purely secular service for the church").

319 S.C. 473, 462 S.E.2d 288 (1995) (refusing to hear a dispute between two factions of a congregation regarding removal of a pastor, and observing that, "[i]nternal disputes among members of a church present some of the most difficult questions involving the limits of governmental intrusion into the religious affairs of its citizens").

The Court of Appeals' Opinion apparently relies on the "and other forms of law" language from All Saints Parish to broadly expand the reach of civil courts into areas heretofore protected by the First Amendment.[6] However, that position drastically and improperly expands application of the neutral principles of law to cases which will inevitably and impermissibly entangle civil courts in matters of internal church governance, administration and discipline. In the present case, the facts that: (1) the statements were made in the context of a meeting of the highest decision-making body of the St. Matthew Baptist Church – the congregation (Appx. pp. 114-15) (Appx. p. 140, lines 9-11); (2) the congregation elected the Respondents as Trustees and only the congregation could remove them (Appx. p. 148, lines 9-18); (3) part of Respondents' role on the Trustee Board was to participate in church governance (Appx. p. 150, lines 20-23) (Appx. p. 137, lines 9-13); (4) part of Respondents' role as Trustees was to further the spiritual mission of the Church (Appx. p. 135, line 18 – p. 136, line 4) (Appx. p. 144, lines 11-12); (4) the election and removal of a trustee was a matter of church governance (Appx. p. 151, lines 4-17); and (5) at all times pertinent to this case, Petitioner Brantley was acting within the course and scope of his employment and authority as pastor of the Church (Appx. p. 3), all dictate a finding that the statements by Reverend Brantley are

[6] The full phrase from All Saints Parish reads, "the neutral principles of law approach permits the application of property, corporate, and other forms of law to church disputes." 385 S.C. at 444, 685 S.E.2d at 172.

inextricably intertwined with issues of ecclesiastical self-governance that cannot be adjudicated by a civil court.

In Pearson, this Court set out the general principles allowing civil courts to determine cases involving religious institutions: "1) courts may not engage in resolving disputes as to religious law, principle, doctrine, discipline, custom, or administration; (2) courts cannot avoid adjudicating rights growing out of civil law; (3) in resolving such civil law dispute, courts must accept as final and binding the decisions of the highest religious judicatories as to religious law, principle, doctrine, discipline, custom, and administration." 325 S.C. at 52-53, 478 S.E.2d at 853. This Court specifically defined what it meant by "rights growing out of civil law" to mean "disputes determined by contract or property law." Id. at 53, 478 S.E.2d at 853.

In All Saints Parish, this Court pointed out that resolution of the property and corporate entity issues before it did not require the Court "to wade into the waters of religious law, doctrine, or polity," but rather, the issues could be resolved "though the application of neutral principles of property, trust, and corporate law." 385 S.C. at 445, 685 S.E.2d at 172. It is only where "a civil court can completely resolve a church dispute on neutral principles of law [that] the *First Amendment* commands it to do so." Id., 685 S.E.2d at 172. In the instant case, the Circuit Court cannot completely resolve the defamation claim without delving into matters of church "discipline, custom, and administration" and, therefore, the defamation claims cannot be resolved under neutral principles of law.

Furthermore, in Morris Street, this Court reaffirmed that "civil courts will not enter into the consideration of church doctrine or church discipline, nor will they inquire

into the regularity of the proceedings of the church judicatories having cognizance of such matters." 67 S.C. at 342, 45 S.E. at 754. To do otherwise "would be inconsistent with complete religious liberty untrammeled by state authority." Id. In the instant case, the Circuit Court cannot resolve the defamation claim without inquiring into the regularity of the church judicator – here, the proceedings before the congregation at the May 22, 2006 congregational meeting – having control of such matter.

Although not a South Carolina case, Heard v. Johnson, 810 A.2d 871, 880-82 (D.C. 2002), distinguished between the types of cases where the neutral principles of law doctrine properly applies (such as some property cases and purely secular employment disputes), and those where it does not (such as cases dealing with church policy, religious doctrine or practice, employment of clergy, ecclesiastical self-governance). "Clearly the Free Exercise Clause guarantees [the church] the freedom to decide to whom it will entrust ministerial responsibilities." Id. at 882. In the present case, the defamation claims arise out of an internal church power struggle which was resolved at a meeting of the highest decisional body – the congregation.[7] All of the statements alleged to be defamatory were made to the congregation at the May 22, 2006 meeting, and cannot be separated out from the central issue of church governance. Thus, under a proper application of the church autonomy doctrine, civil courts lack subject matter jurisdiction to hear defamation claims, and the Court of Appeals should have so held.

[7] In fact, Respondents have made it clear that they viewed what was transpiring between themselves and Reverend Brantley to be a power struggle – Respondent Homes indicated that Reverend Brantley was trying to "put the deacons in authority above the trustees." (Appx. p. 141, line 21 – p. 143, line 11); *see also* (Appx. p. 157, line 18 – p. 158, line 23 (Respondent Bell testifying that he and Reverend Brantley had had disputes over financial issues and that he "couldn't be controlled by Reverend Brantley")) (Appx. p. 159, line 20 – p. 160, line 4 (Respondent Bell asserting that he believed Reverend Brantley "wanted us out of office. He could not control us the way he wanted to control us," and "he concocted the idea that he had to move some people out of the way so he could have his way")) *see also* (Appx. p. 141, line 5 – p. 143, line 11 (Respondent Holmes discussing the nature of the internal power struggle at St. Matthew Baptist Church)).

Because there are no South Carolina cases applying the neutral principles of law doctrine to a defamation claim, it is appropriate to look at foreign jurisdictions for guidance.[8] However, instead of weighing the cases from other jurisdictions cited by Petitioner Brantley that dealt with very similar situations, the Court of Appeals summarily dismissed them by simply concluding that South Carolina courts can resolve this issue "without looking to outside jurisdictions." (App. p. 174). In the absence of South Carolina precedent, this is not a sufficient explanation of why the Court of Appeals did not agree with the reasoning in cases dealing with very similar fact patterns, and/or why South Carolina should adopt a different standard under the First Amendment of the United States Constitution.

The Court of Appeals dismissed the defamation cases cited by Petitioner Brantley by suggesting that, "in many of those cases, the courts could not determine if the claim was defamation without looking into the churches' beliefs." (Opinion p. 4, n.1). Petitioner Brantley respectfully submits that the Court's assessment of the defamation cases cited by Petitioner Brantley is incorrect.

For instance, in Jae-Woo Cha, the Virginia Supreme Court analyzed whether civil courts had jurisdiction over a claim that allegations of "misuse of church funds," which impugned the plaintiff's honesty and integrity, were defamatory. 553 S.E.2d at 514. In Schoenhals, the issue underlying the defamation claims related to church finance, and allegations by the pastor that the plaintiffs had failed in their financial stewardship,

[8] South Carolina courts have a long tradition of looking to and relying on case law from other jurisdictions where there are no South Carolina cases directly on point. *See, e.g.,* Williams v. Morris, 320 S.C. 196, 200-201, 464 S.E.2d 97, 99-100 (1995) (relying on "persuasive authority" from other states where the precise issue in the case before it had not been addressed by the Court); Poliakoff v. Shelton, 193 S.C. 398, 8 S.E.2d 494 (1940) (upholding order relying on cases from other jurisdictions where there were no South Carolina cases directly on point); McKnight v. South Carolina Dept. of Corrections, 385 S.C. 380, 684 S.E.2d 566 (Ct. App. 2009) (relying on cases from other jurisdictions where there are no South Carolina cases directly on point).

created "division, animosity and strife in the fellowship," and fabricated lies. Id. at 234. The case of Patton v. Jones, 212 S.W.3d 541 (Tex. App. 2006) involved allegedly defamatory remarks charging that the plaintiff, hired as a youth minister, had "upset congregation members by dating certain women and by putting his arm around girls at church." 212 S.W.3d at 546. Bourne considered allegedly defamatory comments concerning the plaintiff's "ministerial style," as well as his hostility and disobedience toward church supervisors, but did not raise any specific religious beliefs. 838 A.2d at 375. In Downs v. Roman Catholic Archbishop of Baltimore, 683 A.2d 808 (Md. Ct. Spec. App. 1996), the allegedly defamatory statements concerned the plaintiff's "honesty, reliability, integrity and morality, specifically, asserting sexually motivated conduct toward certain staff members" at a particular church. 683 A.2d at 810. In Yaggie, the controversy arose out of "communication problems and differences in management style." 860 F. Supp. at 1196. The allegedly defamatory remarks included statements that Yaggie was "aloof," that he acted like he was "the Boss," was dogmatic and not open to people who disagreed or had different viewpoints, that he did not seem to hear what the other person was saying, that he did not appreciate women as equals, and that he talked about people behind their backs, "sometimes close to the point of breaking confidentiality," as well as a statement that he was to be hospitalized for psychiatric treatment. Id. at 1196-97. Finally, Anderson involved a member of the congregation of Jehovah's Witnesses, who was expelled for raising issues relating to that organization's handling of child sexual abuse allegations. Because the plaintiff refused to stop researching and publicizing the sexual abuse issue, she and her husband were accused of "apostasy, or "turning away from one's faith," which Jehovah's Witnesses define as

"stirring up unrest or causing divisions within their church." 2007 Tenn. App. LEXIS 29 at *8-9. Additional charges waged against the plaintiffs included "submitting an article to an apostate journal," and "undermining confidence in Jehovah's arrangements." Id. at *9. Thus, in every single defamation case relied on by Petitioner Brantley, the allegedly defamatory statements no more required "looking into the churches' beliefs" than would the present case. Nonetheless, each of these courts concluded that they were barred from hearing the defamation claims by the First Amendment of the United States Constitution.

CONCLUSION

Petitioner Brantley respectfully requests this Court to grant certiorari review of the Court of Appeals' Opinion, and hold that the Circuit Court lacks subject matter jurisdiction to hear Respondents' defamation claims under the First Amendment of the United States Constitution and Article I, Section 2 of the South Carolina constitution.

Respectfully submitted,

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March 22, 2011

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THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM CHARLESTON COUNTY
COURT OF COMMON PLEAS

THE HONORABLE JOHN M. MILLING, CIRCUIT COURT JUDGE

CIVIL ACTION NO. 2007-CP-10-896

IRA BANKS, JAMES BELL, AND VERNON HOLMES,.....RESPONDENTS,

V.

ST. MATTHEW BAPTIST CHURCH, AN UNINCORPORATED ASSOCIATION,
AND CLINTON BRANTLEY,
OF WHOM
CLINTON BRANTLEY IS THE .....PETITIONER.

CERTIFICATE OF COUNSEL

The undersigned certifies that, pursuant to Rule 242(d), SCACR, Petitioner moved the Court of Appeals for rehearing of its January 26, 2011 Opinion, which motion was denied in an Order dated February 28, 2011.

March 22, 2011

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PROOF OF SERVICE

I certify that I have served the **Petition for Writ of Certiorari** on Respondents, by depositing a copy of it in the United States Mail, postage prepaid, on the 22nd day of March 2011, addressed to all attorneys of record:

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THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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PROOF OF SERVICE

I certify that I have served the **Appendix** on Respondents, by depositing a copy of it in the United States Mail, postage prepaid, on the 22nd day of March 2011, addressed to all attorneys of record:

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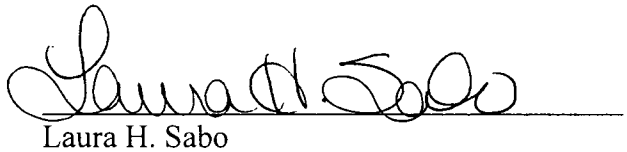

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Original

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

John M. Milling, Circuit Court Judge

Civil Action No. 2007-CP-10-896
Case Tracking No. 2011-188006

Ira Banks, James Bell and Vernon Holmes, Respondents,

v.

St. Matthew Baptist Church, an unincorporated association and Clinton Brantley of whom Clinton Brantley is the Petitioner.

RETURN TO PETITION FOR WRIT OF CERTIORARI

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May 19, 2011
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INDEX

QUESTIONS PRESENTED

1. Did the Court of Appeals correctly hold that the Defamation claim could be decided by the trial court on neutral principles of law?

2. Are there special and important reasons for this Court to review the Court of Appeals' decision?

COUNTER STATEMENT OF THE CASE

On March 5, 2007, Respondents Ira Banks, James Bell and Vernon Holmes ("Respondents") brought a Defamation claim against Petitioner Clinton Brantley ("Petitioner Brantley") arising from Petitioner Brantley's false and disparaging remarks at a May 22, 2006 congregational meeting held at St. Matthew Baptist Church ("the Church") which led to their dismissal as Trustees. At the meeting, Petitioner Brantley accused Respondents of mishandling, mismanaging, misappropriating and stealing $300,000.00 of the church's money and said he did not know what was done with it (Appx. pp. 3-4) (Appx. p. 83) (Appx. p. 86) (Appx. p. 90) (Appx. pp. 93-94) (Appx. pp. 96-97) (Appx. 99-100) (Appx. pp. 101-102) (Appx. p. 103) (Appx. p. 107) (Appx. p. 109) (Appx. p. 111) (Appx. pp. 112-113) (Appx. p. 129, lines 24-25) (Appx. p. 130, lines 1-9).

Previously, the Church had tasked Respondents to purchase rental property near the Church in order to improve the surrounding neighborhood. Respondents were authorized to borrow up to $300,000.00 to buy the rental property (Appx. p. 131, lines 14-16) so they would not have to wait for, and keep coming back to, a called Church meeting for approval (Appx. p. 99) (Appx. p. 101). This pre-approval allowed Respondents to move forward with their negotiations in a timely manner (Appx. pp. 99, 101).

Petitioner Brantley's allegations were egregious not only because of his position as the pastor, but also because before the meeting he clarified with Church Finance Officer Francina

Roche that the authorized amount of the loan to buy rental property for the Church's community outreach ministry was the $300,000.00 which was borrowed (Appx. p. 131, lines 14-16). Also before the meeting, Petitioner Brantley made no attempt to determine whether or not any money was actually missing (Appx. p. 131, lines 7-16). During the meeting, Church Finance Officer Francina Roche reported that all the Church's money was accounted for (Appx. p. 94). After the meeting, Church Finance Officer Francina Roche made it a point to tell Petitioner Brantley that all of the money was accounted for (Appx. p. 109) and that none was missing. Even so, Petitioner Brantley seemed unconcerned about the accounting (Appx. p. 109). After the meeting, a preliminary audit was done. It revealed that no money was mismanaged or missing (Appx. p. 127, lines 2-13). By that time, the word on the street was that Respondents had stolen money from the Church (Appx. p. 90). The damage to Respondents' reputations had been done.

On September 16, 2008 before the trial began, the trial court dismissed for lack of jurisdiction. On January 26, 2011, the Court of Appeals properly reversed the trial court as to the Defamation claim.

ARGUMENTS

I. NEUTRAL PRINCIPLES OF CIVIL LAW MAY BE APPLIED TO THE DEFAMATION CLAIM WITHOUT DISTURBING THE CHURCH'S DECISION TO REMOVE RESPONDENTS AS TRUSTEES.

Respondents' claim of Defamation against Petitioner Brantley can be resolved by applying neutral principles of civil law without disturbing the Church's decision to remove them as Trustees and without considering the Church's beliefs, policy, governance or doctrine. When resolving church disputes, South Carolina courts are to apply the "neutral principles of law approach." All Saints Parish Waccamaw v. Protestant Episcopal Church in Diocese of S.C., 385 S.C. 428, 442, 685 S.E.2d 163, 170 (2009); Jones v. Wolf, 443 U.S. 595 (1979). The "neutral

principles of law" approach permits the application of property, corporate *and other forms of law* to church disputes. Id. at 444 (emphasis added). Further, where a civil court can completely resolve a church dispute on neutral principles of law, the First Amendment commands it to do so without resolving underlying controversies over religious doctrine. Serbian Eastern Orthodox Diocese v. Milivojevich, 426 U.S. 696, 96 S.Ct. 2372 (1976). In our case, the Court of Appeals' decision follows both the federal law and the well-established South Carolina Law.

The jurisdiction of civil courts as to civil rights involved in a church controversy is further defined in Pearson v. The Church of God, 325 S.C. 45, 478 S.E.2d 849 (1996) (quoting Bramlett v. Young, 229 S.C. 519, 537-38, 93 S.E.2d 873, 882 (1956)). Pearson holds that "civil courts do 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." Id. at 51 (emphasis added), that courts cannot avoid adjudicating rights arising from civil law, and that courts must accept as final and binding the decision of the church's highest judicatories as to administration. Id. In our case, the Court of Appeals' decision follows this case law.

Petitioner Brantley incorrectly asserts that the "neutral principles of law approach" is restricted to property disputes and contractual issues (Petition, p. 12) citing Morris Street Baptist Church v. Dart, 67 S.C. 338 (1903). Morris Street involves a church's attempt to enjoin and to restrain a pastor from preaching and from attempting to function as a pastor after the congregation had voted to dismiss him. The pastor asserted that he was entitled to three months' notice before he could be dismissed. The court held that a church may dismiss its pastor without notice at a properly-called, regular business meeting. While the court mentions rights "growing out of a contract" or "possession of property," it does not restrict the "neutral principles of law"

approach to these two issues. Id. at 342. The Morris Street holding is much broader than Respondent Brantley suggests. "When a *civil* right depends upon an ecclesiastical matter, it is the civil court, and not the ecclesiastical, which is to decide (emphasis added). But the civil tribunal tries the civil right and no more, taking the ecclesiastical decisions out of which the civil right arises, as it finds them." Id. at 341, 45 S.E. at 754.

Respondents' Defamation claim seeks redress of a civil right.[1] One effect of the trial court's ruling is that those who belong to an organized religion lose their civil rights by joining. Parishioners can be harmed by their pastor without redress. Penalizing Respondents for joining an organized religion violates the First Amendment.

II. PETITIONER BRANTLEY'S DISPARAGING REMARKS AGAINST RESPONDENTS ARE NOT INTERTWINED WITH CHURCH GOVERNANCE.

All of the legal authority relied upon by Petitioner Brantley is intertwined with issues of expelling members or firing employees (the ministerial exception) of a church. In contrast, our case involves neither issue.

Petitioner Brantley's false allegations are not protected speech. Challenging them would not affect church governance at all, because Respondents are not attacking the Church's beliefs or its decision to remove them as Trustees. Instead, the Defamation claim is focused solely upon Petitioner Brantley's behavior-- specifically his false allegation that Respondents misappropriated $300,000.00 (Appx. p. 93) (Appx. pp. 101-102) (Appx. p. 113) (Appx. p. 129, lines 7-25) (Appx. p. 130, lines 1-9).

Further, Petitioner Brantley incorrectly suggests that civil courts may not inquire into any matters of church administration (Petition, p. 16). This suggestion contradicts federal law. At

[1] In the same vein as the many molestation claims of young parishioners against Catholic Priests.

best, Petitioner Brantley's allegations are very peripheral to the Church's administration. Even so, in Serbian Eastern Orthodox Diocese v. Milivojevich, 426 U.S. 696 at 709 (1976), the Court accepted extensive inquiry by civil courts into religious law and polity when it used the words "extensive inquiry" in its holding. The Court held that when such an extensive inquiry is made, the First and Fourteenth Amendments of the United States Constitution mandate that "civil courts shall not disturb the decisions of the highest ecclesiastical tribunal within a church of hierarchical polity, but must accept such decisions as binding on them in their application to the religious issues of doctrine or polity before them." Id. at 709. This rule requires that proof be made as to what these decisions are. If proofs on the decisions conflict, then the civil court will inevitably have to choose one over the other. In our case, the Church is governed congregationally. It is not governed by a ruling hierachy as in Kedroff v. St. Nicholas Cathedral, 344 U.S. 94, 73 S. Ct. 143 (1952), another case upon which Petitioner Brantley relies. As such, there is no appeal from a congregational decision (Appx. p. 32, lines 15-18). Therefore, the trial court has jurisdiction to review actions taken by both the congregation (which is not before the Court) (see Knotts v.Williams, 319 S.C. 473, 479 (1995)) and the pastor.

Petitioner Brantley's reliance upon Jae-Woo Cha v. Korean Presbyterian Church of Washington, 553 S.E.2d 511 (Va. 2001) is misplaced. Our case is easily distinguishable. In Jae Woo Cha, a pastor sued his church and its governing board for wrongful termination and for the resulting defamation. The court held that because the defamation was intertwined with the termination, it could have a potentially chilling effect on the performance of the duties of a religious board's members. Id. at 515. Even though the court in Jae-Woo Cha declined jurisdiction, it recognized that there are situations in which a civil court may exercise jurisdiction over a plaintiff's tort claims as to a church and its officials. In our case, Respondents

have neither contested their termination as Trustees, nor were they employees of the Church, nor did they sue a governing board. Further, Petitioner Brantley fails to assert any potential chilling effect on operation of the Church.

Also, Respondent Brantley's reliance upon Sherbert v. Verner, 374 U.S. 398, 83 S. Ct. 1790 (1963) is misplaced. Sherbert held that South Carolina's denial of unemployment benefits to an employee who was fired for refusing to work on the Sabbath Day (a Saturday) of her faith was unconstitutional, because such a policy required the employee to abandon her religious convictions. Such drastic action has not occurred in our case.

The Defamation claim against Petitioner Brantley is not intertwined in the congregation's decision to remove them as trustees. The false allegations can be considered in isolation, separate and apart from the congregation's decision to remove Respondents as Trustees without considering the Church's beliefs.

It is important to observe what Respondents have not done. They have not challenged Petitioner Brantley's authority as pastor. They have not challenged their removal as Trustees. They have not challenged any decision of the Church. The trial court took notice of this fact before ruling when it admitted, "I don't know that the decision of the body is what's being called into question." (Appx. p. 51, lines 16-18). This alone distinguishes our case from all of the cases relied upon by Petitioner Brantley.

Petitioner Brantley fails to show that the trial court's hearing the Defamation claim would violate religious freedom. Further, Petitioner Brantley fails to show even a potential chilling effect upon the Church's operation or its beliefs, because none exists.

Another effect of the trial court's ruling is that a pastor or other church leader may be shielded from his/her wrongful actions by hiding behind the protective cloak of his/her church,

thus granting a privilege to pastors and to other church leaders not generally available to other people. The effect of the trial court's decision would open the floodgates to allow a pastor or other church leader to commit all kinds of atrocious behavior at his/her church without redress by the aggrieved.

CONCLUSION

The Court of Appeals correctly decided that the Defamation claim against Petitioner Brantley can be decided without intruding into the Church's beliefs, policy, governance or doctrine. This Court should not grant certiorari review, because no special and important reasons exist for doing so. Aside from the civil court, Respondents have nowhere else to turn for redress.

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ATTORNEY FOR RESPONDENTS

May 19, 2011
Charleston, South Carolina

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

John M. Milling, Circuit Court Judge

Civil Action No. 2007-CP-10-896
Case Tracking No. 2011-188006

Ira Banks, James Bell and Vernon Holmes, Respondents,

v.

St. Matthew Baptist Church, an unincorporated association and Clinton Brantley of whom Clinton Brantley is the Petitioner.

PROOF OF SERVICE

I certify that I have served the *RETURN TO PETITION FOR WRIT OF CERTIORARI* on Petitioner Clinton Brantley by depositing a copy of it in the United States Mail, postage prepaid, on May 19, 2011 addressed to its attorney of record, Weston Adams, III (PO Box 12519, Columbia, SC 29211-2519) and upon St. Matthew Baptist Church, an unincorporated association by depositing a copy of it in the United States Mail, postage prepaid, on May 19, 2011 addressed to its attorney of record, Richard C. Thomas (PO Box 8448, Columbia, SC 29202).

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May 19, 2011
Charleston, South Carolina

Original

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED
JUN 2 2011
S.C. Supreme Court

APPEAL FROM CHARLESTON COUNTY
COURT OF COMMON PLEAS

THE HONORABLE JOHN M. MILLING, CIRCUIT COURT JUDGE

CIVIL ACTION NO. 2007-CP-10-896

IRA BANKS, JAMES BELL, AND VERNON HOLMES,.....RESPONDENTS,

V.

ST. MATTHEW BAPTIST CHURCH, AN UNINCORPORATED ASSOCIATION,
AND CLINTON BRANTLEY,
OF WHOM
CLINTON BRANTLEY IS THE .....PETITIONER.

REPLY TO RESPONDENTS' RETURN IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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Respondents have not substantively addressed the issue of whether this Court should grant Petitioner Brantley's Petition for certiorari review. Instead, their Return is devoted almost entirely to arguing the merits of their case. Although Respondents list as their second question presented, "Are there special and important reasons for this Court to review the Court of Appeals' decision?" they do not address this question in any meaningful way. The only other reference to this Court's standard for granting review is in Respondents' Conclusion where they summarily conclude that there are no "special and important reasons" for this Court to grant certiorari review. (Resp. Ret. P. 7). Although the list of reasons for granting review contained in SCACR 242(b) is not exclusive, something more than repetition that there are no special and important reasons is required to defeat a petition for review. This is particularly true where, as here, the issues presented to this Court involve a novel question of law,[1] where substantial constitutional issues are directly involved, and where the decision of the Court of Appeals is in conflict with every federal and state court that has considered a defamation claim under similar circumstances. For the reasons stated herein, as well as in Petitioner's Petition for Writ of Certiorari, Petitioner requests that this Court grant certiorari review of the Court of Appeals' January 26, 2011 Opinion in this case.

Petitioner addresses Respondents' specific objections to its Petition below:

Respondents argue to this Court, as they did to the Court of Appeals, that civil courts have jurisdiction of this matter because they are not challenging the Church's decision to remove them as Trustees. (Resp. Ret. pp. 2, 6). That fact alone does not

[1] Respondents' claim that "[a]ll of the legal authority relied upon by Petitioner Brantley is intertwined with issues of expelling members or firing employees (the ministerial exception) of a church. In contrast, our case involves neither issue," (Resp. Pet. p. 4), essentially confirms that this case presents a novel issue of law.

mean civil courts automatically have power to hear this case. Instead, the next step in the analysis requires that a court analyze whether it can decide this case in its entirety on civil principles of law without intruding into matters of "religious law, principle, doctrine, discipline, custom or administration." Neither the Court of Appeals nor Respondents have explained how the defamation claim raised in this case – based on statements made during a meeting of the highest decision-making authority (the congregation), and which were made for the purpose of deciding an issue of church governance and administration (to remove the Respondents as Trustees of the church) – can be resolved without encroaching on matters of internal church governance, administration, custom and, as admitted by Respondents themselves, the spiritual mission of St. Matthew in the church community.[2]

Respondents imply that this Court's holdings in All Saints Parish Waccamaw v. Campbell, 385 S.C. 428, 685 S.E.2d 163 (2009), Pearson v. Church of God, 325 S.C. 45, 478 S.E.2d 849 (1996), and Morris Street Baptist Church v. Dart, 67 S.C. 338, 45 S.E. 753 (1903), not only permit but require civil courts to hear any church controversy that involves a civil claim, regardless of First Amendment concerns. (Resp. Ret. pp. 2-4). Contrary to Respondents' assertions, just because a case involves civil law does not mean it is automatically justiciable by civil courts. Instead, unless a civil court can *completely* resolve a case without becoming entangled in "religious law, principle, doctrine,

[2] Appellant Holmes testified that the purchase of the Grayson Street apartment building was more than a means of generating income for the Church; it was "intertwined with the church's ministry." (Appx. p. 137, lines 4-8) (Appx. p. 135, line 7 – p. 136, line 21). Appellant Banks confirmed that he had been informed by Reverend Brantley that the purchase of the apartments was "part of the kingdom building process of St. Matthew being involved in the immediate community of the church." (Appx. p. 146, line 24 – p. 147, line 4); *see also* (Appx. p. 152, line 7 – p. 153, line 13); (Appx. p. 156, lines 21-23 (noting that Reverend Brantley "wanted to buy up everything around that church and make it a part of the church")). Furthermore, Appellant Holmes testified that his role as a Trustee in the selection and purchase of the apartment building "in that capacity, was to carry out the church's mission." (Appx. p. 133, lines 16-20).

discipline, custom, or administration," civil courts lack jurisdiction to hear the case. All Saints Parish, 385 S.C. at 445, 685 S.E.2d at 172. In this case, civil courts cannot *completely* resolve Respondents' defamation claims without considering issues of church governance, administration and polity.

Contrary to Respondents' assertions, Petitioner has not claimed that the neutral principles of law doctrine is restricted only to property and contract cases, (Resp. Ret. p. 3), but, rather, that those are the only contexts in which it has been applied to date in South Carolina. Furthermore, Petitioners agree that the neutral principles of law doctrine may be applied in certain civil cases other than strictly property and contract cases. However, as noted above, simply because the neutral principles of law doctrine may be applied in cases involving other forms of civil law, it does not follow that that doctrine applies to *every* case involving civil claims.

Respondents attempt to turn First Amendment analysis on its head by suggesting that it would be a violation of the First Amendment for civil courts not to hear their claim. (Resp. Ret. p. 4). Neither Petitioner nor courts have suggested that, by joining a church, parishioners give up all of their civil rights. However, courts have held that, by joining a voluntary religious organization, individuals do subject themselves to the authority of that organization. *See e.g.*, Serbian Eastern Orthodox Diocese v. Milivojevich, 426 U.S. 696, 711, 96 S. Ct. 2372, 2381 (1976) (quoting Watson v. Jones, 13 Wall. 679 (1872) to the effect that 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"); Anderson v. Watchtower Bible & Tract Soc. of N.Y., Inc., No. M2004-01066-COA-R9-CV, 2007 Tenn. App. LEXIS 29, *21, 88-89 (Tenn. Ct. App. Jan. 19, 2007) (explaining that, when a person voluntarily joins a religious organization, "that person not only consents to the final decision by that organization's tribunals without recourse to civil courts," but also that "the First Amendment's protection of internal disciplinary proceedings would be meaningless if a parishioner's accusation that was used to initiate those proceedings could be tested in a civil court").

Respondents' attempt to equate statements made during a congregational meeting regarding church administration and governance issues, to the sexual "molestation claims of young parishioners against Catholic Priests," is a stretch at best. If anything, such a comparison serves to illustrate the distinction between those types of compelling claims that civil courts will prosecute and those claims, like defamation, that are not sufficiently compelling that courts are willing to step beyond the First Amendment and the church door to resolve. "Under most circumstances, defamation is one of those common law claims that is not compelling enough to overcome First Amendment protection." Patton v. Jones, 212 S.W.3d 541, 553-54 (Tex. App. 2006), *quoting* Heard v. Johnson, 810 A.2d 871 (D.C. 2002).

It is unclear what point Respondents are attempting to make by asserting that Reverend Brantley's statements are not "protected speech." Petitioners have not claimed that the statements made by Reverend Brantley during the May 22, 2006 congregational meeting are protected by the First Amendment's provision that "Congress shall make no

law . . . abridging the freedom of speech." Instead, Petitioners assert that, because the statements were made during a meeting of the highest decision-making body of the religious organization (the congregation) as opposed to the public in general, and because they were made precisely in order to make Reverend Brantley's case on a matter of internal church governance and administration (whether Respondents should be removed as Trustees), the Respondents' defamation claims based solely on those statements made in that context cannot be tried by civil courts.

Respondents claim that, "Petitioner Brantley's allegations are very peripheral to the Church's administration," (Resp. Ret. p. 5), and that the defamation claim "is not intertwined in the congregation's decision to remove them as trustees." (Resp. Ret. p. 6). The fact is that all of the statements they allege as defamatory were made in the context of a congregational meeting where issues of church governance and administration were being decided, and all of the statements were made for the purpose of making Reverend Brantley's case with regard to whether Respondents should continue to serve or be removed as Trustees of the Church. Thus, the alleged defamatory statements are directly and entirely intertwined with issues of church governance and administration. Simply saying these matters are not intertwined, does not make it so. Instead, all of Respondents' allegations center on statements made by Reverend Brantley in the May 22, 2006 congregational meeting regarding their fitness to serve as Trustees.

Respondents then assert the surprising propositions that, because the U.S. Supreme Court used the words "extensive inquiry" in its holding in Milivojevich, that that Court "accepted extensive inquiry by civil courts into religious law and policy," and that, because "there is no appeal from a congregational decision, . . . the trial court has

jurisdiction to review actions taken by both the congregation . . . and the pastor." (Resp. Ret. p. 5). Neither proposition is sustainable. In fact, the relevant passage in Milivojevich provides that:

> where resolution of the disputes cannot be made without extensive inquiry by civil courts into religious law and polity, the *First* and *Fourteenth Amendments* mandate that civil courts shall not disturb the decisions of the highest ecclesiastical tribunal within a church of hierarchical polity, but must accept such decisions as binding on them, in their application to the religious issues of doctrine or polity before them.

426 U.S. at 709, 96 S. Ct. at 2380; *see also* Id. at 718, 96 S. Ct. at 2384 (noting that the "detailed review" conducted by the Illinois Supreme Court into the church's decision making process was "impermissible under the *First* and *Fourteenth Amendments*"). In other words, if resolution of the dispute requires extensive inquiry into religious law and polity, then pursuant to the prohibitions in the *First* and *Fourteenth Amendments*, the claim cannot be adjudicated by civil courts.

Although resolution of the issue of whether Bishop Milivojevich had been properly removed or not was decided by accepting the decision of the highest decision-making body in a hierarchical religious organization, the second issue in that case, essentially a property issue, was decided under the neutral principles of law doctrine. Ultimately, the U.S. Supreme Court held that civil courts were prohibited from hearing the property dispute because it involved "a matter of internal church government, an issue at the core of ecclesiastical affairs." 426 U.S. at 721-22, 96 S. Ct. at 2386; *quoting* Kedroff v. St. Nicholas Cathedral, 344 U.S. 94, 73 S. Ct. 143 (1952) (the *First* and *Fourteenth Amendment* protections encompass the "power [of religious bodies] to decide for themselves, free from state interference, matters of church government as well as

those of faith and doctrine"). Thus, Respondents' reliance on Milivojevich is misplaced and should be disregarded.

Respondents claim that their defamation claims can be resolved separate from the decision to remove them as Trustees and "without considering the Church's beliefs." (Resp. Ret. p. 6). Respondents' statement reflects a basic misunderstanding of the scope of *First* and *Fourteenth Amendment* protection. As discussed previously, those protections extend to matters of internal church governance, administration and polity as well as spiritual beliefs.

Respondents attempt to distinguish the defamation cases relied on by Petitioners involving the expulsion of church members or firing of employees by pointing out that Respondents are not challenging their removal as Trustees and asserting that, "this alone distinguishes our case from all of the cases relied upon by Petitioner Brantley." (Resp. Ret. p. 6). Respondents are simply wrong on this point. First, in Downs v. Roman Catholic Archbishop of Baltimore, 683 A.2d 808 (Md. Ct. Spec. App. 1996), the plaintiff insisted, as do Respondents here, that he was not challenging the decision to dismiss him or asking for reinstatement. 683 A.2d at 810. Nonetheless, the court held that, where the allegedly defamatory statements were made with the intent to sway a decision as to the plaintiff's suitability for priesthood, "whether valid and fair or invalid and unfair . . . [the fact that] the offensive conduct was so directed is what brings this case squarely within the protective ambit of the First Amendment." Id. at 813. Similarly, in Farley v. Wisconsin Evangelical Lutheran Synod, 821 F. Supp. 1286 (D. Minn. 1993) (relied on by Petitioner below, *see* Appx. p. 227), the plaintiff argued, as do Respondents here, that his defamation claim could be maintained without offending the First Amendment because

he was not challenging the church's decision to terminate his position. The court rejected plaintiff's argument and held that resolution of the defamation claim would necessarily involve examining the basis for the plaintiff's removal from office and the veracity of the challenged statements. This, the court held, "would implicate the concerns expressed in the First Amendment." Id. at 1290.

The other defamation cases relied on by Petitioner similarly separate out the defamation analysis from any consideration of the ultimate decision of the religious decision-making body. *See* Jae-Woo Cha v. Korean Presbyterian Church of Washington, 553 S.E.2d 511 (Va. 2001) (the court first disposed of the plaintiff's wrongful termination claim and then analyzed his defamation claim separately, finding that the defamation claim could not be "considered in isolation, separate and apart from the church's decision to terminate his employment" because the "individual defendants who purportedly uttered defamatory remarks about the plaintiff were church officials who attended meetings of the church's governing bodies that had been convened for the purpose of discussing certain accusations against the plaintiff"); Schoenhals v. Mains, 504 N.W.2d 233, 234-35 (Minn. Ct. App. 1993) (although the plaintiffs brought a defamation claim against the pastor of their former church for statements made leading up to their dismissal from the church congregation, they did not challenge the dismissal itself); Patton v. Jones, 212 S.W.3d 541 (Tex. App. 2006) (the court considered the plaintiff's tortious interference with an employment contract claim separately from his defamation claim, and found that statements made as part of the church's employment decision-making process "were properly dismissed for a lack of subject matter jurisdiction"); Bourne v. Center on Children, Inc., 838 A.2d 371, 378-79 (Md. Ct. Spec. App. 2003) (where the

plaintiff filed separate breach of contract and defamation claims, the court rejected his argument that it could hear his "secular defamation claim," and stated that, "[w]hen allegedly defamatory statements are made during the process of determining fitness for religious leadership positions, even if the statements are invalid and unfair, such speech is protected through the ambit of the First Amendment freedom of religion provisions"); Yaggie v. Indiana-Kentucky Synod, 860 F. Supp. 1194, 1195 (W.D. Ky. 1994) (the allegedly defamatory statements were made during attempts to reconcile a pastor with his congregation and did not involve any decision to remove the plaintiff from his position); and Anderson, 2007 Tenn. App. LEXIS 29 (the court analyzed the defamation claims entirely separate from the "disfellowshipping" claim and held that civil courts cannot hear defamation claims based on "statements made in the context of a religious disciplinary proceeding"). In the end, the fact that Respondents are not challenging their removal as Trustees does not mean that civil courts automatically can hear their defamation claim.

Respondents allege that Petitioner has failed to assert "any potential chilling effect on operation of the Church." (Resp. Ret. p. 6). The chilling effect that would result from civil courts hearing Respondents' defamation claim is that church leaders and members would be afraid of expressing their views regarding an individual's fitness to serve in positions of church leadership – in meetings called precisely to consider such issues – if they could be subjected later to civil defamation claims based on those statements. The threat of a civil lawsuit would particularly hamper governance and administration in congregational churches because those issues are decided in meetings such as the May 22, 2006 meeting of St. Matthew Baptist.

Respondents also charge that Petitioner Brantley has failed to show how allowing civil courts to hear their defamation claim would "violate religious freedom." (Resp. Ret. p. 6). The First Amendment concerns raised by Petitioner in this case center on the Establishment Clause and the Free Exercise Clause. *See, e.g.*, McKelvey v. Pierce, 800 A.2d 840, 849 (N.J. 2002) (explaining that the Establishment Clause prohibits states from promoting a particular religion or becoming too entangled, either procedurally or substantively, in religious affairs, whereas the Free Exercise Clause forbids "governmental action from encroaching on the ability of a church to manage its internal affairs").

Finally, Respondents warn that the Circuit Court's order dismissing this case would "shield" pastors and other church leaders from wrong-doing and "open the floodgates to allow a pastor or other church leader to commit all kinds of atrocious behavior at his/her church without redress by the aggrieved." (Resp. Ret. pp. 6-7). These alarmist statements are no more than a red herring and should be dismissed. Courts have consistently held that some issues are important or serious enough to outweigh First Amendment concerns. Exceptions to the prohibition against court involvement in internal church affairs have been made only in narrow circumstances where the conduct or actions under question "invariably posed some substantial threat to public safety, peace or order." Sherbert v. Verner, 374 U.S. 398, 403, 83 S. Ct. 1790, 1793 (1963); *see also* McClure v. The Salvation Army, 460 F.2d 553, 558 (5th Cir. 1972) (holding that "only in rare instances where a 'compelling state interest in the regulation of a subject within the State's constitutional power to regulate' is shown can a court uphold state action which imposes even an 'incidental burden' on the free exercise of religion").

However, as noted above, defamation is not one of those claims that rises to that level of concern, regardless of how Respondents attempt to paint the egregious nature of the statements they allege caused them harm. *See, e.g.*, Heard v. Johnson, 810 A.2d 871, 883 (D.C. Ct. App. 2002) (explaining that "[u]nder most circumstances, defamation is one of those common law claims that is not compelling enough to overcome First Amendment protection . . ."); Anderson, 2007 Tenn. App. LEXIS 29 at *81-83 (explaining that "a majority of courts have held that defamation claims by church members against the religious organization itself and its officials are not justiciable under the Free Expression and Establishment Clause" because "only those interests of the highest order and those not otherwise served can overbalance legitimate claims to the free exercise of religion," *citing* Wisconsin v. Yoder, 406 U.S. 205, 215, 92 S.Ct. 1526, (1972)).

CONCLUSION

For the reasons stated herein and in Petitioner's Petition for Certiorari Review, Petitioner Brantley respectfully requests this Court to grant certiorari review of the Court of Appeals' Opinion.

Respectfully submitted,

McANGUS GOUDELOCK & COURIE, LLC

June 2, 2011

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COLUMBIA

June 2, 2011

VIA HAND DELIVERY

The Honorable Daniel E. Shearouse
Supreme Court of South Carolina
1231 Gervais Street
Columbia, South Carolina 29201

Re: Ira Banks, James Bell, and Vernon Holmes v. St. Matthew Baptist Church and Clinton Brantley
Civil Action No. 2008-105126
Claim No.: 10B21556
Date of Loss: May 22, 2006
Our File No.: 20402.07002

Dear Mr. Shearouse:

Enclosed for filing please find the original and seven (7) copies of Petitioner's Reply to Respondents' Return in Opposition to Petition for Writ of Certiorari, and the original and one copy of the Proof of Service in the above-referenced matter. Please file the originals and return the clocked-in copies via our courier.

If you have any questions, please contact me.

Very truly yours,

McAngus Goudelock & Courie, LLC

Weston Adams, III

WAIII/lhs
Enclosures

cc: Richard C. Thomas, Esquire
Thomas O. Sanders, IV, Esquire
Ms. Margie Warren

The Supreme Court of South Carolina

Ira Banks, James Bell and Vernon Holmes, Respondents,

v.

St. Matthew Baptist Church, and Unincorporated Association, and Clinton Brantley, Of whom Clinton Brantley is the, Petitioner.

The Honorable John M. Milling
Charleston County
Trial Court Case No. 2007-CP-10-896

ORDER

For good cause having been shown, the time for serving and filing the Reply to Return to Petition for Writ of Certiorari and Appendix in the above entitled matter is hereby extended until June 10, 2011.

IT IS SO ORDERED.

JEAN H. TOAL, CHIEF JUSTICE

BY Brenda J. Shealy
Clerk
Chief Deputy

Columbia, South Carolina

May 31, 2011

cc: Weston Adams, III, Esquire
Gunnar Nistad, Esquire
Helen F. Hiser, Esquire
Thomas O. Sanders, IV, Esquire
Richard C. Thomas, Esquire
Matthew G. Gerrald, Esquire

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM CHARLESTON COUNTY
COURT OF COMMON PLEAS

THE HONORABLE JOHN M. MILLING, CIRCUIT COURT JUDGE

CIVIL ACTION NO. 2007-CP-10-896

IRA BANKS, JAMES BELL, AND VERNON HOLMES,.....RESPONDENTS,

V.

ST. MATTHEW BAPTIST CHURCH, AN UNINCORPORATED ASSOCIATION,
AND CLINTON BRANTLEY,
OF WHOM
CLINTON BRANTLEY IS THE .....PETITIONER.

PETITIONER'S MOTION FOR EXTENSION OF TIME TO FILE PETITIONER'S REPLY IN OPPOSITION TO RESPONDENTS' RETURN

Petitioner Clinton Brantley hereby moves for an extension of time in which he must file his Reply in Opposition to Respondents' Return in Opposition to Petitioner's Petition for certiorari review. Petitioner's Reply currently is due on May 31, 2011 and, with the 10-day extension, will be due on June 10, 2011.

May 27, 2011

Weston Adams, III
Helen F. Hiser
McAngus, Goudelock & Courie LLC
Meridian 10th Floor
1320 Main Street
PO Box 12519
Columbia, SC 29211-2519
Attorneys for Petitioner Clinton Brantley

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM CHARLESTON COUNTY
COURT OF COMMON PLEAS

THE HONORABLE JOHN M. MILLING, CIRCUIT COURT JUDGE

CIVIL ACTION NO. 2007-CP-10-896

IRA BANKS, JAMES BELL, AND VERNON HOLMES,.....RESPONDENTS,

V.

ST. MATTHEW BAPTIST CHURCH, AN UNINCORPORATED ASSOCIATION,
AND CLINTON BRANTLEY,
OF WHOM
CLINTON BRANTLEY IS THE .....PETITIONER.

PROOF OF SERVICE

I certify that I have served the **Petitioner's Motion for Extension of Time to File Petitioner's Reply in Opposition to Respondents' Return** on Respondents, by depositing a copy of it in the United States Mail, postage prepaid, on the 27th day of May 2011, addressed to all attorneys of record:

Thomas O. Sanders, IV, Esquire
Sanders Law Firm, LLC
1738 Three Oaks Avenue
Charleston, South Carolina 29407
Attorney for Respondents

Richard C. Thomas, Esquire
Barnes, Alford, Stork & Johnson
Post Office Box 8448
Columbia, SC 29202
Attorney for Respondent below, St. Matthew Baptist Church

[SIGNATURE ON FOLLOWING PAGE]

Lee Weiland
Paralegal to Weston Adams, III
McANGUS GOUDELOCK & COURIE LLC
Meridian 10th Floor
1320 Main Street
PO Box 12519
Columbia, SC 29211-2519

(803) 779-2300

Attorneys for Petitioner Clinton Brantley

McAngus Goudelock & Courie LLC

ATTORNEYS AT LAW

Reply To
WESTON ADAMS, III
Direct Dial: (803) 227-2322
wadams@mgclaw.com
COLUMBIA

May 27, 2011

The Honorable Daniel E. Shearouse
Supreme Court of South Carolina
1231 Gervais Street
Columbia, South Carolina 29201

Re: Ira Banks, James Bell, and Vernon Holmes v. St. Matthew Baptist Church and Clinton Brantley
Civil Action No. 2008-105126
Claim No.: 10B21556
Date of Loss: May 22, 2006
Our File No.: 20402.07002

Dear Mr. Shearouse:

Enclosed please find the original and seven (7) copies of Petitioner's Motion for Extension of Time to File Petitioner's Reply in Opposition to Respondents' Return and the original and one copy of the Proof of Service in the above-referenced matter. Please file the originals and return the clocked-in copies via our courier. If you have any questions, please contact me.

Also, enclosed is our firm's check in the amount of $25 for filing the motion.

If you have any questions, please contact me.

Yours truly,

Weston Adams, III

WA/lhs
Enclosures

Check #159609
$25.00

cc: Richard C. Thomas, Esquire
Thomas O. Sanders, IV, Esquire
Margie Warren, GuideOne Insurance Co.

SANDERS LAW FIRM, LLC

1738 THREE OAKS AVENUE
CHARLESTON, SOUTH CAROLINA 29407
WWW.SANDERSLAWFIRM.COM

THOMAS O. SANDERS, IV, ATTORNEY AT LAW
Certified Mediator by S.C. Supreme Court

Tel. (843)573-8828
Fax. (843)573-9288
E-mail tosanders@sanderslawfirm.com

May 23, 2011

The Honorable Daniel E. Shearouse, Clerk
Attn.: Ms. Linda Allen
South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

RE: Ira Banks, James Bell and Vernon Holmes v. Clinton Brantley
Your Tracking #: 2011-188006

Dear Ms. Allen:

Attached please find an additional six (6) copies of the following: 1) *Return to Petition for Writ of Certiorari*; and 2) *Proof of Service* for your use.

Thank you very much for your help with this matter.

Respectfully,

Thomas O. Sanders, IV

TOS/jm
cc: Weston Adams, III, Esquire (by email)
Richard C. Thomas, Esquire (by email)

SANDERS LAW FIRM, LLC

1738 THREE OAKS AVENUE
CHARLESTON, SOUTH CAROLINA 29407
WWW.SANDERSLAWFIRM.COM

THOMAS O. SANDERS, IV, ATTORNEY AT LAW
Certified Mediator by S.C. Supreme Court

Tel. (843)573-8828
Fax. (843)573-9288
E-mail tosanders@sanderslawfirm.com

May 19, 2011

BY FEDEX (Tracking #: 8433 8570 8046)
The Honorable Daniel E. Shearouse, Clerk
Attn.: Ms. Linda Allen
South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

RE: Ira Banks, James Bell and Vernon Holmes v. Clinton Brantley
Your Tracking #: 2011-188006

Dear Ms. Allen:

Attached please find the following: 1) *Return to Petition for Writ of Certiorari*; and 2) *Proof of Service*. Please file the originals and return to me a clocked copy of each in the self-addressed, stamped envelope provided.

Thank you very much for your help with this matter.

Respectfully,

Thomas O. Sanders, IV

TOS/jm
cc: Mr. Ira Banks
Mr. James Bell
Mr. Vernon Holmes
Weston Adams, III, Esquire
Richard C. Thomas, Esquire

McAngus Goudelock & Courie LLC

ATTORNEYS AT LAW

Reply To
HELEN F. HISER
Direct Dial: (843) 576-2930
helen.hiser@mgclaw.com
CHARLESTON

May 17, 2011

Ms. Brenda Allen
Supreme Court of South Carolina
1231 Gervais Street
Columbia, South Carolina 29201

RE: Ira Banks, James Bell, and Vernon Holmes v. St. Matthew Baptist Church and Clinton Brantley
Date of Loss: May 22, 2006
Our File No.: 20402.07002
Civil Action No. 2008-105126
Claim No.: 10B21556

Dear Ms. Allen:

Please find enclosed two copies of the cover of the Corrected Record on Appeal in the above-referenced matter. Counsel for Respondents Banks, Bell and Holmes, Thomas O. Sanders, IV, Esquire, has indicated that this was the only change from the originally-filed Record on Appeal below. It is our understanding that you will substitute these pages for the coversheet for the Record in the Appendix. Please let us know if there is anything additional we can provide.

Let me know if you have any questions.

Very truly yours,

Helen F. Hiser

HFH/gdm

Enclosure

cc: Richard C. Thomas, Esquire
Thomas O. Sanders, IV, Esquire
Margie Warren, GuideOne Insurance Co.

The Supreme Court of South Carolina

Ira Banks, James Bell and Vernon Holmes, Respondents,

v.

St. Matthew Baptist Church, and Unincorporated Association, and Clinton Brantley, of whom Clinton Brantley is the, Petitioner.

The Honorable John M. Milling
Charleston County
Trial Court Case No. 2007-CP-10-896

ORDER

For good cause having been shown, the time for serving and filing the Return to Petition for Writ of Certiorari in the above entitled matter is hereby extended until May 23, 2011.

IT IS SO ORDERED.

JEAN H. TOAL, CHIEF JUSTICE

BY _____
Clerk

Columbia, South Carolina

April 15, 2011

cc: Weston Adams, III, Esquire
Gunnar Nistad, Esquire
Helen F. Hiser, Esquire
Thomas O. Sanders, IV, Esquire
Richard C. Thomas, Esquire
Matthew G. Gerrald, Esquire

SANDERS LAW FIRM, LLC

1738 THREE OAKS AVENUE
CHARLESTON, SOUTH CAROLINA 29407
WWW.SANDERSLAWFIRM.COM

THOMAS O. SANDERS, IV, ATTORNEY AT LAW
Certified Mediator by S.C. Supreme Court

Tel. (843)573-8828
Fax. (843)573-9288
E-mail tosanders@sanderslawfirm.com

April 14, 2011

The Honorable Daniel E. Shearouse, Clerk
Attn.: Ms. Linda Allen
South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

RE: Ira Banks, James Bell and Vernon Holmes v. St. Matthew Baptist Church and Clinton Brantley, 2011-188006

Dear Ms. Allen:

Thank you for speaking with me on the phone today about my request for an extension of time to file my Return in the above-referenced matter. It is my understanding that the first time a Motion for Extension is requested on a case, it is generally granted as a matter of course. I appreciate this courtesy.

Attached please find the following: 1) *Motion for Extension of Time for Respondents to File Return*; and 2) *Proof of Service*. Please file the originals and return to me a clocked copy in the self-addressed, stamped envelope provided. Also attached is check #2934 from my trust account in the amount of $25.00 for the filing fee.

Again, thank you very much for your help with this matter.

Respectfully,

Thomas O. Sanders, IV

TOS/jm
cc: Mr. Ira Banks
Mr. James Bell
Mr. Vernon Holmes
Weston Adams, III, Esquire
Richard C. Thomas, Esquire

RECEIVED
APR 15 2011
S.C. SUPREME COURT
pm 4-14-11

MOTION FOR EXTENSION OF TIME FOR RESPONDENTS TO FILE RETURN

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

John M. Milling, Circuit Court Judge

Case No. 2011-188006

Ira Banks, James Bell and Vernon Holmes, Respondents,

v.

St. Matthew Baptist Church, an unincorporated association and Clinton Brantley of whom Clinton Brantley is the Petitioner.

MOTION FOR EXTENSION OF TIME FOR RESPONDENTS TO FILE RETURN

Respondents Ira Banks, James Bell and Vernon Holmes move for a thirty (30) day extension of time to file their Return from April 21, 2011 to May 23, 2011.

SANDERS LAW FIRM, LLC

Thomas O. Sanders, IV
1738 Three Oaks Avenue
Charleston, South Carolina 29407
(843)573-8828
ATTORNEY FOR RESPONDENTS

April 14, 2011
Charleston, South Carolina

Other Counsel of Record:

Weston Adams, III, Esquire
PO Box 12519
Columbia, SC 29211-2519
(803)779-2300
Attorney for Petitioner Brantley

Richard C. Thomas, Esquire
PO Box 8448
Columbia, SC 29202
(803)799-1111
Attorney for St. Matthew Baptist Church

PROOF OF SERVICE OF MOTION FOR EXTENSION OF TIME FOR RESPONDENTS TO FILE RETURN

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

John M. Milling, Circuit Court Judge

Case No. 2011-188006

Ira Banks, James Bell and Vernon Holmes, Respondents,

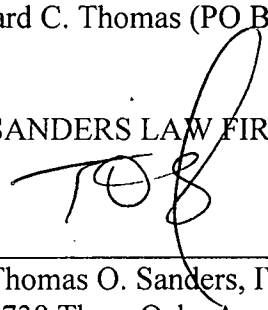
v.

St. Matthew Baptist Church, an unincorporated association and Clinton Brantley of whom Clinton Brantley is the Petitioner.

PROOF OF SERVICE

I certify that I have served the *Motion for Extension of Time for Respondents to file a Return* on Petitioner Clinton Brantley by depositing a copy of it in the United States Mail, postage prepaid, on April 14, 2011 addressed to its attorney of record, Weston Adams, III (PO Box 12519, Columbia, SC 29211-2519) and upon St. Matthew Baptist Church, an unincorporated association by depositing a copy of it in the United States Mail, postage prepaid, on April 14, 2011 addressed to its attorney of record, Richard C. Thomas (PO Box 8448, Columbia, SC 29202).

SANDERS LAW FIRM, LLC



Thomas O. Sanders, IV
1738 Three Oaks Avenue
Charleston, South Carolina 29407

(843)573-8828
ATTORNEY FOR RESPONDENTS

April 14, 2011
Charleston, South Carolina

McAngus Goudelock & Courie LLC

ATTORNEYS AT LAW

Reply To
HELEN F. HISER
Direct Dial: (843) 576-2930
helen.hiser@mgclaw.com
CHARLESTON

March 23, 2011

Ms. Linda Allen
Supreme Court of South Carolina
1231 Gervais Street
Columbia, South Carolina 29201

RE: Ira Banks, James Bell, and Vernon Holmes v. St. Matthew Baptist Church and Clinton Brantley
Date of Loss: May 22, 2006
Our File No.: 20402.07002
Civil Action No. 2008-105126
Claim No.: 10B21556

Dear Ms. Allen:

Please find enclosed a replacement of Volume II of the Appendix in the above-referenced matter, filed with the Supreme Court yesterday. The previously-filed version contained a technical error which has been corrected in the enclosed. Please discard the prior version of Volume II and replace with this one.

Let me know if you have any questions.

Very truly yours,

Helen F. Hiser

HFH/gdm

Enclosure

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

March 23, 2011

Weston Adams, III, Esquire
Gunnar Nistad, Esquire
Helen F. Hiser, Esquire
McAngus Goudelock
& Courie, LLC
P.O. Box 12519
Capitol Station
Columbia, SC 29211-2519

Re: Banks, Ira v. Brantley, Clinton
Case Tracking No. 2011-188006

Dear Counsel:

This office has received your Petition for Writ of Certiorari in the above matter. It has been assigned the Case Tracking Number that appears above. Please use this number on all future correspondence relating to this matter.

I do wish to call the attention of the parties to the attached order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will not review filings for redaction or to determine if materials should be sealed.

Very truly yours,

CLERK

DES/lda

Enclosure

cc: Thomas O. Sanders, IV, Esquire
Richard C. Thomas, Esquire
Matthew G. Gerrald, Esquire
The Honorable Tanya Gee

McAngus Goudelock & Courie LLC

ATTORNEYS AT LAW

Reply To
WESTON ADAMS, III
Direct Dial: (803) 227-2322
wadams@mgclaw.com
COLUMBIA

March 22, 2011

VIA HAND DELIVERY

The Honorable Daniel E. Shearouse
Supreme Court of South Carolina
1231 Gervais Street
Columbia, South Carolina 29201

Re: Ira Banks, James Bell, and Vernon Holmes v. St. Matthew Baptist Church and Clinton Brantley
Civil Action No. 2008-105126
Claim No.: 10B21556
Date of Loss: May 22, 2006
Our File No.: 20402.07002

Dear Mr. Shearouse:

Enclosed for filing please find the original and seven copies of Petitioner's Petition for Writ of Certiorari in the above-referenced matter. Also, enclosed are the following:

1. an original and one copy of Proof of Service of the Petition on Respondent;
2. two copies of our correspondence to the Clerk of the Court of Appeals notifying of the appeal; and
3. a Check in the amount of $100.00.

Please file the original documents and return the clocked-in copies via our courier.

If you have any questions, please contact me.

Very truly yours,

McAngus Goudelock & Courie, LLC

Weston Adams, III

Check # 15613
$100.00

WAIII/lhs

Enclosures

cc: Richard C. Thomas, Esquire
Thomas O. Sanders, IV, Esquire
Ms. Margie Warren
Honorable Tanya Gee

MG&C
McAngus Goudelock & Courie LLC

ATTORNEYS AT LAW

Reply To
WESTON ADAMS, III
Direct Dial: (803) 227-2322
wadams@mgclaw.com
COLUMBIA

March 22, 2011

Via Hand Delivery
The Honorable Tanya Gee
Clerk of Court
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: Ira Banks, James Bell, and Vernon Holmes v. St. Matthew Baptist Church and Clinton Brantley
Date of Loss: May 22, 2006
Our File No.: 20402.07002
Civil Action No. 2008-105126
Claim No.: 10B21556

Dear Ms. Gee:

Please find enclosed for filing the original and one (1) copy of the Petition for Writ of Certiorari in the above-captioned case. I would appreciate your returning a clocked-in copy of the same to me in the envelope provided.

By copy of this letter, I am serving counsel of record with the above-referenced Petition for Writ of Certiorari.

Thanking you in advance for your assistance, I am

Very truly yours,

Weston Adams, III

WA/lhs
Enclosures
cc: Richard C. Thomas, Esquire
Thomas O. Sanders, IV, Esquire
Ms. Margie Warren

McAngus Goudelock & Courie LLC

ATTORNEYS AT LAW

Reply To
WESTON ADAMS, III
Direct Dial: (803) 227-2322
wadams@mgclaw.com
COLUMBIA

RECEIVED

MAR 22 2011

S.C. Supreme Court

March 22, 2011

VIA HAND DELIVERY

The Honorable Daniel E. Shearouse
Supreme Court of South Carolina
1231 Gervais Street
Columbia, South Carolina 29201

Re: Ira Banks, James Bell, and Vernon Holmes v. St. Matthew Baptist Church and Clinton Brantley
Civil Action No. 2008-105126
Claim No.: 10B21556
Date of Loss: May 22, 2006
Our File No.: 20402.07002

Dear Mr. Shearouse:

Enclosed for filing please find the original and two copies of the Appendix in the above-referenced matter. Also, enclosed please find the original and one copy of the Proof of Service. Please file these documents and return clocked in copies to my courier.

If you have any questions, please contact me.

Very truly yours,

McAngus Goudelock & Courie, LLC

Weston Adams, III

WAIII/lhs
Enclosures

cc: Richard C. Thomas, Esquire
Thomas O. Sanders, IV, Esquire
Ms. Margie Warren