

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY  
G. Thomas Cooper, Jr., Circuit Court Judge

Case No. 2014-CP-40-6224

RECEIVED  
AUG 04 2016  
SC Court of Appeals

Carol Goodson-Eaddy.....Appellant,

v.

Travien L. Capers, Gregory A. Brown, Robert Davis, Herbert Bell, James Randolph, Jr.,  
Harry Thompson, James Brown, Frank M. Jones, Edwin L. Rivers, Sr., Lever Thompson,  
Jr., Fred Davis, Harry L. Jones, Sr., David J. Clarkson, Larry B. Brown, Grady Wilson,  
and Dorothy B. Adams.....Respondents.

APPELLANT'S INITIAL BRIEF

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## I. STATEMENT OF ISSUES ON APPEAL

- A. Did the trial court err in dismissing the lawsuit for lack of subject matter jurisdiction based upon the ecclesiastical abstention?
- B. Did the trial court err in granting summary judgment on Goodson-Eaddy's defamation claim?
- C. Did the trial court err in granting summary judgment on Goodson-Eaddy's intentional infliction of emotional distress claim?

## II. STATEMENT OF THE CASE

This case was commenced by Carol Goodson-Eaddy ("Goodson-Eaddy") on September 10, 2014 by filing the Summons and Complaint in Richland County. Goodson-Eaddy sought to seek a remedy for the defamatory statements made by Travien L. Capers, Gregory A. Brown, Robert Davis, Herbert Bell, James Randolph, Jr., Harry Thompson, James Brown, Frank M. Jones, Edwin L. Rivers, Sr., Lever Thompson, Jr., Fred Davis, Harry L. Jones, Sr., David J. Clarkson, Larry B. Brown, Grady Wilson, and Dorothy B. Adams (collectively "Defendants") who purported to act as the duly elected Pastor, Deacons and Trustees of Zion Benevolent Baptist Church ("Zion").

Defendants moved to have the matter dismissed on November 4, 2014. Judge Barber issued an Order on March 5, 2015 that dismissed the civil conspiracy cause of action and allowed Goodson-Eaddy to amend her Complaint to cure certain deficiencies in the pleading. Goodson-Eaddy filed an Amended Complaint on March 31, 2015. Defendants filed and served an Answer to the Amended Complaint on April 15, 2015.

On February 12, 2016, Goodson-Eaddy served a subpoena upon Zion through its registered agent, Harry Jones, Sr. Defendants filed a Motion to Quash the subpoena and a hearing was set for April 6, 2016. The Motion was never heard although it was set for hearing

because Judge Cooper held it in abeyance pending the outcome of the hearing on Defendants' Motion to Dismiss or in the Alternative for Summary Judgment on April 6, 2016.

The Honorable G. Thomas Cooper, Jr. presided over the hearing on Defendants' Motion to Dismiss or in the Alternative for Summary Judgment on April 6, 2016. Judge Cooper heard arguments from counsel for each party and ultimately granted Defendants' Motion.

Counsel for Goodson-Eaddy received a copy of the Order Granting Defendants' Motion to Dismiss or in the Alternative for Summary Judgment on April 15, 2016. Counsel filed the Notice of Appeal on May 11, 2016, appealing the Order Granting Defendants' Motion to Dismiss or in the Alternative for Summary Judgment.

### **III. STATEMENT OF FACTS**

Zion is a congregational church because it is governed by its members and is not subject to the control of any other ecclesiastical organization. (Zion Constitution and By-Laws, Section 3) There is a Constitution and By-Laws that set forth the rules of church governance and elections. (Zion Constitution and By-Laws) Goodson-Eaddy had been a member of Zion since 1968 prior to her improper removal. (Goodson-Eaddy Deposition, p.22) She served in various capacities throughout her time as a member, such as the Constitution and By-Law ministry and the History ministry. (Id.)

The current issues arose because Goodson-Eaddy asked questions regarding financial issues over a construction project at her church. (Goodson-Eaddy Deposition) Defendant Capers sent an email directly to Goodson-Eaddy blaming her for a "habitual cycle of what are being seen as disruptions..." (Email dated July 22, 2014).

A letter was then drafted and signed by the Defendants on August 30, 2014 that was later sent to Goodson-Eaddy (Letter dated August 30, 2014) The church secretary would have mailed

out the letter. (Capers Deposition) The letter was published to all who signed it. (Letter dated August 30, 2014) The letter was mailed to Goodson-Eaddy on September 10, 2014 and it laid out the issues with her conduct and ultimately stated that her membership in the church was rescinded. (Letter dated August 30, 2014 and accompanying envelop) Defendants' letter accused Goodson-Eaddy of "deliberate disrespect for church administration and ignorance to scriptural protocol", "disruptions", being "argumentative", showing "disrespect for church officials", and "turning church matters into legal affairs". (Letter dated August 30, 2014)

A special called meeting was set to discuss the discipline of Goodson-Eaddy, but it was not properly called and noticed or designated because it did not conform to the Zion Constitution and By-Laws. (Zion Constitution and By-Laws)(Capers Deposition, Exhibit 5 and pp.98-93) Therefore, the decision to terminate the membership of Goodson-Eaddy was improper and did not follow discipline procedure (Zion Constitution and By-Laws) (Goodson-Eaddy Deposition, pp. 125-126) Defendant Capers demanded that Goodson-Eaddy repent or apologize to him for being disrespectful and threatened her membership. (Goodson-Eaddy Deposition, p.104) However, apparently Defendants had already taken action.

Goodson-Eaddy suffered damages as a result of these actions by Defendants. Goodson-Eaddy has suffered from depression and isolation that required medical treatment and forced the separation from her husband immediately following the termination of her membership with the church. (Goodson-Eaddy deposition, pp. 28, 29, 36)

The Defendants in this matter were not properly elected annually as required by the Zion Constitution and By-Laws, so they had no authority to act for Zion (Goodson-Eaddy Deposition, p.120) the Zion Constitution and By-Laws require a written ballot for the annual elections. (Zion Constitution and By-Laws, pp.12-13)

#### IV. STANDARDS OF REVIEW

"The question of subject matter jurisdiction is a question of law." *Linda Mc Co. v. Shore*, 390 S.C. 543, 551, 703 S.E.2d 499, 503 (2010) (quoting *Porter v. Labor Depot*, 372 S.C. 560, 567, 643 S.E.2d 96, 100 (Ct. App. 2007)). "This Court is free to decide questions of law with no particular deference to the lower court." *Jeter v. S.C. Dep't of Transp.*, 369 S.C. 433, 438, 633 S.E.2d 143, 146 (2006) (citation omitted).

Summary judgment is appropriate when "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Rule 56(c), SCRPC. When determining if any triable issues of fact exist, the evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party. *David v. McLeod Reg'l Med. Ctr*, 367 S.C. 242,247, 626 S.E.2d 1, 3 (2006).

#### V. ARGUMENT

##### **A. The Trial Court has jurisdiction to hear the allegations raised by Goodson-Eaddy.**

Goodson-Eaddy acknowledges that the court has a limited ability to provide judicial review of religious disputes. It is clear that the First Amendment of the U.S. Constitution limits the circumstances under which a civil court can intrude into a church's internal affairs:

[W]here 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.

*Pearson v. Church of God*, 325 S.C. 45, 49, 478 S.E.2d 849, 851 (1996) (quoting *Serbian Eastern Orthodox Diocese v. Milivojevich*, 426 U.S. 696 (1976)). The church involved in the *Pearson* litigation was a hierarchical structure. The church in question in this case, Zion, is not a

member of a hierarchical polity. Rather, Zion is a congregational church as stated in Zion's Constitution, "The Government of this Church is vested in the members who compose it and as such, it is subject to the control of no other ecclesiastical organization...." Article III, Zion Constitution, (Doctrine, Covenant and Polity), Section 3. "Religious organizations are generally divided into two groups: (1) congregational churches and (2) hierarchical [399 S.C. 248] churches." *Seldon v. Singletary*, 284 S.C. 148, 149, 326 S.E.2d 147, 148 (1985). Our Supreme Court has explained the differences between the two types of churches:

A congregational church is an independent organization, governed solely within itself, either by a majority of its members or by such other local organism as it may have instituted for the purpose of ecclesiastical government, while a hierarchical church may be defined as one organized as a body with other churches having similar faith and doctrine with a common ruling convocation or ecclesiastical head.... Under the congregational form of government ... the local church is not subject to the control of any higher ecclesiastical judicature and is self-governing in its religious functions.

*McCain v. Brightharp*, 399 S.C. 240, 247, 730 S.E.2d 916, 920 (Ct.App. 2012).

The issue when dealing with a church such as Zion Benevolent Baptist Church, is that once Defendants did act to terminate Goodson-Eaddy from membership in Zion, their decision cannot be reviewed by "... by any highest Court of a hierarchical church congregation because there is no hierarchical church organization that exists for Zion Benevolent Baptist Church. Why? Because the Government of Zion Benevolent Baptist Church is vested in the members who compose it and Zion is a subject to the control of no ecclesiastical organization ...." (Zion Constitution, Article III, Section 3). Therefore, the legal proposition cited in *Pearson v. The Church of God*, 325 S.C.45, 478 S.E. 2d 849 (1996) and in *Serbian Eastern Orthodox Diocese v. Milivojerich*, 420 US 696, 96 S.Ct. 2372, 49 L.Ed2d 151 (1996) are not applicable to our case. Goodson-Eaddy is not asking this Court to disturb a decision of the highest tribunal within a church of hierarchical polity because Zion is not such a church. The South Carolina Supreme

Court acknowledged its limited review in *Williams v. Wilson*, 563 S.E.2d 320, 349 S.C. 336, 345 (2002), but also found that churches must follow its governing documents, “in light of our restraint in dealing with church disputes, we resolve this issue by simply requiring compliance with the church's own Constitution and By-Laws rather than determining whether a deviation was harmless.” See *Hatcher v. South Carolina Dist. Council of Assemblies of God, Inc.*, 267 S.C. 107, 226 S.E.2d 253 (1976) (civil courts will accept as conclusive the decision of a legally constituted ecclesiastical tribunal having jurisdiction of the matter absent fraud, collusion, or arbitrariness)

**1. The allegations of Defamation and Intentional Infliction of Emotion Distress can be decided on the neutral principles of law.**

Civil courts may hear cases involving religious organizations when the issues may be resolved entirely by neutral principles of law. *Banks v. St. Matthew Baptist Church*, 406 S.C. 156, 160-61, 750 S.E.2d 605, 607 (2013). “[T]he neutral principles of law approach permits the application of property, corporate, and other forms of law to church disputes.” *All Saints Parish Waccamaw v. Protestant Episcopal Church in Diocese of S.C.*, 385 S.C. 428, 444, 685 S.E.2d 163, 172 (2009). In this case, tort law would be applicable to the actions taken by the Defendants even though they appear to be taken in context of church affairs. The issues are whether the Defendants committed torts through their actions against Goodson-Eaddy and whether they acted in accordance with the Zion Constitution and By-Laws.

**2. The Defendants cannot be afforded protection of the ecclesiastical abstention because they were not properly elected to serve as church leaders and officials and did not follow procedures set forth in the Constitution and By-Laws.**

“Generally, a civil court has no authority to intervene in cases involving expulsion from church membership where there is no question of an invasion of a civil, property or contract right.” *Bowen v. Green*, 275 S.C. 431, 434, 272 S.E.2d 433, 434 (1980). “South Carolina case

law is in accord with the view that no review of the ecclesiastical decision follows absent the infringement of those rights but South Carolina authorities do not treat the specific issue of membership expulsion.” *Id.* at 434, 272 S.E.2d at 434–35. In *Bowen*, certain church members were excommunicated by fellow church members rather than by the boards of trustees and deacons. The issue was whether the members had the proper authority to undertake such action and whether the proper procedure was followed. The Court ordered that the status quo of the excommunicated persons be returned as members because it could not be determined that the proper procedure was followed. The Court noted, “[o]nce determination is made that the proper ecclesiastical authority has acted in its duly constituted manner, no civil review of the substantive ecclesiastical matter may take place as this would be prohibited by Amendments I and XIV of the Federal Constitution and Article I, Section 2 of the State Constitution.” *Id.* at 434, 272 S.E.2d at 435.

In the present case the individual Defendants were purporting to act as the duly elected Pastor, Deacons and Trustees of Zion Benevolent Baptist Church when they issued their defamatory statements about the Goodson-Eaddy in the alleged Pastor’s email of 7/22/14, the letter of 8/30/14 signed by the alleged Pastor, Deacons, and Trustees and the oral representations and statements made by the Defendant Capers in the 9/8/14 special business meeting held at Zion Benevolent Baptist Church. However, Goodson-Eaddy pleaded in her Amended Complaint that they were acting without authority and the discovery to date supports these allegations. (Amended Complaint)(Zion Constitution and By-Laws)

Pursuant to the Zion Constitution, “...the organized structure of this church shall consist of the congregation, the Pastor, Board of Deacons..., Board of Trustees...” Article V, 1 of the Constitution. “Election of all offices shall be in accordance with the plan of the church

hereinafter provided....” Article V, Section 4 of the Zion Constitution. (Zion Constitution and By-Laws) The Annual Meeting of the Church shall be in January of each year. (Article VI, Section 2) The Zion Constitution provides for Annual Elections of Officers at the January Conference (Article VII, Elections, Section 1 and Section2) and requires the officers, including the Pastor, Deacons and Trustees, shall be elected annually. (Zion Constitution)

In the Zion By-Laws under Article I, Government of the Church, the Government of the church shall be in the hands of members and in Article V (Church Officers, B. Pastor) he “shall be called by the Church to serve on an annual bases....”(sic). (Zion Constitution and By-Laws)(Capers Deposition, pp. 31-32)

The alleged Pastor (Defendant Capers), the alleged Deacons (Defendant Gregory A. Brown, Defendant Robert Davis, Defendant Herbert Bell, Defendant James Randolph, Jr., Defendant Harry Thompson, Defendant Grady A. Wilson, Defendant Frank M. Jones, Defendant Edwin L. Rivers, Sr., and Defendant James Brown) and the alleged Trustees (Defendants Lever Thompson, Jr., Defendant Fred Davis, Defendant Harry L. Jones, Sr., Defendant David J. Clarkson, Defendant Larry B. Brown and Defendant Dorothy B.) were not elected annually by the members of the Church. (See minutes of Annual Meeting in 2012, 2013, and 2014). (See also, Article V, Section 1.A. where election must be accomplished by written ballot on an annual basis). Nadine Taylor testified in her deposition that there was no election by ballot in years 2012, 2013, and 2014. (Nadine Taylor Deposition, p.32) There was no written ballot recording of the vote and nothing produced to show who attended the meeting to vote or the outcome of the vote. Hence, when they defamed the character and reputation of the Goodson-Eaddy, none of them were acting as pastor or officers of Zion Benevolent Baptist Church. They were acting without any authority on behalf of the Church. In the special business meeting held on

September 8, 2014, none of the Defendants were acting in the context of church administration or church discipline and certainly lacked any authority to conduct official church business. The statements made by the individual Defendants do not reflect the commission of proper church procedures related to interaction with church officials because the Defendants were not duly elected church official's and therefore lacked the authority to allegedly act or speak as officials of said church and to discipline her in front of the congregation of Zion Benevolent Baptist Church and thereafter to terminate her membership with the church.

**B. Appellant has presented sufficient evidence for the Defamation cause of action to be decided by a jury.**

To prove defamation, a plaintiff must show "(1) a false and defamatory statement was made; (2) the unprivileged publication was made to a third party; (3) the publisher was at fault; and (4) either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication." *Erickson v. Jones St. Publishers, LLC*, 368 S.C. 444, 464, 629 S.E.2d 653, 664 (2006).

**1. Goodson-Eaddy provided evidence to satisfy the elements of Defamation.**

Goodson-Eaddy has demonstrated at least two occasions where she was defamed by the defendants. First, she received a letter from the defendants that was dated August 30, 2014. (Letter to Goodson-Eaddy, dated August 30, 2014) This letter was drafted by Defendant Capers and then signed by the other defendants. (Capers Deposition, p.) Each defendant is identified as a separate person to whom the document was published. Goodson-Eaddy testified that the letter contained defamatory statements regarding her actions to be disruptive to the church, her habitual desire to turn church affairs into legal actions, and the disrespect to church officials. (Letter to Goodson-Eaddy, dated August 30, 2014)(Deposition of Goodson-Eaddy, p.65)

The second instance occurred at the church meeting that was held on September 8, 2014, after the defamatory membership termination letter was drafted. Defendant Capers called Goodson-Eaddy a troublemaker and required that she repent to him in front of the congregation. (Nadine Taylor Deposition, pp.15-17) This was taken in dereliction of the Church Constitution and By-Laws. (Zion Constitution and By-Laws)

As stated in Goodson-Eaddy's answers to Defendants' Interrogatories, Goodson-Eaddy has suffered from depression, isolation, humiliation, and rejection from her fellow church members with whom she had a lifetime relationship. (Goodson-Eaddy Interrogatory Answers) She also lost her reputation in the church community. (Id.) This was as a direct result of Defendants' defamatory actions. (Goodson-Eaddy Deposition, p.88) She went to counseling for these issues. (Goodson-Eaddy Deposition, p.39) She also sought treatment for high blood pressure. (Goodson-Eaddy Deposition, p.116)

**2. Defendants are not entitled to receive the benefit of a conditional privilege.**

One who publishes defamatory matter concerning another is not liable for the publication if (1) the matter is published upon an occasion that makes it conditionally privileged, and (2) the privilege is not abused. *Swinton Creek Nursery v. Edisto Farm Credit, ACA*, 334 S.C. 469,484 514 S.E.2d 126, 134 (1999). " 'The essential elements of a conditionally privileged communication may be enumerated as good faith, an interest to be upheld, a statement limited in its scope to this purpose, a proper occasion, and publication in a proper manner and to proper parties only.' " *Manley v. Manley*, 291 S.C. 325, 331, 353 S.E.2d 312, 315 (Ct.App.1987) (quoting *Conwell v. Spur Oil Co. of W.S.C.*, 240 S.C. 170, 178, 125 S.E.2d 270, 274-75 (1962)). An abuse of the privilege occurs in one of two situations: (1) a statement made in good faith that goes beyond the scope of what is reasonable under the duties and interests involved or (2) a

statement made in reckless disregard of the victim's rights. *Swinton Creek*, 334 S.C. at 486, 514 S.E.2d at 135. No privilege exists in this case because the statements were made by improperly elected officials. Further, the statements by Defendant Capers were made in a meeting that was not called for the specific purpose of addressing disciplinary issues or voting on membership.

Defendants are not entitled to receive the protection of the qualified privilege because they were acting without authority to make the statements that were made. Defendants signed off on the letter that made false statements about Goodson-Eaddy. This letter was published to each of the other Defendants who signed off on the letter as well as to the church secretary who mailed the letter. (Letter dated August 30, 2014)(Capers Deposition, p.88)

In the alternative, if a qualified privilege would normally exist in a similar situation, Defendants abused the privilege, which makes it a jury question rather than a question of law. *Id.* There was no discipline committee meeting or other closed meeting that would have afforded the protection of a qualified privilege to Defendant Capers. Rather, the statements he made were in a meeting that was not called for the purpose of discussing discipline issues and that was held before approximately 100 members of the congregation. (Goodson-Eaddy Deposition, p.125)

**C. Appellant has presented sufficient evidence for the Intentional Infliction of Emotional Distress cause of action to be decided by a jury.**

The tort of intentional infliction of emotional distress has the following elements as set forth in *Hansson v. Scalise Builders of S.C.*, 650 S.E.2d 68 (S.C., 2007):

- (1) the defendant intentionally or recklessly inflicted severe emotional distress, or was certain, or substantially certain, that such distress would result from his conduct;
- (2) the conduct was so "extreme and outrageous" so as to exceed "all possible bounds of decency" and must be regarded as "atrocious, and utterly intolerable in a civilized community;"
- (3) the actions of the defendant caused plaintiff's emotional distress; and

- (4) the emotional distress suffered by the plaintiff was "severe" such that "no reasonable man could be expected to endure it."

*Hansson* at 71.

Goodson-Eaddy has alleged and produced evidence in discovery that satisfy each element of the tort of intentional infliction of emotional distress. Defendant Capers sent an email directly to Goodson-Eaddy blaming her for a "habitual cycle of what are being seen as disruptions..." (Email dated July 22, 2014) Defendant Capers then persuaded fifteen fellow cohorts assist him with a letter that accused her of "deliberate disrespect for church administration and ignorance to scriptural protocol", "disruptions", being "argumentative", showing "disrespect for church officials", and "turning church matters into legal affairs". (Letter dated August 30, 2014) They further accused Goodson-Eaddy of "blatant disrespect" and rescinded her membership from the church. (Letter dated August 30, 2014) Finally, Defendant Capers called out Goodson-Eaddy at a meeting, demanding that she repent or apologize to him for being disrespectful. (Goodson-Eaddy Deposition, p. 104)

Defendants directed their campaign of insults and allegations toward Goodson-Eaddy and cannot receive the protection of religion because they are not properly elected officials of the church. (Goodson-Eaddy deposition, p. 135) As a result of the actions by Defendants, Goodson-Eaddy has suffered from depression and isolation that required medical treatment and forced the separation from her husband immediately following her membership termination from the church. (Goodson-Eaddy deposition, pp. 28, 29, 36)

## **VI. CONCLUSION**

Therefore, the ruling from the trial court that granted Defendants' Motion to Dismiss or in the Alternative for Summary Judgment should be reversed for the reasons stated herein.

Appellant has provided extension evidence to create issues of fact that should be resolved by a jury.

Respectfully submitted,

**PALMETTO LAW CENTER, P.C.**



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August 1, 2016

THE STATE OF SOUTH CAROLINA  
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Jr., Fred Davis, Harry L. Jones, Sr., David J. Clarkson, Larry B. Brown, Grady Wilson,  
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PROOF OF SERVICE

I certify that I have filed the Designation of Matter to be Included in the Record on  
Appeal and Appellant's Initial Brief with the Clerk of Court for Richland County and served  
opposing counsel by depositing a copy of it in the United States Mail, postage prepaid, on  
August 1, 2016 addressed as follows:

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August 1, 2016

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AUG 04 2016

SC Court of Appeals

The Honorable Jenny Abbott Kitchings  
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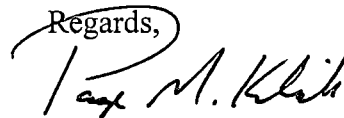
RE: Carol Goodson-Eaddy v. Travien L. Capers et.al.  
Civil Action: 2014-CP-40-6224  
Appellate Case No.: 2016-000989  
Our File No.: 2014-273

Dear Mrs. Kitchings:

Enclosed for filing please find Appellant's Designation of Matter and Appellant's Initial Brief. By copy of this letter I am serving opposing counsel with a copy of the same.

Thank you for your attention to this matter.

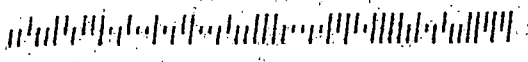
Regards,



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Enclosures

cc: Peter Farr, Esq.  
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COLUMBIA SC 292  
TUE 10 AUG 2016 PM

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