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TRANSCRIPT OF RECORD

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Greenville, South Carolina

HONORABLE ROBIN B. STILWELL, Judge.

A P P E A R A N C E S:

HAROLD ESTES BLACKWELL, JR.

Plaintiff appeared pro se

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Attorney for Defendant Miracle Hill Ministries, Inc.

MELEGIA LEE DANIELS, JR.

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Court Reporter

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1 THE COURT: Okay. I hope y'all are ready to talk
2 because you get a half hour and that's all you get, okay,
3 because I have a -- I have probably 10 trials today,
4 non-jury. So we've got to get this up and down, okay?

5 So I know we have several hearings that are in front of
6 me this morning and they all pertain to the case of Harold
7 Estes Blackwell. Did I pronounce your middle name right,
8 sir?

9 MR. BLACKWELL: Yes, sir. Well we say Estes over in
10 Union County.

11 THE COURT: Estes? Okay. I spent a lot of time in
12 Union County. Harold Estes Blackwell, Jr., vs. Miracle Hill
13 Ministries, et al. And it is Case Number 2017-CP-23-3754.
14 And I believe the first cases up are motions to dismiss from
15 the Defendant; is that correct, Mr. Bach?

16 MR. BACH: Yes, sir, your Honor.

17 THE COURT: Okay.

18 MR. BACH: I think we've all got motions. I'm not sure
19 which one is first. I'm happy to go first.

20 THE COURT: Okay. That's fine. I'm just looking at it
21 in the order in which it appears on my docket.

22 MR. BACH: Okay.

23 MR. BLACKWELL: Your Honor?

24 THE COURT: Yes, sir.

25 MR. BLACKWELL: It's my understanding that the rule

1 said that the preliminary injunction would be heard at the
2 earliest possible moment.

3 THE COURT: You want to hear that first?

4 MR. BLACKWELL: Yes, sir.

5 THE COURT: Okay.

6 MR. BLACKWELL: I'd like to.

7 THE COURT: Okay. I'll be happy to hear from you.

8 MR. BLACKWELL: Thank you, your Honor. It appears that
9 my witnesses that I have subpoenaed have not appeared this
10 morning.

11 THE COURT: Okay.

12 MR. BLACKWELL: Which is probably a good thing since we
13 only have 30 minutes. But the reason that I'm asking the
14 Court to suspend the treatment of alcoholism or addiction at
15 Miracle Hill is, number one, your Honor, they have no idea
16 what their outcomes are. And if you look at their website,
17 they advertise a 70 percent success rate. But what they
18 don't tell you is that they're kicking three out of four
19 people that come into the facility, they're kicking them out.
20 So, that success rate is really based on a 25 percent.

21 All right. And then at that 25 percent they claim 42
22 percent get sober after a year and then they have people who
23 slip one time are considered a success. And I made a list of
24 27 different ways that they are not practicing best
25 practices, your Honor. And the foundations that give them

1 money require them to operate on best practices.

2 One of the most stark realities of what we're concerned
3 with here is the story that Mr. Lehman published in his book,
4 "Are These the Words You Meant to Use?" (sic) And it's the
5 story of Milton, your Honor. And this book was published in
6 2014. Mr. Lehman has been doing this for 30 years.

7 THE COURT: Yes, sir.

8 MR. BLACKWELL: And he describes his treatment method
9 as one of constantly harping on someone's past. All right.
10 And I don't know if you're familiar with alcoholics, your
11 Honor, but that's the reason they drink; because of their
12 past. And what the program of Alcoholics Anonymous does, it
13 makes a person's past an asset. Okay. I mean that was the
14 eureka moment back in 1935, is that these guys figured out
15 they could stay sober if they were, you know, trying to do it
16 together.

17 THE COURT: Right.

18 MR. BLACKWELL: Well Mr. Lehman and Miracle Hill
19 completely reject that, your Honor. And what they're doing,
20 I don't have any idea. I mean it's stuff that's just so far
21 off of best practices that it's ridiculous.

22 And I would submit, your Honor, that if Milton died as
23 a result of it, and I almost died as a result of it, there's
24 got to be a lot of dead people between me and Milton. And if
25 you were to take a look at this situation, you would under-

1 stand why Miracle Hill and their treatment practices is
2 different than anyone else that I've ever run across; because
3 of the way that they treat someone's past.

4 They've taken the 12 steps -- they say it's a
5 biblically based approach to the 12 steps. And so they've
6 taken the 12 steps out of Alcoholics Anonymous and don't use
7 the instructions that are in the book and they're killing
8 people. It's just plain and simple, your Honor.

9 And I don't suggest that, you know, you close down the
10 place, but I would seriously think about not kicking them out
11 or, you know, just suspending the addiction treatment portion
12 of it until they can figure out what their results are.

13 Your Honor, they're -- they are certified by this group
14 called CARF, and they are required to do follow-up to find
15 out the efficacy of their program. Their follow-up consists
16 of one phone call. According to what Mr. Lehman told me at
17 this meeting that we had, one phone call at the end of the
18 year on the graduation date. If they don't answer the phone,
19 they're considered to be a failure. If they answer the
20 phone, then I guess they hear what they hear.

21 But any method like that of tracking your efficacy,
22 when you're depending on an alcoholic to tell you the truth,
23 I mean that's pretty, pretty sad. And it's not effective.
24 He knows nothing about the results of what he's doing,
25 because he doesn't make a phone call to those 300 people a

1 year that he's kicking out, that he's failing -- well
2 actually it's 330, your Honor, every year, that he is having
3 a negative impact on. And we don't know if those people are
4 dying. We don't know what their outcome is.

5 But we know -- do know Milton's outcome and we know
6 what my outcome is, and there's no way that we could be the
7 only people that are -- who almost -- well Milton did die. I
8 almost died. And they don't need to be operating, your
9 Honor.

10 We have an opioid epidemic in this country. They are
11 doing nothing but exacerbating the situation. Because when
12 you go and you try to motivate people through shame and
13 guilt, it just makes it that much harder if they were to get
14 in a correct treatment program. So it's not like a baseball
15 game, your Honor, where you hit the ball on the third strike
16 and the first two are forgotten. I mean every time you swing
17 the bat, it gets smaller, the ball gets smaller.

18 So I'm -- your Honor, what these people are doing to
19 our community is atrocious and it is in the public interest
20 to shut these guys down. I mean somehow they have got to be
21 out of the treatment business.

22 And I had this presentation to get Mr. Lehman's
23 testimony so that you could see the absolute debacle that
24 place is, your Honor. And it's not me. It's just the best
25 practices. I mean they are just not doing it. Not even

1 close, your Honor.

2 THE COURT: Yeah. I appreciate your position.
3 Obviously, your hearts in the right place. Your head is in
4 the right place, too, and I appreciate it. There are a
5 couple of questions that I have, and I haven't heard from the
6 defense yet, but just based on listening to you ---

7 MR. BLACKWELL: Yes, sir.

8 THE COURT: --- there's a question in my mind that
9 arises. And that's, first of all, you know, when you come
10 into Court, you have to have a justiciable cause of action
11 and you have to have standing to bring the justiciable cause
12 of action, and I'm unclear on what the cause of action is
13 right now and what your standing is to bring that cause of
14 action.

15 Just in listening to you, you make some great points,
16 all of which, you know, I'm very interested in, and upon
17 further investigation may even agree with you, I don't know,
18 I don't know enough about it, but just at a threshold, my
19 concern is, is Circuit Court the right place for this
20 argument to be taking place. Or is it in the regulatory
21 bodies of the State of South Carolina, or with those
22 certifying entities to which you referred.

23 I don't know yet. I don't know yet. But I just wanted
24 to let you know -- kind of have a window into my mind right
25 now as I'm -- certain branches of government do certain

1 things, and I'm not certain right now that we're in the
2 appropriate branch of government to resolve the issues that
3 you have. But I've got an open mind, okay?

4 MR. BLACKWELL: Could I make a comment about that, your
5 Honor?

6 THE COURT: Sure.

7 MR. BLACKWELL: That is the most compelling thing about
8 this case is, your Honor, they have no accountability. All
9 right. They have a DSS inspection to make sure they have a
10 fire extinguisher. But, see, normally, your Honor, the
11 private sector regulates it because they get reimbursed by
12 the insurance company. You know, if you look at a normal
13 failure rate of people not phoning the program, he's failing
14 75 percent, okay, and that is because he gives away stuff. I
15 mean he can run them out and just sign up another one.
16 Whereas, like a private entity has to do that client --
17 acquisition cost and all that stuff. So there is no -- he is
18 uniquely incented; let me put it that way, your Honor.

19 THE COURT: Yeah, yeah, and that makes, that makes
20 sense to me. That makes sense to me. So maybe it is a
21 function of the judiciary, maybe it is.

22 MR. BLACKWELL: Yes, sir.

23 THE COURT: And let's assume for the sake of argument
24 that it's the function of the judiciary.

25 MR. BLACKWELL: Yes, sir.

1 THE COURT: Are you the appropriate Plaintiff in the
2 case or would the Attorney General of the State of South
3 Carolina be the appropriate Plaintiff?

4 MR. BLACKWELL: Good question, your Honor. The reason
5 I think that I have standing is because of my cause of action
6 for them failing to warn me that my wife could be potentially
7 dangerous when she left. I mean she obviously tried to
8 entrap me by filing, you know, a false police report, so that
9 was my standing.

10 Also, your Honor, they did make promises to me. I
11 interacted with Mr. Lehman and so I feel like, you know, with
12 the fiduciary breach ---

13 THE COURT: Yeah.

14 MR. BLACKWELL: --- and that's. . .

15 THE COURT: So have you articulated in your complaint
16 personal damages?

17 MR. BLACKWELL: Um, well they tried to -- I tried to
18 kill myself as a result of that.

19 THE COURT: I understand.

20 MR. BLACKWELL: But the personal damages would be my
21 teeth, you know, they're ground down, and the hospital bill
22 from my attempted suicide.

23 THE COURT: Okay. Okay. Good enough.

24 MR. BLACKWELL: Yes, sir.

25 THE COURT: All right. All right. Mr. Bach, would you

1 like to state your position?

2 MR. BACH: Thank you, your Honor. And I'll be very
3 brief because we filed a long memorandum in support of our
4 motion to dismiss and in opposition of the motion for
5 temporary injunction. I know the Court's got limited time
6 today.

7 The Court's question is exactly the right question,
8 which is does Mr. Blackwell have any standing to enjoin a
9 private, non-profit, charitable organization from providing
10 treatment to patients who enter their treatment regiment
11 voluntarily, who are independent agents, who have a right to
12 seek treatment anywhere that they want to.

13 Mr. Blackwell has never been a patient of Miracle Hill.
14 He has never sought treatment at Miracle Hill. He does not
15 have the right to represent patients who voluntarily enter
16 our program or to speak on their behalf, which is what he's
17 trying to do here today.

18 Your Honor, he can't allege any harm that would come to
19 him. Obviously the Court knows that one of the elements for
20 a temporary injunction is irreparable harm. He wants to shut
21 down our Miracle Hill's treatment of people who are addicted
22 to alcohol and drug abuse; not the treatment of him, not the
23 treatment of even anyone that he's related to, because his
24 ex-wife is not his spouse anymore and isn't a part of our
25 program anymore. He wants to shut it down for the

1 individuals who are seeking help from us currently. And that
2 is -- your Honor, you are exactly right.

3 He is incorrect that we are not regulated. We are
4 regulated at a number of levels. We're a non-profit. We
5 have to show certain things to the SCDOR. We have licensed
6 counselors working in our facility who have to be licensed.
7 And I believe our -- and I'm not going to represent to the
8 Court because I didn't check on this -- but I believe that
9 our program itself has to go through some sort of regulatory
10 check-up.

11 But, even if it didn't, there's no law whatsoever in
12 South Carolina that I, as a private individual, cannot offer
13 counseling to somebody. If someone comes to my home because
14 they either respect me or, you know, for whatever reason, and
15 they want counseling for their drug addiction or abuse from
16 me personally, I'm allowed to give it. There's no law in
17 South Carolina that -- these are voluntary transactions
18 between our patients and Miracle Hill and Mr. Blackwell wants
19 to step in and essentially act like an attorney general and
20 bring a cause of action on behalf of the people or the state;
21 people for which he has no affiliation or connection.

22 Additionally, your Honor, and I'll just wrap my motion
23 to dismiss into this argument as well just because it applies
24 to success on the merits. Mr. Blackwell has alleged a number
25 of causes of action that all stem from his relationship to

1 Miracle Hill because his ex-wife sought treatment there.

2 That is simply insufficient to support any of his causes of

3 action. He alleges gross negligence against Miracle Hill.

4 Our only duties were to Anita Miller, his ex-wife, who was

5 our patient, who was our -- who sought treatment. We do not

6 have any duties to Mr. Blackwell. We've laid that out in our

7 brief.

8 He alleges, he alleges civil conspiracy but he doesn't

9 allege or -- his allegation is that -- the only allegation

10 that he alleges about what Miracle Hill did in this case was

11 sought treatment for his wife. There's no allegation that we

12 conspired with anyone for the specific purpose of harming

13 Mr. Blackwell. Our purpose was to treat Ms. Miller. He also

14 hasn't alleged special damages as required by law.

15 He has alleged breach of fiduciary duties, your Honor.

16 We've cited cases in our brief; Hendricks vs. Clemson

17 University. A fiduciary duty in South Carolina has been

18 reserved to legal or business settings where one entrusts

19 money to lawyers, brokers, corporate directors or corporate

20 promoters. We may have had a duty to Anita, a patient, or

21 treating physician or psychiatrist duty to their patient, but

22 we have no duty or fiduciary duty to Mr. Blackwell. He

23 cannot unilaterally impose it on us.

24 And he's alleged defamation. He alleges defamation for

25 three things. Number one, because he claims that Miracle

1 Hill reported to a police officer that he was intoxicated;
2 that Miller alleged that, that Mr. Blackwell committed
3 adultery and ultimately signed the divorce proceeding; and
4 that Miracle Hill told police officers that Mr. Blackwell
5 committed domestic abuse.

6 First, as to the intoxication, he's not alleged the
7 allegation that we reported that he was intoxicated, he's not
8 alleged any damages flowing from that. That is not a
9 category of slander or defamation per se. He has to allege
10 specific damages; he has not.

11 Number two, with regard to the testimony in the divorce
12 proceeding. As this Court well knows, testimony and
13 pleadings in Court are absolutely an unqualifiedly privilege
14 in South Carolina. Everyone has to be able to testify
15 truthfully to the best of their ability. And even if they
16 testify falsely the remedy is perjury, not defamation.

17 And then as to the report to the officer, Mr. Blackwell
18 alleges that we informed the officer that because we were
19 told that by Miller. Well in South Carolina somebody who
20 just relays information they've heard from another cannot be
21 held liable for it unless they know it is untruthful, number
22 one.

23 And, number two, we had Ms. Miller as a patient in our
24 facility and were concerned about Mr. Blackwell's premise --
25 being close on the premises. He's alleged all this. We have

1 a conditional privilege of reporting things to law
2 enforcement because we have a duty to protect our patients.
3 Law enforcement has a duty to protect our patients. We have
4 a qualified privilege for reporting things to a police
5 officer that we think may endanger people at our facility and
6 he has not alleged otherwise.

7 And then the failure to control Miller, South Carolina
8 doesn't recognize any sort of duty on behalf of a mental
9 health facility to warrant unless there is a specific threat
10 of physical harm to a specific person. Ms. Miller has never
11 harmed him physically. Emotionally I understand the divorce
12 was very painful for him, but she's never physically harmed
13 him. She never made any threat to physically harm him.
14 She's never made any threat to specifically harm Mr.
15 Blackwell in any manner whatsoever, nor has he alleged that
16 she has.

17 Your Honor, again, the cause of action all stem from
18 our treatment of Ms. Miller, his wife. That does not give
19 him standing to sue Miracle Hill. Your Honor, we've laid
20 this out in our brief. We think if the Court reads the
21 complaint in detail it will agree.

22 THE COURT: Okay.

23 MR. BACH: Thank you.

24 THE COURT: All right. Thank you. Well, Mr.
25 Blackwell, this is what I want to do. I'm going to give you

1 the last word absolutely, okay. I know that there are other
2 attorneys with motions to dismiss. What I want to do is hear
3 all of those arguments, okay, keep them fairly short and
4 succinct because I know that there are briefs -- that there
5 are briefs that have been filed. And then, Mr. Blackwell,
6 I'm going to give you the opportunity to respond to all of it
7 and I'm going to give you the last word, okay?

8 MR. BLACKWELL: Yes, sir. Your Honor, I would like to
9 point out that I did not get from Defendant Blackwell -- I
10 mean Miller this thing until this morning.

11 THE COURT: Okay. All right. Good enough. Yes, sir.

12 MR. DANIELS: Thank you, your Honor. Lee Daniels and I
13 represent Ms. Miller who's a Defendant in this case.

14 THE COURT: Yes, sir.

15 MR. DANIELS: And the Plaintiff's ex-wife. And he's
16 tried to state about six different causes of action against
17 her in the complaint and I'll just handle them very briefly.

18 The first one is outrage or intentional infliction of
19 emotional distress against him. And in Section 215 of his
20 complaint, he lists a number of what he refers to as cruel
21 acts which would constitute the outrage.

22 Now whether actions can meet the threshold for
23 consideration as outrage is a question of law for the Court
24 in the first instance. You've got to decide whether these
25 acts that he has alleged, if they in fact are true, and

1 you've got to consider them as true for the purpose of this
2 motion, would rise to the level of outrage.

3 And there are about eight different acts that he
4 alleges there. Many of them are simply recitations of other
5 causes of action that he has against my client. The other
6 ones are things that might be considered cruel, might be
7 considered callous, okay, but that's not the standard for
8 outrage in South Carolina. It's a much higher standard than
9 that. It's got to be atrocious type of conduct that's
10 totally out of bounds in any civilized society and it's got
11 to cause a severe emotional distress that no reasonable
12 person could be expected to endure. And so I would just ask
13 you to look at all of those alleged acts because, you know,
14 he's got to stand and fall on those allegations in the first
15 instance as to whether they would rise to the level of
16 outrage under the law in South Carolina.

17 And then, secondly, you've got to look at is it
18 possible from those acts that emotional distress could have
19 resulted that no reasonable person could be expected to
20 endure. So, so we think that the complaint fails fatally on
21 both of those simply because of his allegations that they do
22 not rise to meet the legal threshold that the Court has to
23 look at, even on a motion to dismiss.

24 Next he alleges gross negligence against my client, but
25 first there's got to be a legal duty of care. And, again,

1 that's a question of law for the Court as to whether he has
2 alleged facts, which if true, would be sufficient to
3 establish a legal duty of care. And in paragraph 221(b) of
4 his complaint he alleges some facts which he says create this
5 legal duty of care, of reasonable care on behalf of my
6 client.

7 One is simply the fact that they were married. All
8 right. The second one is simply the fact that she was
9 silent, that she wouldn't talk to him. And the third is that
10 he made -- that she made a request to him on one occasion for
11 some assistance with a problem that he was having.

12 And I would just submit to your Honor that none of
13 those facts, even if they are true, would establish a legal
14 duty of care under South Carolina law so that we could even
15 look at the question of negligence. You've got to establish
16 that legal duty of care before there can be any breach of
17 that ---

18 THE COURT: Was there ultimately an order issued by the
19 Family Court?

20 MR. DANIELS: They were divorced; yes, your Honor.

21 THE COURT: Okay. And what were the final grounds for
22 the divorce?

23 MR. DANIELS: The grounds for the divorce were 12
24 months separation.

25 THE COURT: Okay. So the Family Court had the

1 opportunity to hear and consider all of those allegations and
2 to make rulings on it, just at the end of the case I presume
3 they didn't because they came to an agreement; is that what
4 happened?

5 MR. DANIELS: There was an agreement at the case when
6 it was called for trial.

7 THE COURT: Okay.

8 MR. DANIELS: All right. The next one is civil
9 conspiracy. He's alleged civil conspiracy among all the
10 Defendants to inflict emotional distress upon him. But for
11 civil conspiracy you've got to have something beyond what
12 you've stated in another cause of action, and he really
13 doesn't. If you look at those paragraphs of the complaint,
14 which are 226 to 229 I think, you really have nothing beyond
15 the allegations of the emotional distress that he's alleged
16 against each Defendant individual, he's just now saying that
17 they were acting in concert and just the fact that they were
18 acting in concert is not enough to show actions by them
19 beyond what would be required for civil conspiracy.

20 Then he has two actions that are related. He accuses
21 my client of a breach of fiduciary duty. And then he also
22 accuses her of aiding and abetting the other Defendants
23 breaches of fiduciary duty. And I will just say first off we
24 don't think there is any fiduciary duty owed by any of the
25 Defendants to Mr. Blackwell. And if there's not, then

1 obviously they can't be any aiding and abetting charge. So
2 they kind of stand or fall together.

3 Again, he -- what does he allege is the reason for
4 there being a fiduciary duty between he and my client in
5 paragraph 232(a); marriage. The mere fact of their marriage.
6 Now there are many legal duties that emanate from marriage.
7 There's a duty of fidelity, for example. There's a duty of
8 support. Okay. All of those are questions for the Family
9 Court and, in fact, could have been handled in the Family
10 Court litigation. Very unusual for the Courts to find a
11 fiduciary duty arising from something other than a legal or
12 financial type of relationship where you're relying upon
13 someone to provide you financial advice, for example. To
14 safeguard your assets, for example.

15 But if you, if you find that the allegation that a
16 fiduciary duty can arise simply by marriage, then you're
17 really opening the door very wide for what should be domestic
18 relation actions to be tried in the Family -- if not in the
19 Family Court but in the Circuit Court. So we don't think
20 there's any fiduciary duty.

21 Then the last one is defamation. And he is accusing my
22 client of defamation in four different specifics. And those
23 four specifics are, first, statements that she made to two
24 different police officers. One here in Greenville and one in
25 Clemson. And then the third one is statements that she made

1 in the context of the divorce proceedings that charged him
2 with adultery. And then the last one is statements that she
3 supposedly made, as well as some writing which is totally
4 unidentified in the complaint, that she accused him of
5 domestic abuse and published that to other people. And in
6 that paragraph he just says that there are ---

7 THE COURT: Mr. Daniels, before you get too far on
8 that, is your ultimate point going to be that those pleadings
9 are privileged?

10 MR. DANIELS: Yes, with respect to the pleadings in the
11 Family Court, they're absolutely privileged. With respect to
12 statements to the police officers, he did attach a copy of a
13 police report from the Greenville incident. If you look at
14 that, there's a supplemental report that's part of it.
15 That's where perhaps they interviewed my client, although her
16 name is redacted, but I think you have to look at that to see
17 if there's anything that could possibly be considered
18 defamatory in that, but we would also argue that is
19 privileged as well and covered by a conditional privilege
20 because certainly she shared an interest with law
21 enforcement. On that occasion there was an allegation that
22 perhaps he might be stalking her by sitting outside of the
23 Miracle Hill's Renewal Center with a pair of binoculars to
24 watch and follow her if she left and to see who came and went
25 to see her as well.

1 The other one is to a Clemson police officer on the
2 morning when she received a message indicate -- from him,
3 indicating that he was going to commit suicide. And she
4 called and asked for a welfare check. There's, there's no
5 report attached to the complaint in that regard that I'm
6 aware of, but he did make some allegations that in that she
7 accused him or told the officer that he had a narcissistic
8 personality disorder.

9 And, again, the question in the first instance for the
10 Court is whether that's defamatory to begin with, but the
11 second question is it would be covered by the same
12 conditional privilege. Here she was concerned that he may
13 have committed suicide and she was calling the police to have
14 them do a welfare check, which they did do, and he ended up
15 in Patrick Harris as a result.

16 The last one is just a plain old run-of-the-mill
17 defamation allegation that he gives about all of these many
18 occasions in this paragraph -- and it's paragraph 245 I
19 believe. He just says on many occasions, in many utterances
20 and many writings she accused him of domestic abuse.

21 All right. And so in addition to requiring him to have
22 some specificity, some facts in his complaint that would tend
23 to prove what the utterance was and what the writing was, I
24 think that under the rules of pleading the complaint might be
25 subject to dismissal on that basis. But we would allege that

1 the utterances are not actionable per se, because if you look
2 at what he alleges, she never charged -- he doesn't even
3 allege she charged him with a crime, okay, which would be
4 actionable per se, but she -- he alleges that she just talks
5 to other people about, quote, domestic abuse.

6 THE COURT: And what were the ultimate adjudications of
7 any charges?

8 MR. DANIELS: There were no charges that I'm aware of.

9 THE COURT: Okay.

10 MR. DANIELS: Okay. There were none that I know of
11 that were even brought much less resolved in anyway. So we
12 would just argue that you need to take a close look at his
13 pleadings on that defamation. At the very least we would be
14 entitled to some more information about who said what to who
15 when in order to be able to adequately respond.

16 THE COURT: Okay.

17 MR. DANIELS: That's all I have, your Honor. Thank
18 you.

19 THE COURT: All right. Thank you. Yes, ma'am.

20 MS. O'BRIEN: Good morning, your Honor. Carrie O'Brien
21 and I represent William Fisk in this matter. Your Honor, for
22 purposes of today, I will tell you I did not file a
23 memorandum because my case is pretty simple.

24 Mr. Fisk was an elder in the church where both the
25 Defendant Miller and the Plaintiff Miller attended. The

1 allegations that have been alleged against Mr. Fisk are
2 essentially that whenever he agreed to act as an elder in the
3 church and he agreed to talk to both the Plaintiff and
4 Defendant Miller and help counsel them through a church
5 ministry. He holds no position at the church. He has no
6 legal obligation to anybody affiliated with this case other
7 than he is someone that is a member of a church and said, you
8 know what, my son has had problems in the past and I'm happy
9 to try to help y'all work through the problems that you're
10 having now.

11 So the allegations with respect to intentional
12 infliction of emotional distress are simply that whenever
13 Mr. Fisk decided that he would try to help these two parties
14 work out their marriage, that he somehow entered into a
15 contract and therefore he has breached a contract because he
16 had some type of duty to act on behalf of the Plaintiffs.
17 Mr. Fisk has denied and Mr. Fisk through an elder of the
18 church has absolutely no duty whatsoever.

19 All the statements that have been made we completely
20 agree with by the Defendants. There is no outrage here.
21 There's nothing beyond the bounds of decency and there is
22 nothing that Mr. Fisk in the allegations that have been set
23 forth. He's kind of wrapped up into the fact that he was
24 acting on behalf of, quote/unquote, the Plaintiff. Although,
25 again, there's no contract. There's no legal obligation.

1 There has been gross negligence which has been alleged
2 against Mr. Fisk, but specifically that whenever Mr. Fisk
3 agreed to go speak to Ms. Miller, whenever she was at Miracle
4 Hill, that he somehow did not do his job properly.

5 Again, as the elder of the church, he does not have a
6 job that he is required to do. He's not been employed by
7 Miracle Hill. There are no acts -- excuse me, allegations
8 that he was acting on behalf of Miracle Hill or any
9 allegations that he was acting on behalf of anyone other than
10 having a conversation with the Plaintiff and with the
11 co-Defendant.

12 With respect to civil conspiracy, the allegations are
13 nothing more than allegations that are tied to intentional
14 infliction of emotional distress.

15 With respect to the fiduciary duty; again, your Honor,
16 it's our position that as an elder of a church, that you take
17 on absolutely no duty and, specifically, no fiduciary duty.

18 With respect to aiding and abetting, if there's no
19 duty, fiduciary, then there's no aiding and abetting that can
20 come out of that.

21 With respect to defamation, it's our position that it
22 is -- under South Carolina, it is a two year statute of
23 limitations. The allegations that have been alleged against
24 Mr. Fisk were that he had a conversation on February 10th of
25 2015. The complaint was not filed in this matter until June

1 9th of 2017. So we believe that any allegations as to Mr.
2 Fisk should be extinguished under the two year statute of
3 limitations.

4 If for some reason you find that there were comments
5 that were made, you know, within -- that would keep us within
6 the two year statute of limitations, the only allegation with
7 respect to defamation as to Mr. Fisk are that Mr. Fisk
8 allegedly published a statement that the Plaintiff had tried
9 to commit suicide. Well the Plaintiff has just admitted
10 today in open Court that he tried to commit suicide,
11 therefore, any statement that might have been published is in
12 fact true by the Plaintiff's own testimony today. So it
13 would be our position that the defamation claim should be
14 dismissed on that matter.

15 With respect to fraudulent concealment, again, your
16 Honor, we have no duty. The fraudulent concealment is that
17 Mr. Fisk had a duty whenever he went and spoke to Ms. Miller
18 at Miracle Hill and that he had a duty to see beyond what the
19 Plaintiff was telling him and what Ms. Miller was telling him
20 to ascertain the truth. I don't know how you have any kind
21 of duty to -- as an elder of a church -- to ascertain what
22 the truth is between two people who are in the process of
23 going through a divorce and how that then somehow subjects
24 you to some type of duty under the law.

25 With respect to the mental health facility, there are

1 no allegations that were directed towards us. And, your
2 Honor, it is our position simply that if you allow this
3 complaint to stand against Mr. Fisk, you are allowing anybody
4 who engages in a church, who is a counselor, who decides to
5 say I'm happy to talk to you and I'm happy to help you and
6 your spouse, you and your child, to then somehow go into a
7 fiduciary duty and a duty under the law. There is no duty.
8 He is an elder of the church at Clemson Presbyterian. He is
9 the godparent of Mr. and Ms. Miller's children. He's known
10 the family for years. There is absolutely no duty that he
11 took on simply because he was a friend of the family and was
12 requested to help navigate what turned out and has continued
13 to be a very nasty situation.

14 So based upon the allegations in the complaint and,
15 your Honor, I am happy -- I have highlighted the allegations
16 as to Mr. Fisk. I'm happy to send those to you to kind of
17 help you navigate the complaint so that you can specifically
18 see as to Mr. Fisk what has been alleged. But I think when
19 you look at the allegations and take them -- even if you take
20 all of them as true, the only real allegation that has been
21 alleged where I see there could potentially be any type of
22 issue would be defamation, and that was just squashed by the
23 Plaintiff's own statement in Court that he, in fact, did try
24 to commit suicide. Thank you very much.

25 THE COURT: Thank you. All right. Ms. Snyder, do you

1 have an argument you want to make? You can just note for the
2 record everybody is stacking up behind us.

3 MS. SNYDER: Your Honor, my client is not involved in
4 this lawsuit. My client is a Defendant in a separate suit.
5 I also have a motion to dismiss. Would the Court like to go
6 ahead and hear that motion?

7 THE COURT: It's a separate lawsuit entirely?

8 MS. SNYDER: It's two lawsuits, and I'm in a separate
9 lawsuit.

10 THE COURT: Okay.

11 MR. BLACKWELL: I object to that, your Honor. I'm not
12 ready.

13 THE COURT: Well I'm going to tell you, Ms. Snyder, you
14 see I'm backing up pretty significantly.

15 MS. SNYDER: My motion is set, your Honor. It's just
16 set after their's.

17 THE COURT: Yeah, I know. I know. And there are a lot
18 of people ---

19 MS. SNYDER: But I don't think it will take very long,
20 and I think it actually dovetails nicely with what the Court
21 has just heard.

22 THE COURT: Okay. All right.

23 MS. SNYDER: If that suits the Court.

24 THE COURT: Okay. Sure, it does.

25 MS. SNYDER: Okay. The Plaintiff has brought a --

1 originally brought a defamation suit against my client Toby
2 Woodard. Toby Woodard is a -- works at the renewal center of
3 this alcohol addiction program that the Court has heard so
4 much of and was involved in the care and treatment of Mr.
5 Blackwell's ex-wife.

6 As the Court is now aware, when Mr. Blackwell's ex-wife
7 went into that program, she decided not to see Mr. Blackwell
8 anymore and that caused a great deal of consternation. And
9 Mr. Blackwell not only, as the Court has heard, hung out in
10 the parking lot with binoculars, and as a result became
11 subject to a police order of protection; that Mr. Blackwell
12 also stalked her online using a fake identity known as Lynn
13 Estes.

14 When this complaint was originally brought, Mr.
15 Blackwell brought a defamation action against Mr. Woodard
16 saying that Mr. Woodard had falsely accused him in a private
17 Facebook message between Mr. Woodard and Lynn Estes of saying
18 that he was subject to a restraining order when it was only
19 really a police order of protection.

20 Subsequent to bringing that suit Mr. Blackwell admits
21 that there is no Lynn Estes. That that was a fraud on the
22 Court. That that was a fraud on everybody involved. That he
23 was, in fact, Lynn Estes and using that identity to stalk his
24 ex-wife.

25 So I then moved to dismiss because there's no

1 publication, but the pleadings weren't clear at that point
2 because the pleadings contained false allegations and didn't
3 spell it out. So Mr. Blackwell has now moved to amend his
4 complaint. He now admits in the new amended complaint that
5 there is no Lynn Estes. That the whole Facebook conversation
6 was only as to him. He makes vague and unsupported
7 allegations that there were defamatory comments made to
8 William Fisk, Ms. O'Brien's client, and my client's brother
9 David Woodard, but there's nothing -- there's no substance.
10 He believes that's happened but he has no defamatory comments
11 plead in his complaint. He has no time, location, substance;
12 anything. And I would just dovetail with Mr. Daniel's
13 argument as to why that is insufficient.

14 He then is granted leave to amend that complaint and
15 files a completely different complaint than the one that was
16 attached to his Motion to Amend. I move to strike because
17 obviously I've never had that happen, but the rules say that
18 you've got to submit your proposed amended complaint when you
19 move to amend so the Court knows what they're ruling on. The
20 Court let him amend his complaint and then he filed a
21 different complaint.

22 But I'm willing to consider any of the complaints here
23 today for the motion to dismiss because they're all
24 dismissable. And it falls under the three categories, all of
25 which have been touched on and I'm not going to repeat.

1 He has alleged a new cause of action for negligence.
2 Really what he's saying is he said something about me that I
3 didn't like. That's not negligence. My client has no duty
4 to him. My client is a counselor who worked with his now
5 ex-wife in the renewal program. There's no duty. Duty is a
6 question of law. There can be no negligence.

7 Then we move on I think he's got outrage. Again, as
8 Mr. Daniel's said, the threshold for outrage is a question of
9 law for the Court. It's got to be something beyond what the
10 human person can endure. My client saying that he's subject
11 to a police order of protection or a restraining order or any
12 of that fails to meet the threshold to which this Court is
13 the gatekeeper.

14 Then we move to defamation. We've got two categories
15 of complaints there, both of which failed. The first is the
16 very specifically detailed in the complaint Facebook
17 conversation between Mr. Blackwell pretending to be Lynn
18 Estes and my client. Mr. Blackwell now pleads in his
19 complaint that he is, in fact, Lynn Estes, negating
20 publication, which is a required element for defamation.

21 Secondly, we've got the issue of Mr. Fisk -- Dr. Fisk,
22 Mr. Woodard, and unknown third parties worldwide. But we've
23 got no specific comments, no specific time, no specific
24 location. So we -- he has failed to allege defamatory
25 comments. He's failed to allege any comments. His

1 allegations are conclusory; I know he's defamed me to other
2 people. Well that's just trying to set up a fishing
3 expedition, but that's not legally sufficient.

4 So my argument, even though it's in a separate case,
5 it's a defamation case that just arises out of Mr. Blackwell
6 being unhappy his marriage had broken up. And my arguments
7 basically dovetail these of the other lawyers and I have also
8 filed a memorandum with the Court.

9 THE COURT: Okay. Thank you. I appreciate that,
10 Ms. Snyder. One day I'm going to let you come on this side
11 of the bar.

12 MS. SNYDER: If I behave.

13 THE COURT: That's right. All right. Mr. Blackwell,
14 I'm going to give you the opportunity to respond to all that,
15 sir.

16 MR. BLACKWELL: All right. Thank you, your Honor.

17 THE COURT: Yes, sir.

18 MR. BLACKWELL: First of all, in the case against
19 Miracle Hill, and I'd like for you to please note in the --
20 Mr. Bach's memorandum that he says that I was calling my
21 wife. I've got my phone bill showing that my wife was
22 calling me.

23 All right. I am not bringing this case because of
24 anything that Miracle Hill did to my wife. All right. I --
25 my wife stopped calling me on May 28th. The last words I

1 heard out of my wife's mouth for 18 months, your Honor, was I
2 love you very much. The last words that I heard from her.
3 Then there was dead silence. And so I called Miracle Hill
4 four times, wrote them about six times. No -- just ignored
5 me.

6 All right. So then I -- they sent me this note that my
7 wife wrote. All right. And you have to understand, your
8 Honor, the first time I went over there they accused me of
9 being drunk.

10 The second time I went over there my wife was in tears
11 because she had not cleaned a baseboard correctly and she was
12 all upset. And so when she sends me a note that says, Hal,
13 as you know I am in the good care of Miracle Hill. Please do
14 not come to Miracle Hill anymore. I'm thinking, you know,
15 that might be code for I need help because you know Miracle
16 Hill isn't giving me the good care. I mean not that we've
17 experienced, that we've talked about between us. And so I
18 went to find her.

19 And it's my understanding, in direct opposition of what
20 Mr. Daniels says, is that a spouse has a fiduciary
21 responsibility to another. I've got the law, your Honor, and
22 cite it in one of my -- I think it's in my amended
23 opposition.

24 THE COURT: Uh-huh.

25 MR. BLACKWELL: Amended memorandum, whatever that is.

1 THE COURT: Okay.

2 MR. BLACKWELL: Denying Mr. Bach. All right. The
3 second thing is this duty of care that Miracle Hill -- that I
4 allege Miracle Hill has. All right. Miracle -- when I
5 finally did get Mr. Lehman to come meet with me, after I
6 threatened to file a lawsuit, your Honor, against them for
7 the defamation of the police report, and so he sends me an
8 email and says Christian men need to talk things over and can
9 we meet. Well I've been trying to meet with him for all
10 those times. And so he shows up, your Honor, and he says you
11 need to get someone from your church to be accountable.

12 So since I told Mr. Fisk on February 10th, '15, the
13 horror story -- and it is a horror story. So, Mr. Fisk and I
14 go and meet with Mr. Lehman. I said, Mr. Lehman, can you get
15 my wife just to call me for five minutes, tell me she's okay.
16 Have her write me a note, tell me that she's okay. No. Not
17 going to do that. But we will let Mr. Fisk go in your stead.
18 I didn't like it, your Honor, but I accepted it.

19 I got home. I was like Mr. Fisk -- Dr. Fisk, actually,
20 is not the person to go over there. That's a train wreck.
21 So I called him back. I said, Bill, no, don't go over there.
22 What do you mean don't go over there? Yah, yah, yah. He's
23 like badgering me to death, you know. I'm in this emotional
24 state, and I yield, when I should have never let him go over
25 there.

1 So he goes over there, your Honor, and he meets with
2 her, and then he starts going over there to see her behind my
3 back. He doesn't tell me that he's doing that. Okay. And
4 he's talking with my therapist, who eventually fires me.

5 And then for Miracle Hill to say they didn't have any
6 responsibility for what Mr. Fisk did, well that's the only
7 way they made for me to get in touch with my wife. And then
8 Mr. Lehman sends me an email in the middle of September or
9 October of 2015 telling me that Mr. Fisk is really still my
10 only way. And then Mr. Lehman tells me that he has hired
11 this marriage counselor, that he's going to send selective
12 letters, not all of my letters that I wrote to my wife, but
13 selective letters that reflect poorly on me to the marriage
14 counselor and that I just need to be expected to be divorced.
15 All right.

16 THE COURT: This, this is what we've got to do,
17 Mr. Blackwell.

18 MR. BLACKWELL: Sir?

19 THE COURT: You've, you've got to finish up in two
20 minutes and this is what I'm going to do. I'm going to get
21 everybody to send me proposed orders, okay, on your
22 respective cases with your respective positions. And,
23 Mr. Blackwell, I'm going to get you to send me a proposed
24 order, too. What those proposed orders are going to do is
25 set forth all of the legal bases for your respective

1 positions.

2 MR. BLACKWELL: Yes, sir, your Honor.

3 THE COURT: To include your legal bases for your -- for
4 denial of the motions to dismiss, and also for the position
5 of the injunctive relief that you request as well.

6 MR. BLACKWELL: Your Honor, I would like to point out
7 that the case with Ms. Snyder, that's already been dismissed.
8 That argument that she made, Judge Miller dismissed that. I
9 mean she tried to file a motion to dismiss based on that.
10 Everything she said was wrong. I mean -- and particularly
11 Dr. Fisk, I just have to say this, your Honor.

12 THE COURT: Sure. I'll give you another two minutes.

13 MR. BLACKWELL: Okay, great.

14 THE COURT: Because I knew there was something you'd
15 have to say.

16 MR. BLACKWELL: Yeah, that's right. Two minutes,
17 that's what I've got. All right. Dr. Fisk, he didn't tell
18 people that I had committed suicide; that's not the root of
19 the defamation. He told people I faked a suicide attempt.
20 Okay. That's the heart of the defamation.

21 As far as Ms. -- my wife -- okay. This -- as far as
22 Mr. Daniels goes, you don't understand, your Honor, I went --
23 I looked for her on July 18th. The police report shows that
24 what Mr. Woodard said is in the police report, so he said it
25 to somebody. It was published to somebody. It was

1 defamatory and there's no doubt about that. And so I -- you
2 know, and I'll do that in my order.

3 THE COURT: Sure.

4 MR. BLACKWELL: I'll try to do it. But as far as my
5 wife, what she did, I did not look for her until July 18th.
6 Then I get -- after we're divorced, I get an email from one
7 of her paramours saying that he's calling the sheriff's
8 department because she stole some of his property.

9 All right. So, well, I feel sorry for her so I go
10 looking for her. And I sent her a text, you know, and she
11 calls me and we're good, say I'm going to come get you. I
12 sent her a text. Where are you. I'm like, look, this is an
13 Order of Protection. You need to tell me to come get you. I
14 need something affirmative. She never does send it to me.

15 The next call I get about five minutes later is from
16 the Oconee County Sheriff's Department saying that I am
17 harassing her or, you know, stalking her. She was trying to
18 get me arrested. That's what she's been trying to do since
19 she checked in to the place.

20 And this is incredibly important, your Honor, they tell
21 me that when she checked in that she didn't want anything to
22 do with me. I have my phone records. She called me every
23 opportunity she had. Oh, how much I love you and all this
24 other kind of stuff. I think everything is going great. I
25 didn't know I was put on the do not contact list and they

1 can't show that I was told that.

2 THE COURT: Okay. Are y'all currently divorced?

3 MR. BLACKWELL: Yes, sir. And that is another thing,
4 your Honor, one -- and this is it, your Honor. I promise.
5 This is it.

6 In the divorce, I could have gotten her for habitual
7 drunkenness. I could have gotten her for adultery. I
8 thought there was some money involved. I made a mistake.
9 Mr. Daniels, I admitted my mistake. We put it in the order
10 that I could have done that, but I didn't, just to be nice.
11 All right. See what you get for being nice, your Honor?

12 THE COURT: Uh-huh. There's a reason that I didn't run
13 for Family Court Judge. All right. This is what I want you
14 to do. Friday week, which is the 13th of October, if y'all
15 will have your proposed orders in. Mr. Blackwell, you have
16 your proposed order in by Friday, October 20th, okay?

17 MR. BLACKWELL: Thank you.

18 THE COURT: And that will give you the opportunity to
19 look at what they've submitted. What I would suggest -- it's
20 going to take you a long time to do this.

21 MR. BLACKWELL: Right.

22 THE COURT: And it's going to be hard work, but you can
23 go ahead and have most of the substantive part of your
24 proposed order ready. And then you can just look at what
25 they said and put in responses to specific allegations or

1 things that they may have said, okay?

2 I know that Ms. Snyder you indicate caught you a little
3 bit unaware, but I know it's been pending for a while. This
4 should give you the opportunity to catch up. It'll give you
5 the opportunity to hear exactly what arguments and read
6 specifically what arguments she's making to the case and the
7 proposed order for dismissal, okay?

8 MR. BLACKWELL: Couldn't be fairer, your Honor. Thank
9 you.

10 THE COURT: All right.

11 MR. BACH: Thank you, your Honor.

12 MR. DANIELS: Thank you, your Honor.

13 MS. O'BRIEN: Thank you, Judge.

14 MS. SNYDER: Thank you, your Honor.

15 THE COURT: Oh, and please send those proposed orders
16 to me in Word format directly to my email and copy my clerk
17 on it, okay? Don't upload them to E-file because they'll get
18 lost. Okay.

19 MR. BACH: Yes, sir.

20 MR. BLACKWELL: Okay.

21 MS. O'BRIEN: Yes.

22 MS. SNYDER: Yes, sir.

23 MR. BLACKWELL: Okay. Thank you.

24 THE COURT: All right. Thank you. And copy Mr.
25 Blackwell. Mr. Blackwell, you've got an email, correct?

1 MR. BLACKWELL: Oh, yes, sir.

2 THE COURT: Okay. All right. Y'all have his email
3 address where you can send it to him?

4 MS. O'BRIEN: Yes.

5 MR. BACH: Yes, sir.

6 THE COURT: All right. Good enough.

7 MS. SNYDER: Thank you.

8 THE COURT: Yes, ma'am. Thank you. Y'all have a great
9 day.

10 ---END OF REQUESTED TRANSCRIPT OF RECORD---

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1 STATE OF SOUTH CAROLINA :

CERTIFICATE OF REPORTER

2 COUNTY OF GREENVILLE :

3
4 I, the undersigned Maria M. Smith, Official Court
5 Reporter for the Thirteenth Judicial Circuit of the State of
6 South Carolina, do hereby certify that the foregoing is a
7 true, accurate and complete Transcript of Record, of all the
8 proceedings had and evidence introduced in the trial of the
9 captioned case, relative to appeal in the Court of Common
10 Pleas for Greenville County, South Carolina, on the 4th day
11 of October, 2017.

12 I do further certify that I am neither of kin,
13 counsel nor interest to any party hereto.

14
15 February 19, 2018

16
17
18
19 s/Maria M. Smith

20 Maria M. Smith, RPR

21 Official Court Reporter

22
23
24 *

Harold (Hal) E. Blackwell, Jr.
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March 6, 2018

V. Claire Allen, Deputy Clerk
South Carolina Court of Appeals
Post Office Box 29211
Columbia, South Carolina 29211

Re: Harold E. Blackwell, Jr. v Miracle Hill Ministries, Inc. Appellate Case No. 2017-002618 and Harold E. Blackwell, Jr. v Toby Woodard, Appellate Case No. 2017-002635

Dear Ms. Allen,

Please find enclosed the the transcripts for the above referenced cases. As way of reminder, the transcript for both cases is the same. I have included two copies, one for each appeal.

If you have any questions regarding this matter please do not hesitate to contact me. Thank you very much for your help and consideration in this matter.

Kindest regards,



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