

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
37th JUDICIAL CIRCUIT

CASE NO: 2016 -CP-37 -0060

Desimber Wattleton  
Plaintiff, )

MOTION AND ORDER INFORMATION  
FORM AND COVERSHEET

vs. )  
Michael Davis  
Defendant. )

RECEIVED

MAY 11 2018

SC Court of Appeals

Plaintiff's Attorney: _____, Bar No. <u>Pro Se</u> Address: <u>P.O. Box 1064 Greenville SC</u> Phone: <u>296.02</u> Fax _____ E-mail: _____ Other: _____	Defendant's Attorney: _____, Bar No. _____ Address: _____ Phone: _____ Fax _____ E-mail: _____ Other: _____
---	---

- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
- FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
- PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: 30 min Dismissal  
Estimated Time Needed: 30 mins Court Reporter Needed:  YES  NO

SECTION II: Motion/Order Type

- Written motion attached
  - Form Motion/Order
- I hereby move for relief or action by the court as set forth in the attached proposed order.

Desimber Wattleton 3/5/2018  
Signature of Attorney for  Plaintiff /  Defendant Date submitted

SECTION III: Motion Fee

- PAID - AMOUNT: \$ \_\_\_\_\_
- EXEMPT: (check reason)
  - Rule to Show Cause in Child or Spousal Support
  - Domestic Abuse or Abuse and Neglect
  - Indigent Status  State Agency v. Indigent Party
  - Sexually Violent Predator Act  Post-Conviction Relief
  - Motion for Stay in Bankruptcy
  - Motion for Publication  Motion for Execution (Rule 69, SCRCPP)
  - Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions
- Name of Court Reporter: \_\_\_\_\_
- Other: \_\_\_\_\_

JUDGE'S SECTION

- Motion Fee to be paid upon filing of the attached order.
  - Other: \_\_\_\_\_
- JUDGE CODE \_\_\_\_\_  
Date: \_\_\_\_\_

CLERK'S VERIFICATION

Collected by: BW Date Filed: 3-5-18  
 MOTION FEE COLLECTED: \$ 25.00  
 CONTESTED - AMOUNT DUE: \$ \_\_\_\_\_

2018 MAR - 5 PM 12: 50  
RECEIVED  
CLERK OF COURT  
SCOTT COUNTY, SC

Copies to: handed to [unclear]  
\_\_\_\_\_, (P) \_\_\_\_\_ (D) \_\_\_\_\_  
\_\_\_\_\_, other emailed to judge  
\_\_\_\_\_, Box Madison's Office for scheduling

STATE OF SOUTH CAROLINA  
COUNTY OF OCONEE

COURT OF COMMON PLEAS  
TENTH JUDICIAL CIRCUIT

Susan Harrison, Christopher Jones,  
Connie McKee, and Desimber Wattleton

Plaintiffs

VS.

Mitchell Eugene Davis  
aka Michael Davis

Defendant

FILED IN OCONEE, SC  
BEVERLY W. WITFIELD  
CLERK OF COURT  
2018 MAR - 9 P 12: 50

PLAINTIFF'S MOTION  
FOR DISMISSAL FOR  
LACK OF SUBJECT MATTER  
JURISDICTION

CASE NO. 2016-CP-37-0060

NOW COMES Plaintiffs, Susan Harrison, Christopher Jones, Connie McKee, and Desimber Wattleton, and moves this Court to dismiss the above-captioned case in its entirety pursuant to Rule 12(b)(1)SCRCP. In support of Plaintiff's Motion to Dismiss for Lack of Subject Matter Jurisdiction, the Plaintiffs show the following:

STATEMENT OF FACTS

RECEIVED  
MAY 11 2018  
SC Court of Appeals

1. Upon tangible evidence, knowledge, and information of repeated alleged offenses, the members of Truth Outreach of West Union, South Carolina, decided it would be in the best interest of the Church for the Defendant, Michael Davis, to step down as Pastor.

2. It was decided by the members that the Plaintiff, Susan Harrison, and Christopher Jones as witness, would meet with Michael Davis on Sunday, January 29<sup>th</sup>, 2016 to address the concerns of the Church and request that he voluntarily step down from the position as Pastor due to Misconduct.

3. Mr. Davis refused to step down voluntarily, at that time he was notified by Susan Harris that a vote would take place on Sunday, February 14, 2016 to officially vote for his termination as Pastor of The Truth Outreach of West Union, South Carolina.

4. On Sunday, February 14, 2016, the allegations against Mr. Davis were presented in writing, read aloud, and affirmed by witnesses as required by The Truth Outreach Constitution and By-Laws.

5. In the presence of two Oconee County Police Officers, a vote was held by the members of The Truth Outreach of West Union, South Carolina regarding the termination of Michael Davis as Pastor. The vote resulted in 16 votes in favor of his termination, and zero votes against his termination.

6. Mr. Davis was given the opportunity to defend himself against the allegations made against him by the congregation, which he waived in the presence of the members and police

officers present.

7. The termination of Michael Davis as Pastor of The Truth Outreach was ratified by the Congregation, and Mr. Davis has not been back to the church in the capacity as a Pastor or Member since February 2016.

8. The members of The Truth Outreach of West Union, South Carolina maintain the allegations brought against Michael Davis are founded upon facts. Mr. Davis did in fact engage in a long-standing extramarital affair with, and continues to this day to cohabit with Maria Davis, who at the time was the Pastor of The Truth Outreach Greenville, South Carolina.

9. Mrs. Sharon Davis did file for, and was granted a divorce from Michael Davis upon the grounds listed in her Complaint, which included Adultery, this information is a matter of public record.

10. Mr. Davis did in fact allow Elizabeth Estes, the former Treasurer of The Truth Outreach of West Union, South Carolina, to embezzle funds from the church, for which she was investigated and prosecuted for forgery of bank documents by the Oconee County Police Department, which this Court has the ability to verify.

11. Mr. Davis has also allegedly had an intimate relationship with Elizabeth Estes and has since fathered a child by Elizabeth Estes, born to Ms. Estes and Mr. Davis in November 2017, which can also be easily confirmed by this court via DNA testing.

12. For the aforementioned reasons and issues previously described in more detail, the congregation of The Truth Outreach, West Union, South Carolina, duly voted for the termination of Michael Davis as Pastor, and he has not attended the church for the past two years.

13. Following the termination of Mr. Davis as Pastor of The Truth Outreach of West Union, South Carolina, he summarily declared that all the members who voted for his termination were no longer members of the church and that the Board never existed.

14. Mr. Davis has now presented an argument to this court that although The Truth Outreach is a Congregational Church, his termination could only be confirmed upon Unanimous Decision by the two board members he claims now exist, of which he is one; thereby effectively attempting to reorganize the church with assistance from this Court, as a Hierarchical Church, whereby he becomes the final authority and cannot be removed from office unless he votes for his own termination.

15. However, The Truth Outreach of West Union, South Carolina is in fact a Congregational Church, as acknowledged and stated by Defendant's Counsel, to which the Plaintiffs acknowledge and agree, with the Congregation itself being the highest authority.

16. Therefore, in addition to the church operating within its Organizational and

Constitutional right to vote for the termination of its pastor as a Congregational Church, the following argument and legal precedent is being provided to establish that the Court and The Honorable Judge Maddox does not, under any circumstances, recourse of civil procedure or interpretation of law, have jurisdictional authority to overrule the church and reappoint Michael Davis as the Pastor of The Truth Outreach of West Union, South Carolina through any means of litigation or by request of the Defendant or his attorney.

## ARGUMENT

### A. SC RULES OF CIVIL PROCEDURE

The Court lacks jurisdiction to hear this case pursuant to Rule 12(b)(1). Plaintiffs present the following South Carolina Supreme Court Precedent in support as follows:

"The lack of subject matter jurisdiction can be raised at any time, can be raised for the first time on appeal, and can be raised sua sponte by the court." *Town of Hilton Head Island v. Godwin*, 370 S.C. 221, 223, 634 S.E.2d 59, 60-61 (Ct. App. 2006).

"It is not the function of the courts to dictate procedures for a church to follow." *Id.* "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.

### B. ORGANIZATIONAL STRUCTURE

The Truth Outreach, being a Congregational Church as defined by the State of South Carolina, was formed upon the foundation of self-governance. The members maintain the vote to remove the Defendant, Michael Davis, from office, was made in accordance with the organizational structure of the church, specifically that the congregation is the highest authority existing within the church, and having voted to remove Mr. Davis on February 14, 2016, the decision of the church is final. Neither the church, nor its members, have voted to adopt an alternative means of church government that may offer any avenue of challenge to the majority vote that took place;

therefore, the vote is lawful and irrevocable by the Court. Plaintiffs present the following South Carolina Supreme Court Precedent in support as follows:

"Religious organizations are generally divided into two groups: (1) congregational churches and (2) hierarchical 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.

*Id.* at 149-50, 326 S.E.2d at 148-49. Our supreme court elaborated on how congregational churches function in *Williams v. Wilson*:

The evidence is uncontested that Christian Churches are independent congregational churches governed by their own congregations. The congregation selects the church's trustees and the trustees are always members of that church. In a congregational church, the congregation is the highest authority.

*Williams*, 349 S.C. at 342, 563 S.E.2d at 323. "The law is clear that the majority controls the decisions of a congregational church." *Seldon*, 284 S.C. at 151, 326 S.E.2d at 149. In *Morris Street Baptist Church v. Dart*, 67 S.C. 338, 343, 45 S.E.2d 753, 754 (1903), a case involving the dismissal of a pastor, our supreme court held the only questions it had the power to consider were: (1) whether the congregation met, and (2) whether the congregation disposed of the defendant as pastor. If the answers were in the affirmative, the court had no jurisdiction to hear the case.

### **C. RIGHT OF SELF-GOVERNANCE**

The Truth Outreach of West Union, having been duly formed as a Congregational Church in the State of South Carolina, maintains its right to Self-Governance, Pursuant to Article III, Sections 1-3, Titled "Prerogatives" in the Truth Outreach Constitution and By-Laws, which were

previously submitted to the Court by the Defendant's previous attorney and agreed upon as the foundation for governance of the church by both the Plaintiff's and the Defendant, which states in pertinent part:

Section 1. This church shall have the right to govern itself according to the standards of the New Testament Scriptures.

Section 2. To have a membership which is determined by the local Church and to discipline its members according to the Scriptures.

Section 3. To choose or call its Pastor, elect its officers and handle other business pertaining to its life as a local Church.

Upon information and knowledge of similarly situated cases brought before the South Carolina Supreme Court, the Plaintiffs assert this court lacks the authority to re-establish, re-appoint, restore, or in effect re-elect the Defendant, Michael Davis, to any previously held position at The Truth Outreach of West Union, South Carolina by order, ruling, or any other means available to this Honorable Court. Plaintiffs present the following South Carolina Supreme Court Precedent in support as follows:

In *Pearson v. Church of God*, 325 S.C. 45, 53, 478 S.E.2d 849, 853 (1996), our supreme court held it was not proper for this court to "determine whether the Church acted consistently with its religious laws and doctrines, its system of discipline and administration in revoking [the minister's] ministry. . . [because that] would be a quintessentially ecclesiastical matter over which a court could not exercise jurisdiction." The *Bowen* court explained the reasoning behind this rule:

The premise upon which the foregoing authority is built is that the ecclesiastical matter was decided by the duly constituted ecclesiastical body having jurisdiction. Obviously then, if a decision is reached by some body not having ecclesiastical jurisdiction over the matter, then the civil court would not be bound by that decision. *The appropriate remedy, therefore, would not be to impose an ecclesiastical dictate of the civil court but would rather be to restore the status quo prevailing before the unauthorized action.* Once 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 (emphasis added). The *Bowen* court further explained that the appellate court will not determine who shall or shall not be members of a church or dictate procedure for a church to follow. *Id.* at 435, 272 S.E.2d at 435.

### PRAYER FOR RELIEF

**WHEREFORE**, the Members of The Truth Outreach Church of West Union, South Carolina, having the organizational and Constitutional right and authority to govern themselves in matters pertaining to the Church, have formally voted to remove Michael Davis from the position of Pastor, and therefore the Plaintiffs pray as follows:

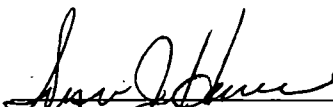
1. For a Dismissal of All Claims and Counter Claims by both the Plaintiffs and the Defendants, Without Prejudice, including claims originating in Magistrate Court and later merged with the above-titled Case Number.


2. For such ancillary orders and decrees as may be necessary to implement, effectuate, carry out, and enforce said judicial determination;

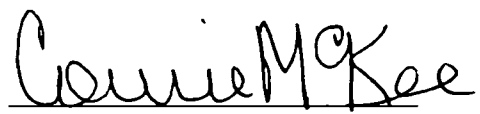
3. And for all other actions and relief this court deems just and proper.

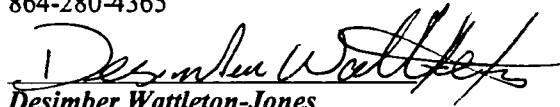
The 2<sup>nd</sup> Day of March, 2018

Respectfully Submitted,

  
\_\_\_\_\_  
**Susan Harrison**  
229 Bennettsville Road  
Salem, SC 29676  
864-784-7079

  
\_\_\_\_\_  
**Christopher Jones**  
PO Box 1064  
Greenville, SC 29602  
864-999-6823

  
\_\_\_\_\_  
**Connie McKee**  
1010 Over Yonder Ln.  
Seneca, SC 29687  
864-280-4365

  
\_\_\_\_\_  
**Desimber Wattleton-Jones**  
304 Mitchell Road  
PO Box 1064  
Greenville, SC 29602  
864-999-8237

2018 MAR -5 P 12:50

CLERK OF COURT  
SOUTH CAROLINA  
OFFICE OF THE CLERK OF COURT  
COLUMBIA, SC

Common Pleas

Clerk : Beverly H. Whitfield

205 W. Main Street

Walhalla, SC 29691

Phone:(864) 638-4280 Fax:(864) 638-4282

Received From: Harrison, Susan  
229 Bennetsville Road  
Salem, SC 29676

Date: 3/ 5/2018

Receipt #: 30863

Clerk: c37awatkin

Paying for: Self  
Transaction Type: Payment

Reference #:

Payment Type: Cash \$25.00

Comment:

Total Paid: \$25.00

Non-Refundable

Total Received: \$25.00

Change Due: \$0.00

You may check the status of your Oconee case at:

<http://www.sccourts.org/caseSearch/>

<u>Case #</u>	<u>Caption</u>	<u>Previous Balance</u>	<u>Amount Paid</u>	<u>Balance Due</u>
2016CP3700060	Susan Harrison , plaintiff, et al VS Michael Davis , defendant, et al	\$25.00	\$25.00	\$0.00

Total Cases: 1

\$25.00

\$25.00

\$0.00

**KARL B. ALLEN LAW FIRM, L.L.C.**

Attorney and Counselor at Law  
108 Lavinia Avenue  
Greenville, SC 29601  
(864) 235-9049  
Fax (864) 235-9601

April 9, 2018

RECEIVED

MAY 11 2018

SC Court of Appeals

James P. O'Connell, Esquire  
Attorney at Law  
139 Grace Drive  
Easley, South Carolina 29640

Via Facsimile (864) 498-7210

RE: Susan Harrison and Christopher  
Jones vs. Mitch Eugene Davis, et. al.  
2016-CP-37-000600

Dear Attorney O'Connell:

Please be advised that I called again this a.m. but was unable to reach you. I apologize that we continue to play phone tag in reference to the above-referenced matter.

As you are aware, I started contacting you approximately *three (3)* weeks ago as it is my understanding that you needed to know I was involved on behalf of Plaintiffs.

I have again advised your assistant this date, however, I am advised that you will not be in the office today. Since I am out of office the balance of week, I will forward a copy of this correspondence to the Court. It is my understanding that the Court is aware of our involvement.

Please Advise!

With Kind Regards,

*Karl B. Allen/mh*

Karl B. Allen

KBA/mh

cc: Honorable J. Cordell Maddox, Jr.