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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  
Appellate Case No.: 2016-000989

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.

PETITION FOR REHEARING

**RECEIVED**

JUL 26 2018

SC Court of Appeals

PALMETTO LAW CENTER, P.C.  
Hammond A. Beale, S.C. Bar # 0599  
Page M. Kalish, S.C. Bar # 72611  
P.O. Box 9526  
Columbia, SC 29290  
(803) 783-4570

Attorneys for the Appellant Carol  
Goodson-Eaddy

Pursuant to Rules 221(a) and 240, SCACR, Appellant Carol Goodson-Eaddy (“Goodson-Eaddy”) files this Petition for Rehearing as to Unpublished Opinion No. 2018-UP-319 of the Court of Appeals (the “Court”) filed on July 11, 2018.

### **STATEMENT OF THE CASE**

Goodson-Eaddy timely filed her Notice of Appeal on May 11, 2016, appealing the Order Granting Defendants’ Motion to Dismiss or in the Alternative for Summary Judgment. On July 11, 2018, the Court filed Unpublished Opinion No. 2018-UP-319 (the “Opinion”), which affirmed the Order of the Trial Court granting the Respondents’ Motion to Dismiss or in the alternative Motion for Summary Judgment. In affirming the Trial Court’s Order, the Court made two rulings with respect to the findings made by the Trial Court. The Court ruled that Goodson-Eaddy: (1) did not preserve the record as to the subject matter jurisdiction argument that the ecclesiastical doctrine was not applicable to the present case because the church is a congregational church rather than a hierarchical church; and (2) did not preserve the record as to the subject matter jurisdiction argument that the ecclesiastical doctrine was not applicable to the present case because Respondents were not properly elected to their official positions.

On July 11, 2018, the Court issued Unpublished Opinion No. 2018-UP-319, affirming the Trial Court’s ruling below that the ecclesiastical doctrine precluded the Trial Court on subject matter jurisdiction grounds from ruling on the issues before it. The Court did not rule on Goodson-Eaddy’s arguments on the merits of the individual causes of action for defamation and intentional infliction of emotional distress. Goodson-Eaddy now moves this Court for a rehearing on the Court’s ruling in Unpublished Opinion No. 2018-UP-319.

## REHEARING STANDARD

The scope of review for deciding a petition for rehearing is limited to whether the Court “overlooked or misapprehended” a point in reaching its decision. Rule 221, SCACR, states: “A petition for rehearing shall be in accordance with Rule 240, and shall state with particularity the points supposed to have been overlooked or misapprehended by the court.” In order to prevail on a petition for rehearing, a party must demonstrate that the Court overlooked or misapprehended its argument. *Kennedy v. South Carolina Retirement Sys.*, 349 S.C. 531, 532, 564 S.E.2d 322 (2001).

## ARGUMENT

Goodson-Eaddy challenged Respondents’ argument that the Trial Court lacked subject matter jurisdiction, in addition to presenting arguments that the individual causes of action should survive summary judgment on the merits. Those were the issues before the Trial Court that were raised, ruled upon, and ultimately appealed. The Trial Court ruled that it lacked subject matter jurisdiction and that the causes of action lacked evidence to fulfill the elements of each cause of action despite Goodson-Eaddy’s arguments.

**I. The Court overlooked or misapprehended the Trial Court’s ruling that summarily rejected Goodson-Eaddy’s argument by agreeing with Respondent that it lacked subject matter jurisdiction due to the ecclesiastical doctrine.**

The record on appeal contains evidence the Goodson-Eaddy raised and the Trial Court ruled on the subject matter jurisdiction issue. Goodson-Eaddy raised the argument before the Trial Court that it had subject matter jurisdiction as an exception to the ecclesiastical doctrine. The Trial Court ruled that it didn’t have jurisdiction. The ruling was supported by authority on ecclesiastical doctrine as provided in *Pearson v. Church of God*, 325 S.C. 45, 478 S.E.2d 849 (1996) that relied on *Serbian Eastern Orthodox Diocese v. Milivojevich*, 426 U.S. 696 (1976). In doing so, the Trial

Court rejected Goodson-Eaddy's argument in ruling that "areas of church administration and church discipline are specifically outside of the jurisdiction of civil courts." (R. p.7).

**A. The Trial Court incorrectly ruled that *Pearson* was applicable in the present case, so it lacked subject matter jurisdiction to hear the issues before it.**

The Trial Court explicitly rejected Goodson-Eaddy's argument that the Trial Court had subject matter jurisdiction to rule upon the issues before it. The Trial Court repeatedly states that it cannot exercise jurisdiction over internal church disciplinary matters throughout its Order. See (R. pp. 7, 8, 9, and 10). The Trial Court improperly relied upon *Pearson* and even cited a section of the opinion that spoke of "hierarchical polity", which shows that the Trial Court agreed with Respondents' argument that the church was not a congregational church. See (R. p. 6). Therefore, the argument was raised and ruled upon by the Trial Court.

**B. The Trial Court incorrectly ruled that Respondents' were acting in the scope and course of their positions in the church, so it lacked subject matter jurisdiction to hear the issues before it.**

The Trial Court ruled that Respondents were properly elected because they were protected by a qualified privilege by the fact of being church officials in an official church meeting. (See, R. p. 13). Clearly, the Trial Court accepted Respondents' argument that they were acting in the course and scope of their duties when they acted to discipline and excommunicate Goodson-Eaddy from the church. The Trial Court rejected Goodson-Eaddy's argument that the Respondents were not properly elected and serving. The Trial Court agreed that Respondents had the power to undertake actions without question despite Goodson-Eaddy's argument that the Respondents were not properly elected. Therefore, the Trial Court found that the Respondents were properly elected and serving in their positions when they took action against Goodson-Eaddy.

Finally, it is well established that "[t]he issue of subject matter jurisdiction may be raised at any time[,] including for the first time on appeal to this [c]ourt." *Tatnall v. Gardner*, 350 S.C.

135, 137, 564 S.E.2d 377, 378 (Ct. App. 2002). Therefore, it could be raised for the first time on appeal even though it was raised at the Trial Court.

**II. The Court overlooked or misapprehended the Trial Court's ruling on Goodson-Eaddy's causes of action when the Trial Court ruled in Respondents' favor on the lack of subject matter jurisdiction because the Court declined to rule on whether the causes of action for defamation and intentional infliction of emotional distress survived summary judgment.**

The Court declined to rule on Goodson-Eaddy's arguments that her causes of action for defamation and intentional infliction of emotional distress should survive summary judgment. Goodson-Eaddy restates her argument as follows because they were not previously addressed.

**A. 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. (R. pp. 269-271). This letter was drafted by Defendant Capers and then signed by the other defendants. (R. pp. 85-87, 88, 90). 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 (R. pp. 269-271, 340).

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. (R. pp. 455-457). This was taken in dereliction of the Church Constitution and By-Laws. (R. p. 252).

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) (R. p. 499). She also lost her reputation in the church community. (R. p. 499). This was as a direct result of Defendants' defamatory actions. (R. p. 363). She went to counseling for these issues. (R. p. 314). She also sought treatment for high blood pressure. (R. p. 391).

**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. (R. pp. 85-87, 88, 90, 369-271).

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. (R. p. 400).

**B. 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..." (R. p. 439). 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". (R. pp. 369-271). They further accused Goodson-Eaddy of "blatant disrespect" and rescinded her membership from the church. (R. pp. 369-271). Finally, Defendant Capers called out Goodson-Eaddy at a meeting, demanding that she repent or apologize to him for being disrespectful. (R. p. 379).

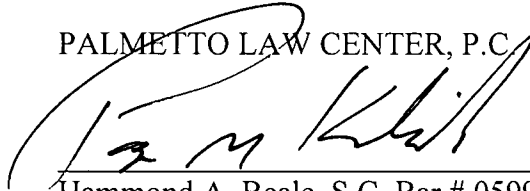
Defendants directed their campaign of insults and allegations toward Goodson-Eaddy and cannot receive the protection of religion because they are not properly elected officials of the church. (R. p. 410). As a result of the actions by Defendants, Goodson-Eaddy has suffered from depression and isolation that required medical treatment and forced the separation from her husband immediately following her membership termination from the church. (R. pp. 303-304, 311).

### **CONCLUSION**

For the aforementioned reasons, Goodson-Eaddy requests that the Court order a rehearing as prayed above and reverse the Court's Order filed on July 11, 2018, and that it reverse the Trial Court's Order.

Respectfully submitted,

PALMETTO LAW CENTER, P.C.



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Hammond A. Beale, S.C. Bar # 0599

Page M. Kalish, S.C. Bar # 72611

P.O. Box 9526

Columbia, SC 29290

(803) 783-4570 (p)

(803) 776-7862 (f)

Attorneys for the Appellant Carol Goodson-Eaddy

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PROOF OF SERVICE

I certify that I have filed the Appellant’s Petition for Rehearing with the Clerk of Court for  
The South Carolina Court of Appeals and served opposing counsel by depositing a copy of it in  
the United States Mail, postage prepaid, on July 26, 2018 addressed as follows:

Peter E. Farr, Esq.  
Murphy & Grantland, P.A.  
Attorney at Law  
4406-B Forest Drive  
Columbia, SC 29206

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PALMETTO LAW CENTER, P.C.



Hammond A. Beale, S.C. Bar # 0599  
Page M. Kalish, S.C. Bar # 72611  
PO Box 9526  
Columbia, SC 29290  
(803) 783-4570 (p)  
(803) 776-7862 (f)  
Attorneys for the Appellant Carol Goodson-Eaddy