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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM FAIRFIELD COUNTY
In The Circuit Court

Brian M. Gibbons, Circuit Court Judge

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SC Court of Appeals

Appellate Case No. 2019-00-01956

MOZELL TIMMS FORD, MARGARET GAITHER, GRACENE HAYDEN, JOHN H. HAYES, ALFRED HOLMES, SHERYL KENNEDY, DEBORAH NELSON-MOORE, PETER RICE, DOROTHY STEWART, and HASKELL TIDWELL, Sr., individually and on behalf of all persons similarly situated, and THE NEW CAMPGROUND OF CAMP WELFARE

Appellants,

vs.

CAMP WELFARE A.M.E. ZION CHURCH AND CAMP GROUND, ROGER HALL, RACHEL MILLS, MELISSA LAMAR and any other persons acting as Trustees of CAMP WELFARE A.M.E. ZION CHURCH AND CAMP GROUND,

Respondents.

PETITION FOR REHEARING

The Appellants as Petitioners petition for a rehearing of the matter above under Rules 221(a) and 224, S.C.A.C.R. The Appellants petition for a rehearing of the matter above under Rules 221(a), S.C.A.C.R.

This Appeal is from Orders of the Circuit Court denying discovery in the above case. The Appeal was dismissed by Order of the Court filed December 11, 2019.

That Order cites the holding in *Lowndes Products, Inc. v. Browder*, 262 S.C. 431, 433, 205 S.E.2d 184, 185 (1974) that “ordinarily, an order denying or compelling discovery is not directly appealable.” That holding cites the language of S.C. Code § 14-3-330 (the former Code Section 15-123) which states, in relevant part:

The Supreme Court shall have appellate jurisdiction for correction of errors of law in law cases, and shall review upon appeal:

(1) Any intermediate judgment, order or decree in a law case involving the merits in actions commenced in the court of common pleas and general sessions, brought there by original process or removed there from any inferior court or jurisdiction, . . .

(2) An order affecting a substantial right made in an action when such order (a) in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action, (b) grants or refuses a new trial or (c) strikes out an answer or any part thereof or any pleading in any action;

[*Emphasis added.*]

This limitation on review of intermediate orders was stated and clarified by the Supreme Court in *Lowndes, supra*:

The order denying discovery only determined what evidence might be elicited upon the pretrial examination of the defendant and does not have the effect of determining the scope of the issues at the trial.

[*Id.*, 262 S.C. 433 - 434, 205 S.E.2d 185; *emphasis added.*]

The holding of the Supreme Court in *EX PARTE Wilson*, 625 S.E.2d 205, 367 S.C. 7 (2005) is also on point:

Intermediate orders involving the merits may be immediately appealed pursuant to § 14-3-330(1). An order which involves the merits is one that "must finally determine some substantial matter forming the whole or a part of some cause of action or defense." *Mid-State Distribs., Inc.*, 310 S.C. at 334, 426 S.E.2d at 780. Interlocutory orders affecting a substantial right may be immediately appealed pursuant to § 14-3-330(2). Orders affecting a substantial right "discontinue an action, prevent an appeal, grant or refuse a new trial, or strike out an action or defense." *Id.* at 335 n. 4, 426 S.E.2d at 780 n. 4.

This action arises from the Respondents' assertion of control over the direction and finances of a yearly gathering at the Camp Welfare campground in Fairfield County. This gathering is now over some hundred and forty years old and involves the descendants of the original campers, some hundreds in number. The nine current members of the Camp Welfare A.M.E.

Zion Church on whose land the gathering takes place assert their total control of the gathering and its finances and claim immunity from any inquiry or disclosure by reason of their status as a church.

By the account in the WPA record of 1936, control lies in trustees selected by the full body of the campers. A copy of that record is attached and incorporated.

The Appellants contend that discovery can produce evidence that the local church and the A.M.E. Zion denomination have known of, and acceded in, the control of the gathering and its finances by the full body of the campers. They also contend that the local church and the A.M.E. Zion denomination were aware of the conversion of funds from the gathering to private individuals.

The Respondents' defenses rely upon their status as a church, and upon their compliance with the discipline of the A.M.E. Zion denomination.

In this appeal, the discovery denied involves the merits of the case and has the effect of determining the scope of issues to be tried. By denying the Appellants the discovery sought, it effectively determines the substantial question of the involvement and/or acquiescence of the A.M.E. Zion Church in the practices of the local church. Such denial also effectively prevents a determination of the conversion of funds from the gatherings and of the Respondents' claim to be protected by their adherence to church discipline.

Thus the general holding of *Lowndes* dismissing intermediate appeals on discovery cannot be applied.

In the absence of full discovery on this issue, the Plaintiffs cannot present their case. In the absence of full discovery, the issues to be tried will be severely limited or effectively barred.

The Appellants set forth below the history of this matter:

History and Argument as to Discovery requested

1. The Appellants' *Subpoena* to the South Atlantic Episcopal District of the African Methodist Episcopal Church was dated April 25th, 2017.
2. The documents sought by the *Subpoena* to the African Methodist Episcopal Church were stated as:

Any and all documents or communications relating to or regarding any records of the existence, incorporation, record-keeping, finances and operation of A.M.E.Z CHURCH

AND CAMP and/or CAMP WELFARE A.M.E. ZION CHURCH AND CAMP GROUND, a South Carolina eleemosynary corporation during the relevant period.

3. The Appellants' *Subpoena* to Roger R. Hall on behalf of A.M.E.Z Church and Camp Welfare Trustees was dated February 22nd, 2017 and mailed to opposing counsel on February 28th, 2017. That *Subpoena* sought documents in the same term as quoted above.
4. The Respondents made no objection to the *Subpoena* at the Deposition of Roger Hall on March 31, 2017, which was set as the deadline for production under that said *Subpoena*.
5. The Appellants' Request for Production of Documents was served by mail and e-mail dated May 13th, 2019.

Motion to Quash

6. In response to the *Subpoena* to Hall, the Respondents filed a Motion to Quash. That Motion to Quash was based, *inter alia*, upon over-breadth of the request.'
7. During the period leading up to argument, counsel for the Appellants was told by counsel for the Respondents of his position was that the caption joined the full A.M.E. Zion Church.

Order to Compel and Response

8. By its Order filed September 12th, 2018, after a hearing on the Motions to Quash and to Enforce the *Subpoena* to Hall, the Court compelled discovery of those items listed on the *Subpoena* to Mr. Hall as representative of the Defendant A.M.E. Zion Church and Camp Welfare Trustees. A copy of that Order is attached hereto and incorporated herein.
9. By letter with attachments dated October 2nd, 2018, the Respondents purported to comply with the Order to Compel. The said letter does not claim to have held any documents back. It stated, in relevant part, that the documents included those "in possession of Camp Welfare A.M.E. Zion Church detailing the finances and operation of its annual revival and camp meeting."
10. To the extent the documents supplied with the Respondents' letter of October 2nd do not respond to the those demanded by the *Subpoena* to Hall and required by the Order to compel, the Respondents are in contempt of that Order.

Status of Discovery supplied by Camp Welfare

11. On May 3rd, 2019, the Appellants took the Deposition of Rachel Hall Mills, identified as a Rule 30(b)(6) representative of Camp Welfare Church. In that Deposition, the following exchanges occurred:

·5· ····· Ma'am, I believe I'm accurately characterizing
·6· ·the testimony we had from Mr. Hall as indicating that
·7· ·reports from Camp Welfare as to their finances, and
·8· ·otherwise as required by the Book of Discipline, had been
·9· ·filed with the A.M.E. Zion bishop and the -- what I would
10· ·call, I guess, the authorities above the church itself.

11· ·Is that your understanding, ma'am?

12· ····A· ·Yes.

13· ····Q· ·Okay· Who has possession of those documents,
14· ·ma'am?

15· ····A· ·They are either at the church, or -- and I have
16· ·copies.

17· ····Q· ·Okay· Well, ma'am, we have in this case already
18· ·had a subpoena and order to turn over records as to
19· ·finances in this church· We do not have those documents.
20· ·I realize, ma'am, you are not a lawyer· Is there any
21· ·reason why you can tell me why we do not have those
22· ·documents?

23· ····A· ·Which ones did you not get?

24· ····Q· ·The reports to the church, ma'am, the higher
25· ·church.

·A· ·I don't understand the question· You got the
·2· ·bank statements, the receipts.

·3· ····Q· ·No, ma'am· I'm talking about the reports from
·4· ·Camp Welfare Church to the bishop and to what I believe is
·5· ·called the "general conference."

·6· ····A· ·Um-hmm.

·7· ····Q· ·I understood your testimony to be that those had

·8· ·been -- they exist and they were in the keeping of the
·9· ·church.· Am I misstating your statement, ma'am?
10· · · ·A· ·Oh, yeah.· No.· We do not give an actual written
11· ·report to the bishop.· The pastor sits in all the meetings
12· ·at the final end of the camp meeting to go over what's
13· ·raised, what's paid out.· That's the documentation for the
14· ·church.· If he's okay with it, that's the end of it.· The
15· ·bishop, to my knowledge, never asks him -- you may have to
16· ·ask him if she asked him for any more information.
17· · · ·Q· ·So, ma'am, if I understand your testimony, there
18· ·is no such thing as a written report from Camp Welfare
19· ·Church to the conference or to the bishop?
20· · · ·A· ·Not that I'm aware of, no.
21· · · ·Q· ·Not anymore?
22· · · ·A· ·Not that I'm aware of, no.
23· · · ·Q· ·Ma'am, I have to ask you, since you've been
24· ·designated as a 30(b)(6) witness, who would know, if not
25· ·you, whether such things exist?
·1· · · ·A· ·No one else.

[DEPOSITION OF RACHEL HALL MILLS, May 3, 2019, pp. 6-8.]

·8· · · ·Ma'am, a contribution is sent by Camp Welfare to
·9· ·what I call the conference or the bishop.
10· · · ·A· ·What's the question?
11· · · ·Q· ·Are any monies donated or given to Camp Welfare
12· ·since -- to the bishop or what I call the conference, the
13· ·larger church above you?
14· · · ·A· ·From the church, yes.
15· · · ·Q· ·And those are sent in what form?· A check?
16· · · ·A· ·Yes.
17· · · ·Q· ·With no report?
18· · · ·A· ·Yes.· We report those, like, for the different
19· ·auxiliaries, like the trustee board, the steward board,
20· ·the Ministry of Kindness.· They all have to do a report

21· quarterly, and then they do one at the end, at the annual

22· conference, for the annual.

23· ···Q· And who has those reports, ma'am?

24· ···A· They turn them in to the bishop, to the A.M.E.

25· Zion Conference.

·Q· Do you-all keep copies?

·2· ···A· Yes.

·3· ···Q· Do you have those copies?

·4· ···A· They should be at the church, or the pastor has

·5· them, one or the other.

·6· ···Q· One or the other?

·7· ···A· Um-hmm.

·8· ···Q· Are you aware, ma'am -- and I'm not trying to be

·9· combative with you -- why we haven't been given copies of

10· them?

11· ···A· I have no idea.

[DEPOSITION OF RACHEL HALL MILLS, May 3, 2109, pp. 17-18.]

Objection of the Respondents and argument

12. In its objection to the Appellants' Request for Production, the Respondents stated as follows:

Defendants object to this request as the term "subject transaction" is broad in that Plaintiffs have requested copies of all documents and correspondence regarding Camp Welfare A.M.E. Zion Church, the A.M.E. Zion Church, Inc., a hierarchical denomination, its episcopal districts, bishops, officers, and other representatives from January 1, 1863 to present. As drafted, such request is unduly burdensome as responding to this request would require an unreasonable amount of time and resources to fulfill in relation to the needs of the case as it would require Respondents to search, review, and produce all records since the Church's inception. Respondents further object to this request as it seeks records of persons not a party to this action, to include, conference reports, financial records, and other documents of the A.M.E. Zion Church, Inc., its episcopal districts, bishops, officers, and other representatives.

13. Insofar as the documents sought are adequately described in the *Subpoena* served on Hall, enforced by Order of this Court, and again in Appellants' Request for Production of Documents, the argument as to over-breadth is moot.
14. Insofar as the documents sought are adequately described in the *Subpoena* served on the A.M.E. Zion Church, and again in Appellants' Request for Production of Documents, the request is not overbroad.
15. As of this time, the Appellants' suit involves two main issues: a) the Appellants' continuing right to peacefully and direct the Campground during the August gathering, and b) an accounting for funds paid for upkeep and improvement on the Campground property.
16. The issue of Campground finances are specifically referenced in Paragraph 3. of the Appellants' Motion for Temporary Restraining Order filed August 16, 2016, and in Paragraphs 14. through 18., and 24. through 40. of their Amended Complaint filed March 1, 2018.
17. The scope of discovery is stated in Rule 26(b)(1), S.C.R.C.P. as follows:

(b) Scope of Discovery. Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

(1) In General. Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

18. The documents sought are, by definition, relevant to the issues stated in the pleading. They cannot be defined as overbroad.
19. To the extent required by the Court, the Appellants stand ready to enter into a Protection Order in common form as to any documents provided.

20. To the extent the documents sought are extensive, the Appellants stand ready to provide an independent researcher to search the records of the African Methodist Episcopal Church.
21. To the extent the discovery of materials is limited by the alleged non-joinder of the full African Methodist Episcopal Church and such joinder is required to effect discovery, the Appellants moved that the same be joined in this action by operation of Rules 18 and 19, S.C.R.C.P.

Current Status of Discovery


22. By their Motion to Compel filed July 23rd, 2019, the Appellants sought an Order to compel Discovery and/or compliance with its Subpoena to the African Methodist Episcopal Church, an award of attorneys' fees and costs incurred as a result of this Motion and, as proven, an Order holding the Respondents in contempt for failure to comply with the Order to compel filed September 12th, 2018.
23. The Appellants' Motion was heard October 17th, 2019. By its Order of October 23rd, 2019, this Court denied the Plaintiffs' Motion without comment.
24. The Appellants' Rule 59 Motion was filed November 1, 2019. By its Order of November 5, 2019, this Court denied the Plaintiffs' Rule 59 Motion without comment.
25. In the absence of Findings of Fact or Conclusions of Law in the Circuit Courts' Orders, the Appellants are without guidance as to their right to future discovery, or as to the grounds for the Court's refusal of relief.
26. There is no Scheduling Order in place in this civil action under whose terms the relief sought is untimely.
27. There is no indication in the appealed Circuit Courts' Orders that the discovery sought by Appellants is overbroad.
28. There is no indication in the appealed Circuit Courts' Orders that the discovery sought by the Appellants cannot be used to support its claims.
29. The Appeal herein was filed by Notice dated and served by mailing of November 22, 2019.

Conclusion

For all the reasons set out and referenced herein, the Appellants as Petitioners request that this matter be reheard by the Court of Appeals, that the Order of December 11, 2019 be

reversed, that this appeal proceed to Briefs and argument, and for any other relief to which they may be entitled in law or equity.

Respectfully submitted,



John Martin Foster
Post Office Box 106
Rock Hill, S.C.29731-6106
Attorney for Petitioner/Appellants

December 17, 2019

Rock Hill, South Carolina

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Simmie N. Smith
Richmond County

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CAMP WELFARE

Located in Fairfield County on the waters of the Wateree River on a part of the old plantation owned many years ago by J. H. Foster, and known as the Mountain Gap a peculiar custom or religious ceremony that begun sixty-three years ago is still being carried on.

The slaves had been emancipated and the next thing they wanted was a church of their own. One Charles Hill, a Negro, who lived on this place wrote to the old Zion Church in New York, asking that it send a minister to select a site for a church and preach in the community. Elder Moore, a presiding elder of the N. A. S. & faith, James H. Jackson, the minister who was to be in charge of the new church, James Gathers, Charles Hill, and Wiley Johnson, began looking around for a suitable place--night caught them in the wooded hills and they decided to spend the night sleeping on the ground. On arising, the Elder asked the men how they rested to which question they all answered, "well". It was from this incident that the place gets its name "Camp Welfare".

These men purchased eleven and one half acres. They still have in their possession the original deed made out the 15th of August 1876.

The first structure for worship was a brush arbor, made of logs and covered with dried brush built on the top of a hill, but after finding this location too windy they moved to the valley below and built another brush arbor. This was replaced ten years later by a

roughly constructed open tabernacle, covered with heavy board that is being used at the present time.

The people of this community and many from practically every state in the Union make pilgrimages annually to camp welfare, as the people of old did to Jerusalem, and there they live in the three hundred or more crudely constructed ^{cabins} cabins for one week.

Three preaching services are held daily, with four on Sunday.

While the camp is owned by the M. E. Church the services are non-denominational. Any one wishing may spend the week of worship there free of charge. They must however, furnish their own food and bedding.

The grounds and buildings are kept up by a trustee board of nine men, elected every year by the people.

The crowds attending these camp meetings have been estimated at between four and five thousands.

References

Interview:

Patience Gibson--age 79--one of the original purchasers of the land. Winnsboro, South Carolina, N. S. D.

Interview:

Clarence Hall, one of the first members--and chairman of the present board of trustees., Winnsboro, South Carolina, N. S. D.

STATE OF SOUTH CAROLINA]
 COUNTY OF FAIRFIELD]

IN THE CIRCUIT COURT
 SIXTH JUDICIAL CIRCUIT

MOZELL TIMMS FORD,]
 MARGARET GAITHER,]
 GRACENE HAYDEN,]
 JOHN H. HAYES,]
 ALFRED HOLMES,]
 SHERYL KENNEDY,]
 DEBORAH NELSON-MOORE,]
 PETER RICE,]
 DOROTHY STEWART, and]
 HASKELL TIDWELL, Sr.,]
 individually and on behalf of all persons]
 similarly situated, and]
 THE NEW CAMPGROUND OF]
 CAMP WELFARE, a South Carolina]
 eleemosynary corporation,]

ORDER
 ON MOTIONS

C.A. No. 2016-CP-20-00294

Plaintiffs,]

vs.]

CAMP WELFARE A.M.E. ZION]
 CHURCH AND CAMP GROUND, a]
 South Carolina eleemosynary corporation,]
 ROGER HALL,]
 RACHEL MILLS,]
 MELISSA LAMAR and]
 any other persons acting as Trustees of]
 CAMP WELFARE A.M.E. ZION]
 CHURCH AND CAMP,]

Defendants.]

The Motions of the parties came on for hearing September 6, 2018 at 9:30 A.M. Kenneth A. Davis of Boykin & Davis, LLC appeared for the Defendants; John Martin Foster for the Plaintiffs. The Defendants move to dismiss under Rule 12(b)(1) and 12(b)(6), S.C.R.C.P., and to quash the Plaintiff's Subpoena. The Plaintiffs oppose and move to compel compliance with their subpoena.

Camp Welfare is a campground site under a deed to the local A.M.E. Zion Church. A yearly retreat on the site is held by the Plaintiffs and others in their position, who are alleged to be descendants of the original founders of the site and holders of "tents" or wooden structures occupied by the Plaintiffs during the August retreat.

In 2016, a dispute arose between the Plaintiffs and the named Defendants. The Plaintiffs sought financial information as to their camp fees and site maintenance.

This matter was referred to mediation by this Court. No settlement has resulted.

DEFENDANTS' MOTION TO DISMISS

The Defendants argue that they are entitled to a dismissal of this action. They argue that the Camp Welfare Church is a part of the A.M.E. Zion Church, a hierarchical entity, and that the ownership and management of the site are within the sole provenance of Church discipline. As such, they assert this Court is without jurisdiction to hear this matter.

The Plaintiffs contend they have a recognized right to participation in the August meetings, in the use of their "tents" and in the management of the campsite.

Our Courts have recognized that an ecclesiastical entity is subject to the laws dealing with real estate. *Protestant Episcopal Church in the Diocese of S.C. ET AL. v. The Episcopal Church ET AL.*, App., 421 S.C. 211, 806 S.E.2d 82 (2017).

The evidence before the Court at this time is:

the deeds of the real property into the Camp Welfare A.M.E. Zion Church;
the WPA Project report, dated 1936-1937;
the verified Amended Complaint; and
the Deposition of Rogers Hall taken March 31, 2017.

The 3rd and 4th full paragraphs of the WPA Project report on Page 2 of that document state:

While the camp is owned by the A. M. E. Z. church the services are non-denominational. Any one wishing may spend the week of worship there free of charge. They must however, furnish their own food and bedding.

The grounds and buildings are kept by a trustee board of nine men, elected every year by the people.

Rogers Hall, Chairman of the Trustees, was deposed on March 31, 2017. In relevant part, Mr. Hall acknowledged that Trustees come from other churches, even from non-A.M.E. Zion churches. He stated:

25. Q. So, sir, if I understand your testimony,
1. there was a time when these trustees were supplied

2. outside the A.M.E. Zion Church?

3. A. Yes.

4. Q. Okay, sir. When did that change; to your
5. knowledge?

6. A. At the decease of those that I mentioned.

7. Q. And you can -- I'm not asking you to say
8. anything you don't know, sir. Do you have any idea
9. of when that would have been?

10. A. No.

11. Q. Okay. Was there a change in the written
12. rules about who was going to be a trustee, sir?

13. A. No.

14. Q. Okay, sir. So it's never been written down
15. as to why this change or when this change occurred?

16. A. No, we still practice it, but we send out
17. invitations for the churches to come and help out,
18. but no one was willing to come and work diligently.
19. Some would come, but they would fall off to the
20. wayside, so we couldn't make them come.

21. Q. So specifically, sir, you asked some of
22. these churches to supply trustees?

23. A. That's correct.

[Hall Deposition, p. 21-22; page numbers as indicated.]

21. Q. Okay, sir. Sir, was there a vote taken to
22. change this? By that, I mean a vote of the Board of
23. Trustees.

24. A. No, it hasn't been changed.

25. Q. Okay, it hasn't been changed. Since

1. roughly 2010, sir, have any trustees or officers,
2. I'll call them, been terminated from or suspended or
3. expelled from that position?

4. A. No.
5. Q. Okay, sir. Since roughly 2010, have any
6. members or persons been terminated, expelled, or
7. suspended from Camp Welfare?
8. A. No.

[Hall Deposition, pp. 23–24; page numbers as indicated.]

Both Counsel acknowledged in argument that the manual entitled THE DOCTRINE AND DISCIPLINE OF THE A.M.E. ZION CHURCH is the governing document of that Church, and that this manual makes no provision for Trustees outside the local church.

In light of the evidence, there exists a genuine issue of disputed material fact regarding the management and control of the campground, which constitutes a dispute over that property and which precludes any conclusion that this Court is without jurisdiction to hear this matter. *Protestant Episcopal Church in the Diocese of S.C. ET AL. v. The Episcopal Church ET AL.*, App., Acting Justice Toal concurring, 421 S.C. 271, 806 S.E.2d 114 (2017); *Boyd v. Smyzer*, No. 2009-CA-00126-MR, pg. 6 (Ky.App. 6/11/2010).

As to the Defendant’s Motion under Rule 12(b)(6), S.C.R.C.P., such relief can only be granted where the pleadings are so defective that, taking all the facts alleged in the pleading as admitted, no cause of action is stated. A judgment on the pleadings is not proper if there is an issue of fact raised by the Amended Complaint which, if resolved in favor of the Plaintiffs, would entitle them to judgment. *See, e.g., Lydia v. Horton*, 343 S.C. 376, 540 S.E.2d 102 (Ct.App. 2000). Given the facts in dispute as recited in the pleadings, the Defendants are not entitled to such relief.

MOTIONS TO QUASH and TO COMPEL

Plaintiffs’ Subpoena was dated and mailed February 28th, 2017. It requested:

Any and all documents or communications relating to or regarding any records of the existence, incorporation, record-keeping, finances and operation of AMEZ CHURCH AND CAMP and/or CAMP WELFARE A.M.E. ZION CHURCH AND CAMP GROUND, a South Carolina eleemosynary corporation during the relevant period.¹

¹ The Definition of terms attached to the Subpoena are omitted; the “relevant period” was defined in the Subpoena as being from January 1, 2010.

The Defendants made no objection to the Subpoena at the Deposition of Roger Hall on March 31, 2017, which was set as the deadline for production under the Subpoena.

On Monday, April 24th, 2017, counsel for Plaintiffs received the Defendants' Motion to Quash the Subpoena. A second Motion, to the same effect, was received on June 12, 2017.

The Defendants' Motions to Quash argue, first, the request of the subpoena is overbroad, second, the undue burden of expense entailed in compliance, and third, the relevance of such discovery.²

The Plaintiffs' suit involves: a) the Plaintiff's continuing right to peacefully use the Campground during the August gathering, and b) an accounting for funds paid for upkeep and improvement on the Campground property. The issue of campground finances are specifically referenced in Paragraphs 14. through 18., and 24. through 40. of their Amended Complaint.

The financial and corporate documentation sought are directly relevant to the issues cited above. The scope of discovery is stated in Rule 26(b)(1), S.C.R.C.P.:

(b) *Scope of Discovery.* Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

(1) *In General.* Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

The documents sought are, by definition, relevant to the issues stated in the pleading. They cannot be said to be overbroad.

The Defendants' position on the relevance of discovery is not borne out by precedent. *See, e.g., Padron v. Watchtower Bible & Tract Soc'y of N.Y., Inc.* (Cal. App., 2017); *Pardue v. Center City Consortium Schools*, 875 A.2d 669 (DC, 2005); *Napieralski v. Unity Church*, 802 A.2d 391, 2002 ME 108 (Me., 2002); *Hadnot v. Shaw*, 826 P.2d 978, 1992 OK 21 (Okla., 1992); *Diocese of Galveston-Houston v. Stone*, 892 S.W.2d 169 (Tex.App.-Hous. (14 Dist.) 1994). The cited precedent holds

² The original Motion to Quash also argued the then-pending Mediation as a ground; that mediation, as recited, has now occurred. The second Motion to Quash also advances the arguments on jurisdiction dealt with above.

discovery proper if the Court must determine whether the issue is one of neutral law cognizable to the Court; and discovery is also proper when the issue is one of neutral law cognizable to the Court.

The Plaintiffs' action relates to the management as well as the ownership of the real property in question. On their face, those issues involve only neutral questions of law, not matters of "discipline, or of faith, or ecclesiastical rule, custom, or law" in the language of *All Saints Parish v. Episcopal Church*, 685 S.E.2d 163, 385 S.C. 428 (2009).

No factual showing has been made of any inordinate expense involved in the production of the documents listed in the Plaintiffs' Subpoena.

The Defendants have shown no basis to prevent normal discovery. The Plaintiffs are entitled to discovery and to compliance with their Subpoena of February 28th, 2017.

NOW, THEREFORE, IT IS ORDERED:

That the Defendants' Motions to Dismiss under Rule 12(b)(1) and 12(b)(6), S.C.R.C.P. are DENIED;

That in accordance with Rule 12(a)(1), S.C.R.C.P., the Defendants shall serve their responsive pleading to the Amended Complaint within fifteen (15) days after notice of the Court's action;

That the Defendants' Motions to Quash the Subpoena of February 28th, 2017 are DENIED;

That the Plaintiff's Motion to Compel compliance with the Subpoena of February 28th, 2017 is GRANTED; and

That the Defendants shall comply with the Subpoena of February 28th, 2017 within twenty (20) days after notice of the Court's action;

AND IT IS SO ORDERED.

John C. Hayes
Acting Circuit Judge
Sixth Judicial Circuit

September __, 2018

Rock Hill, South Carolina



Fairfield Common Pleas

Case Caption: Members Of Camp Welfare VS Amez Church And Camp Welfare
Church Trustees
Case Number: 2016CP2000294
Type: Order/Compel

So Ordered

s/John C. Hayes III 2049

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM FAIRFIELD COUNTY
In The Circuit Court

Brian M. Gibbons, Circuit Court Judge

Appellate Case No. 2019-00-01956

RECEIVED
DEC 19 2019
SC Court of Appeals

MOZELL TIMMS FORD, MARGARET GAITHER, GRACENE HAYDEN, JOHN H. HAYES, ALFRED HOLMES, SHERYL KENNEDY, DEBORAH NELSON-MOORE, PETER RICE, DOROTHY STEWART, and HASKELL TIDWELL, Sr., individually and on behalf of all persons similarly situated, and THE NEW CAMPGROUND OF CAMP WELFARE

Appellants,

vs.

CAMP WELFARE A.M.E. ZION CHURCH AND CAMP GROUND, ROGER HALL, RACHEL MILLS, MELISSA LAMAR and any other persons acting as Trustees of CAMP WELFARE A.M.E. ZION CHURCH AND CAMP GROUND,

Respondents.

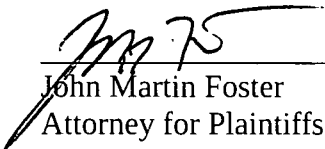
CERTIFICATE OF SERVICE

I certify that I have served the Petition for Rehearing, dated December 17, 2019, on the following counsel or persons of record on the date stated below:

Kenneth A. Davis
Boykin & Davis, LLC
Attorneys for Respondents
Post Office Box 11844
Columbia, S.C. 29211

Bishop Mildred H. Hines
or Successor
South Atlantic Episcopal District
745 Saluda Street
Rock Hill, S.C. 29730

Keeper of Records
A.M.E. Zion Headquarters
3225 Sugar Creek Road
Charlotte, N.C. 28269



John Martin Foster
Attorney for Plaintiffs
SC Bar No. 2086

The Guardian Building
223 East Main Street, Suite 520
Rock Hill, S.C. 29730

Post Office Box 106
Rock Hill, S.C. 29731

803 324-8100
803 324-8109: Fax
jmfoster@comporium.net

December 17, 2019

Rock Hill, South Carolina

JOHN MARTIN FOSTER

Attorney at law

The Guardian Building	PO Box 106	803 324 8100
223 East Main Street Suite 520	Rock Hill SC	803 324 8109 Fax
Rock Hill South Carolina 29730	29731-6106	jmfoster@comporium.net

December 17, 2019

The Honorable Jenny Abbott Kitchings
Clerk of the South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

RECEIVED
DEC 19 2019
SC Court of Appeals

Re: Mozell Timms Ford, *et al.*, Appellants
vs.
Camp Welfare A.M.E. Zion Church and Camp Ground, *et al.*, Respondents
Appellate Case No.: 2019-001956

Dear Ms. Kitchings:

In accordance with the cited Rule, enclosed herewith please find the original and seven (7) copies of Appellants' Petition for Rehearing, together with Certificate of Service for the same, and our check for the Motion fee of \$50.00.

By copy of this letter, I am serving the attorneys for the Respondents with copies of all indicated documents, as evidenced by the referenced Certificate of Service.

Please return the extra conformed copies to my office in the enclosed self-addressed, stamped envelope. As always, thank you, and your staff, for your assistance in these matters.

Sincerely yours,



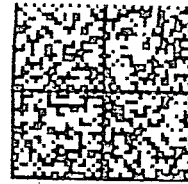
John Martin Foster

jmf/
enclosures
cc: Client File

cc: Kenneth A. Davis
Tierney F. Dukes
Attorneys for Defendants
Post Office Box 11844
Columbia, S.C. 29211
803 254-0707

Bishop Mildred H. Hines
or Successor
South Atlantic Episcopal District
745 Saluda Street
Rock Hill, S.C. 29730

Keeper of Records
A.M.E. Zion Headquarters
3225 Sugar Creek Road
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DEC 19 2019
SC Court of Appeals

John Martin Foster Attorney

223 East Main St Suite 520
Post Office Box 106
Rock Hill SC 29731-6106

TO:

THE HONORABLE JENNY ABBOTT KITCHINGS
CLERK OF THE COURT OF APPEALS
POST OFFICE BOX 11629
COLUMBIA, S.C. 29211