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IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT
IN AND FOR DUVAL COUNTY, FLORIDA

CHARLES STOVALL WEEMS, IV
and KERRI WEEMS, individuals,

Case No.: 2022-CA-1047
Division: CV-F

Plaintiffs,

v.

CELEBRATION CHURCH OF
JACKSONVILLE, INC., a Florida
nonprofit corporation, KEVIN
CORMIER, MARCUS ROWE,
ANGELA CANNON, JACOB
WILLIAM, and LEE WEDEKIND, III,

Defendants.
_____/

PLAINTIFFS' OMNIBUS RESPONSE IN OPPOSITION TO DEFENDANTS'
MOTIONS TO DISMISS SECOND AMENDED COMPLAINT

Plaintiffs, Charles Stovall Weems, IV ("Pastor Weems") and Kerri Weems ("K. Weems") (collectively, "Plaintiffs"), by counsel, respond in opposition to Defendants' request to dismiss this case for lack of subject matter jurisdiction based on the ecclesiastical abstention doctrine or to compel arbitration in the following motions:

1. Defendant, Celebration Church of Jacksonville, Inc.'s ("Celebration Church"), *Motion to Dismiss Second Amended Complaint, or in the Alternative, to Compel Arbitration* (the "Church Motion") [1];

[1] Celebration Church's additional arguments (which have been adopted by the individual defendants) concerning (1) the intra-corporate conspiracy doctrine and (2) failure to state a claim for intentional infliction of emotional distress are separately addressed in Plaintiffs' Response in Opposition to the Church Motion, filed contemporaneously herewith.

ACCEPTED: DUVAL COUNTY, JODY PHILLIPS, CLERK, 08/05/2022 08:27:01 AM

2. Defendants, Kevin Cormier, Marcus Rowe, Angela Cannon, and Jacob William's (collectively, the "Trustees"), *Motion to Dismiss Second Amended Complaint, or in the Alternative, to Compel Arbitration* (the "Trustee Motion")[2]; and

3. Defendant, Lee Wedekind, III's ("Wedekind"), *Motion to Dismiss for Lack of Subject Matter Jurisdiction* (the "Wedekind Motion").

I. INTRODUCTION

After the Trustees and Wedekind completed a *coup* to oust Pastor Weems from his leadership positions in Celebration Church, and ***after*** Plaintiffs severed all affiliations with the Church, Defendants published false and defamatory criminal accusations in a "Report of Investigation" that they leaked to the press, posted on Celebration Church's ***publicly available*** website, and summarized in a video shown to staff and volunteers. Defendants launched this coordinated public attack, falsely accusing Plaintiffs of violating ***secular law*** and maliciously disclosing K. Weems's private mental health information, even though Plaintiffs were no longer "members" of the church, (*see* Second Amended Complaint at ¶¶ 196-210).

Defendants cannot refute the operative facts of this case, so they are desperately trying to prevent it from being heard. To achieve that goal, Defendants argue "church autonomy" trumps this Court's jurisdiction. To make that argument, Defendants necessarily misrepresent that this is an "employment and disciplinary dispute" that "involves the fundamental question of who will preach from the pulpit and occupy the parsonage" (Wedekind Motion at pp 1, 8). These positions are absurd.

Plaintiffs' Second Amended Complaint does not ask this Court to give them control of Celebration Church. To the contrary, Plaintiffs severed their ties with the church months ago.

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[2] The Trustees' arguments concerning (1) alleged immunity from liability under § 617.0834, *Fla. Stat.*, and (2) failure to allege publication are separately addressed in Plaintiffs' Response in Opposition to the Trustee Motion, filed contemporaneously herewith.

Moreover, Plaintiff's claims do not question the propriety of any *alleged* church "disciplinary" decisions. In fact, the claims are all based on events that transpired ***after*** Pastor Weems resigned.

Because Defendants' arguments are results-driven, their motions are riddled with r factual inaccuracies and unsupportable legal positions. For example, Defendants incorrectly claim Celebration is a "hierarchical" church. They even take a cult-like position that Plaintiffs are still and will remain "members" of Celebration Church until the Trustees decide to let them leave. As explained below (Section IV.A.2(c)), acceptance of that argument would force continued church membership on Plaintiffs and violate their fundamental rights to freedom of religion protected by the First Amendment and Section 1 Article 3 of Florida's Constitution.

As explained in Section II.A., below, Celebration is a congregational (not hierarchical) church—which is legally significant for purposes of the abstention doctrine. As explained in Section II.B, Defendants already conceded that Plaintiffs "terminated all affiliations with the church" on April 15, 2022, and thus cannot force Plaintiffs to be church members to try to avoid liability for defamation. As explained in Section III.C, the claims at issue in this case are not based on the propriety of any employment investigation or supposed disciplinary decision. Plaintiffs' claims rest exclusively on factual statements Defendants published to the public at large after Plaintiffs were no longer members of the church. A fact finder does not need to interpret or apply religious doctrine to decide that the statements upon which Plaintiffs' claims are based are tortious. Florida law clearly establishes that defamation claims capable of being adjudicated based on neutral principles of law must be litigated in court.

Ultimately, Defendants are trying to hide behind "religion" because they know they falsely accused Plaintiffs of committing financial crimes to destroy them in the court of public opinion.

Defendants' hopeless ploy to deprive Plaintiffs of their constitutional right to petition this Court for the redress of grievances should be resoundingly rejected.

As the Supreme Court recognized in *Cantwell v. State of Connecticut*, 310 U.S. 296, 303-304 (1940) (emphasis added):

> The constitutional inhibition of legislation on the subject of religion has a double aspect. On the one hand, it forestalls compulsion by law of the acceptance of any creed or the practice of any form of worship. Freedom of conscience and ***freedom to adhere to such religious organization*** or form of worship as the ***individual may choose*** cannot be restricted by law.[3] On the other hand, it safeguards the free exercise of the chosen form of religion. Thus, the Amendment embraces two concepts—freedom to believe and freedom to act. The first is absolute but, in the nature of things, the second cannot be. Conduct remains subject to regulation for the protection of society.

This case does not in any way implicate Defendants' religious ***beliefs.*** It merely seeks to hold Defendants liable for their ***acts.***

Importantly, the parties' respective religious freedoms are not the only fundamental rights at issue in this case. Our society prizes the dignity of each individual person and thus permits actions for damages for defamation and privacy invasions. *Seropian v. Forman*, 652 So.2d 490, 493 (Fla. 4th DCA 1995). "The right of a man to protection of his own reputation from unjustified invasion and wrongful hurt reflects no more than our basic concept of the essential dignity and worth of every human being—a concept at the root of any decent system of ordered liberty.'" *Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 22 (1990) (*quoting Rosenblatt v. Baer*, 383 U.S. 75, 86 and 92-93 (1966)); *see also Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 341 (1974); *Holter v. HLCY T.V., Inc.*, 366 So.2d 445, 451 (Fla. 2d DCA 1978). In fact, "important social values []

[3] The emphasized language is precisely why Defendants' request to force Plaintiffs continued "membership" in Celebration Church is unconstitutional.

underlie the law of defamation," including society's "pervasive and strong interest in preventing and redressing attacks upon reputation." *Milkovich*, 497 U.S. at 22 (*citing Rosenblatt*, 383 U.S. at 86). "[T]he preventive effect of liability for defamation serves an important public purpose. For the rights and values of private personality far transcend mere personal interests. Surely if the 1950's taught us anything, they taught us that the poisonous atmosphere of the easy lie can infect and degrade a whole society." *Rosenblatt*, 383 U.S. at 93–94.

The harms Plaintiffs suffered at Defendants' hands are substantial and will be exponentially compounded if the Court declines to exercise its jurisdiction or compels arbitration, thereby also depriving Plaintiffs of their fundamental right to protect their dignity. This case should not be dismissed based on "church autonomy" or the abstention doctrine because they do not apply. Arbitration should not be compelled because there is not a valid agreement to arbitrate. Defendants' motions should be denied.

II. FACTUAL BACKGROUND

Many "facts" Defendants offer in their motions are not supported by record evidence and should not be taken at face value because Defendants' motions are replete with factual inaccuracies.

A. Celebration Church is NOT a Hierarchical Church

Defendants' first incorrect factual assertion is that Celebration Church is "hierarchical" (Church Motion at p. 4; Wedekind Motion at p. 6, n.3). Defendants even use buzzwords like "mother church" because that phrase is used throughout *Serbian Eastern Orthodox Diocese v. Milivojevich*, 426 U.S. 696 (1976).[4] The phrase "mother church" has never been used to describe Celebration because it a non-denominational, independent congregational church. [Weems Decl.[5] ¶ 16]

As explained in Section IV.A.2(a), below, "hierarchical" churches are organized as a body with other churches having similar faith and doctrine and have a common ruling convocation or ecclesiastical head. They are obedient to and governed by a larger or more important religious

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[4] *Milivojevich* uses the phrase "mother church" because that case involved: "The Serbian Orthodox Church, one of the 14 autocephalous, hierarchical churches which came into existence following the schism of the universal Christian church in 1054, is an episcopal church whose seat is the Patriarchate in Belgrade, Yugoslavia. Its highest legislative, judicial, ecclesiastical, and administrative authority resides in the Holy Assembly of Bishops, a body composed of all Diocesan Bishops presided over by a Bishop designated by the Assembly to be Patriarch. The Church's highest executive body, the Holy Synod of Bishops, is composed of the Patriarch and four Diocesan Bishops selected by the Holy Assembly. The Holy Synod and the Holy Assembly have the exclusive power to remove, suspend, defrock, or appoint Diocesan Bishops. The Mother Church is governed according to the Holy Scriptures, Holy Tradition, Rules of the Ecumenical Councils, the Holy Apostles, the Holy Faiths of the Church, the Mother Church Constitution adopted in 1931, and a 'penal code' adopted in 1961. These sources of law are sometimes ambiguous and seemingly inconsistent. Pertinent provisions of the Mother Church Constitution provide that the Church's 'main administrative division is composed of dioceses, both in regard to church hierarchical and church administrative aspect,' Art. 12..." 426 U.S. at 699.

[5] The Declaration of Pastor Weems is attached hereto as **Exhibit A** and cited herein as "Weems Decl."

organization and have rules or written codes in place establishing a hierarchical decision-making process. Presbyterian[6], Catholic[7], Episcopal, Methodist, and Lutheran are examples of hierarchical churches. On the other hand, "congregational" churches like Celebration are **autonomous** and **independent** in their government The Baptist church is the archetypal "congregational" church.

Without supporting record evidence, Defendants baldly assert that Celebration is "hierarchical" church because it has several domestic and international "churches," each with a "campus pastor" (Church Motion at p. 4-5). Notably, immediately after making this claim Defendants disprove their own argument by citing to Article 3.01 of the church's Bylaws, which specify that it is an "**autonomous**" and "**independent**" organization:

> **I. Celebration's Governance, Management and Oversight Structure**
>
> Celebration is a hierarchical church comprised of a "mother church," referred to as Celebration Arena, where the church's corporate headquarters are located, and domestic local churches in Jacksonville, Amelia Island, Orlando, South Florida, Washington D.C., as well as several international affiliated churches. Each domestic local church is supported by a campus pastor and overseen by the senior pastor. All of the local churches

[6] The Presbyterian Church in the United States is hierarchical. Local churches are governed by the Presbytery comprising several churches in the area, which are in turn governed by Synod, which is composed of all Presbyteries in a state or region, with the national General Assembly as the highest governing body. *Watson v. Jones*, 80 U.S. 679, 681-683 (1871).

[7] The Catholic Church is the archetypical hierarchical church, with various levels of government, extensive bureaucracy, and diocesan bishops controlling all parish property. *Flynn v. Estevez*, 221 So.3d 1241, 1250 (Fla. 1st DCA 2017).

are required to abide by Celebration's religious beliefs, which are set forth as the church's Statement of Faith in Article 2 of its Bylaws (Exhibit A). Celebration's church government "seeks to be led by the Holy Spirit *in all things*." Bylaws art. 5 (emphasis added).

Celebration is "autonomous and maintains the right to govern its own affairs, independent of any denominational control." Bylaws § 3.01. Its purposes are to minister

Pastor Weems, Celebration's founder and Senior Pastor for over twenty years, verified that Celebration Church is indeed an independent, non-denominational congregation and not part of any hierarchical religious organization. [Weems Dec. at ¶¶ 5-14] It is **one** multi-site church with various "locations" (a "global house comprised of many rooms around the world"). [Weems Decl. at ¶ 11]:

Consistent with its congregational structure, Celebration Church is a member of the Association of Related Churches ("ARC"), a "cooperative of **independent** churches" [Weems Decl. ¶ 15]

WE ARE ARC

We are a cooperative of independent churches from different denominations, networks, and backgrounds who strategically resource church planters and pastors to help them reach people with the message of Jesus.

Celebration Church's Bylaws further demonstrate that it is congregational and therefore governed by the Florida Non-Profit Act, and that the powers of the Trustees "are limited in accordance with the Act":

AMENDED AND RESTATED BYLAWS
OF
CELEBRATION CHURCH OF JACKSONVILLE, INC.

These Amended and Restated Bylaws (hereinafter referred to as "these Bylaws") govern the affairs of Celebration Church of Jacksonville, Inc., a Florida religious nonprofit corporation (the "Church" or "Corporation"). The Church is organized under the Florida Not For Profit Corporation Act (the "Act"). These Bylaws amend and restate, in its entirety, the previous Bylaws of the Church, as amended.

3.03 Powers and Restrictions.

Except as otherwise provided in these Bylaws and in order to carry out the above-stated purposes, the Church shall have all those powers set forth in the Act, as it now exists or as it may hereafter be amended. Moreover, the Church shall have all implied powers necessary and proper

ARTICLE 4
GOVERNING BODY

The Church is operated as a religious nonprofit Corporation in accordance with Title 36, Chapter 617 of the Florida Not for Profit Corporation Act, and subject to the Act, its Articles of

ARTICLE 8
TRUSTEES

8.01 General Powers and Authority of the Trustees.

The term "Trustees" as used herein shall mean the Board of Directors as described in accordance with Title 36, Chapter 617.0801 of the Florida Not For Profit Corporation Act. The Trustees shall have the duties and the responsibilities generally associated with and exercised by a corporate board and as such, are the only governing body within the Church. All corporate powers shall be exercised by or under the authority of the Trustees and in accordance with the Act and these Bylaws. Accordingly, the Trustees shall have the final authority solely over affairs pertaining to corporate matters of the Church.

Celebration Church is not hierarchical. It is congregational—an autonomous, independent church governed by the same neutral, secular laws that govern other voluntary associations. "When members of a church decided to incorporate their body under the laws of the state of Florida

they submitted themselves to the jurisdiction of the state court in all matters of a corporate nature." *Matthews v. Adams*, 520 So.2d 334, 335 (Fla. 5th DCA 1988); Watson, 80 U.S. at 714.

B. Plaintiffs are NOT Members of Celebration Church

Defendants' second incorrect factual claim is that Plaintiffs are still members of Celebration Church until its Trustees terminate their membership (Church Motion at pp. 11, 22; Wedekind Motion at pp. 2-3; Wiseman Aff. ¶ 3), and that Plaintiffs never terminated their membership (*id.;* Wiseman Aff. ¶ 7-8). This simply is not true.

On April 15, 2022, Pastor Weems sent a letter in which he (1) resigned as Senior Pastor, President, Chief Executive Officer, Chairman and member of the Board of Trustees of Celebration and (2) notified the Trustees that he and his family were "legally separating" from Celebration Church and would continue their ministry elsewhere (Church Motion Ex. E):

To the Trustees, Directors and Officers of Celebration Church of Jacksonville, Inc. ("CCJ")

From: Pastor C. Stovall Weems, IV

Re: Separation and Resignation from CCJ

Date: April 15, 2022

This letter is to inform you that I am resigning from my positions as Senior Pastor, President and Chief Executive Officer, Chair and member of the Board of Trustees, and Registered Agent of CCJ – the church I founded and poured my life into. My resignation is effective immediately.

I have spent much time in prayer and received counsel from other pastors here in the city, the region, and around the world. The Trustees' actions leave me and my family with no choice but to legally separate from CCJ and continue our ministry elsewhere, placing ourselves under the proper accountability and oversight of a council of apostolic pastors and elders in our city, nation, and world that understand and model biblical governance. This is absolutely necessary if I am to continue to honor the Lord and be true to what I believe. I shall not and cannot be legally connected to any church in which the leadership abandons the clear biblical principles and scriptural qualifications for spiritual covering, spiritual authority, and ecclesiastical governance and oversight.

My resignation from CCJ does not and will not affect with any claims that have or may be filed by me or Kerri Weems against CCJ trustees and officers or against any individuals or organizations associated with what I believe to be the illegal seizure of the institution and its resources.

Sincerely,

C. Stovall Weems IV

The subject line of this letter is "**Separation and Resignation from CCJ**." Its language is clear and unequivocal—Pastor Weems and his family (which includes K. Weems) are "***legally separat[ing] from CCJ and continu[ing] our ministry elsewhere***" and "**shall not and cannot be legally connected to [the] church**." On April 24, 2022, the Trustees accepted Pastor Weems' resignation (Church Motion Ex. F (Wiseman Affidavit at ¶ 6 & Ex. C)).

Notably, Celebration's Bylaws are silent concerning how a member voluntarily withdraws:

ARTICLE 6
CHURCH MEMBERSHIP

The Church's membership is open to all who profess their faith openly in our Lord Jesus Christ. There shall be one class of membership (hereinafter the "Members") and the Members shall all be people who faithfully contribute, through tithes and offerings, to the finances of the Church. Membership is granted and recognized once a person has attended the membership class, completed and returned the financial support commitment form and demonstrated regular financial giving through tithes and offerings to the Church. Should one (1) year pass without a record of financial contributions, membership shall be terminated by the Trustees. The Trustees may, from time to time, adopt and amend the application procedures and qualifications for membership in the Church.

As set forth in Article 4, the corporate governance of the Church is solely vested in the Trustees. As set forth in Article 7, plenary power to oversee the spiritual affairs and the day-to-day operations of the Church is vested with the Senior Pastor. As such, Members are not entitled to cast a vote in person, by proxy or otherwise that is binding upon the Church.

The Senior Pastor shall have the sole and exclusive authority to seek the membership's approval or disapproval of an action that Members would not otherwise not be entitled to vote (hereinafter a "vote of affirmation") upon. Should the Senior Pastor seek a vote of affirmation, the outcome of such vote carries no legal weight, is not binding on the Corporation and is only intended to gauge the opinion of or seek moral support from the membership.

Where bylaws are silent on the subject of voluntary resignation, a member can resign at will. *Booster Lodge No. 45 Intern. Ass'n of Machinists and Aerospace Workers, AFL-CO v. NLRB*, 412 U.S. 84, 88 (19073).

On April 27, 2022, Celebration Church filed an Amended Motion to Dismiss in this lawsuit, which asserted an argument that Plaintiffs lacked standing to seek the injunctive relief requested in their Original Complaint because Pastor Weems resigned, and Plaintiffs had ended their church membership effective April 15, 2022 (*see* 4/27/2022 Amended Motion to Dismiss at pp. 22-23; attached as **Exhibit B**.). Specifically, Celebration stated in this filing that Plaintiffs "***are not members of Celebration's corporate entity***":

Because the Weemses are not members of Celebration's corporate entity, they have no standing to challenge the Church's corporate acts. *See* FLA. STAT. § 617.0304; *see also Word of Life Ministry, Inc. v. Miller*, 778 So.2d 360, 365 (Fla. 1st DCA 2001)(affirming entry of summary judgment for lack of standing because plaintiffs were members of the congregation but not members of the non-profit corporation).

Consistent with this admission concerning the effect of Pastor Weems's April 15, 2022 letter, Celebration Church also affirmatively stated in a Complaint for Eviction[8] (attached as **Exhibit C**) it filed against Pastor Weems and K. Weems on June 1, 2022 in Duval County Court [Case No. 22-CC-006371] (the "Eviction Suit") that Plaintiffs "***terminated all affiliations with the church***":

[8] A complaint such as this is properly admitted as an admission against intertest. *Payton Health Care Facilities, Inc. v. Estate of Campbell*, 497 So.2d 1233, 1238 (Fla. 2d DCA 1986).

16-2022-CC-006371-XXXX-MA Div: CC-M

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IN THE COUNTY COURT, FOURTH JUDICIAL CIRCUIT, IN AND FOR DUVAL COUNTY, FLORIDA

Case No.

Division:

CELEBRATION CHURCH OF JACKSONVILLE, INC., a Florida corporation,	)
	)
Plaintiff,	)
v.	)
CHARLES S. ("STOVALL") WEEMS, IV, and KERRI WEEMS, individuals,	)
	)
Defendants.	)

COMPLAINT FOR EVICTION AND DAMAGES

Celebration Church of Jacksonville, Inc. sues defendants Charles S. "Stovall" Weems, IV and Kerri Weems, and alleges:

7. The Weemses purport to live at the Shellcracker property by virtue of Stovall Weems' former position at the church. But on April 15, 2022, Stovall Weems resigned his position and terminated all affiliations with the church.

Defendants' own admissions that the April 15, 2022 letter "***terminated all affiliation with the church***" and that Plaintiffs "***are not members of Celebration's corporate entity***" concede what is obvious: as of April 15, 2022, Plaintiffs were no longer members of Celebration Church.

C. Plaintiffs' Claims are NOT Based on the Propriety of the Church Investigation or "Discipline"

Defendants' next incorrect contention is that this case "involves the fundamental question of who will preach form the pulpit and occupy the parsonage" and "is a dispute over control of Celebration Church" ((Church Motion at pp. 1-2). Defendants are distorting the facts to try to make them fit their arguments. The truth, which Defendants openly acknowledge, is that that Pastor Weems already resigned his "leadership positions" on April 15, 2022 (Church Motion at pp. 11-12, 22; Wedekind Motion at p. 12).[9]

Defendants also inaccurately claim that "all of the claims…seek to discredit Celebration's investigation and delegitimize the decisions made by its board" (*Id.* at p.3) and that this "is a quintessential ecclesiastical dispute concerning the discipline a church imposed on its pastoral leaders…" (Wedekind Motion at p. 5). This twisted logic necessarily ignores the facts alleged in the Second Amended Complaint, including the specific statements upon which the claims are based. Defendants also continue to ignore (Church Motion at pp. 9-11) that there are ***two*** legally distinct controversies, only one of which is at issue in this case.

The ***first dispute***—which is merely factual background for this case—involves the original, underlying disagreement between Plaintiffs and Celebration Church surrounding the Coup d'état (the "Coup"), which involves the improper "suspension" and investigation of Pastor Weems that

[9] The April 15, 2022 letter (Church Motion Ex. E) contained a reservation of rights concerning "**claims**" ("My resignation from CCJ **does not and will not affect with any claims** that have or may be filed by me or Kerri Weems against CCJ trustees and officers or against any individuals or organizations associated with what I believe to be the illegal seizure of the institution and its resources."). Reserving these claims is not the same thing as trying to retake control of the church.

ultimately was intended to oust him from the church and terminate certain agreements providing retirement and other benefits to Plaintiffs.

The Coup occurred between December 31, 2021 and April 15, 2022, when the Trustees moved forward with the plan to oust Plaintiffs from the church they founded over 20 years ago by improperly claiming to have "suspended" Pastor Weems and commencing a supposed "investigation" (Second Amended Complaint at ¶¶ 79-98).[10] It also involved improperly attempting to amend the church's Bylaws, which resulted in the Trustees "currently acting as the highest ecclesiastical authority in the church" (Second Amended Complaint ¶ 110; Celebration Church's 7/27/2022 Amended Motion to Dismiss at p. 7; Church Motion at pp. 8-9), in violation of (among other things)[11] Article 5 of the Bylaws. While this conduct was wrongful and wholly outside the Bylaws, it had nonetheless effectively separated Plaintiffs from their ministry.

Realizing the lengths to which the Trustees were willing to go to seize and maintain control over the church and their clear intentions (as communicated through the unsubstantiated, unnecessary personal attacks in the church's court filings) to wage an all-out war, Pastor Weems came to the difficult conclusion that he could no longer be a part of Celebration Church and needed to try to protect his family from any further attacks by resigning and completely severing all ties with the church [Weems Decl. at ¶ 17]. Thus, on April 15, 2022, Pastor Weems sent his separation and resignation letter.

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[10] Although *generally* these types of governance disputes implicate abstention, there are notable exceptions, which are addressed in Section IV.A.2, below. For example, in *World of Life Ministry, Inc. v. Miller*, 778 So.2d 360, 361 (Fla. 1st DCA 2001) (a case Celebration Church cited in its original Motion to Dismiss), the First DCA determined that ecclesiastical abstention was **not** required in a strikingly similar dispute involving a coup, amendment of church bylaws, and disagreement over the distribution of church assets.

[11] *See* Plaintiffs' original Complaint at ¶¶ 83-84 and Ex. B.

The ***second dispute***—the one upon which the claims in the Second Amended Complaint are based—involves the Defendants' tortious public attack, which did not commence until April 24, 2022 (after Plaintiffs' membership and "all affiliations" with the church "terminated"), during which Defendants publicly defamed Plaintiffs and violated K. Weems's privacy by publishing statements and information about them publicly to the press and on Celebration Church's website (the "Defamatory Attack").

The Trustees and Wedekind launched the Defamatory Attack by creating and publicly disseminating a false and defamatory narrative and statements about Pastor Weems and K. Weems, along with private and confidential information about K. Weems, to try to destroy their reputations, humiliate them, and prevent Pastor Weems from continuing his ministry anywhere (*see* Second Amended Complaint at ¶ 113). Specifically, Defendants created and published the "Report of Investigation to Celebration Church of Jacksonville, Inc." (the "Defamatory Report"), which was drafted with every intention of making the report public[12] (*id.* at ¶ 114 and Ex. A).

The Defamatory Report is an inflammatory narrative replete with false and defamatory statements and ad hominem attacks designed to destroy Plaintiffs' reputations, humiliate them, and ruin their credibility, and was prepared with the intention of publicly disseminating it to convict Pastor Weems and K. Weems in the court of public opinion (*id.* at ¶ 116). It is filled with blatantly false statements, many of which are refuted by the church's own documents, as well as numerous material omissions designed to create a false and defamatory narrative and implications about Pastor Weems (*id.* at ¶ 117). Overall, the Defamatory Report is a thinly disguised effort to

[12] The intention to make the report public is evident from its Introduction, which refuses to disclose the identities of the supposed witnesses interviewed during the investigation—a precaution that would be completely unnecessary if the report was actually supposed to be maintained confidential and only circulated internally to the Board (*id.* at ¶ 115).

discredit Pastor Weems and K. Weems[13] in the most destructive and invasive way, using bold falsehoods and omitting relevant facts along with vicious unattributed gossip and gratuitous harmful allegations, presented in a way clearly intended to create maximum damage to the Weems's reputation and to destroy any opportunity for Pastor Weems to lead a ministry in the future (*id.* at ¶ 118). Overall, the Defamatory Report was intentionally worded to falsely portray Plaintiffs as rich, living in mansions, and lining their pockets with the church's money while engaging in illegal financial transactions they were concealing from the church (*id.* at ¶ 120). In fact, nothing could be further from the truth (*id.* at ¶¶ 120-122).

The Trustees authorized and approved the widespread public dissemination of Wedekind's Defamatory Report, including on Celebration Church's website (*id.* at ¶ 196). In fact, the church updated its homepage to include a conspicuous new menu option titled "**Report**" that led to the following page:

[13] The Report is particularly and gratuitously damaging to K. Weems, who was not and had not been for some time an employee of Celebration Church. She was not subject to Church discipline and was never "placed under investigation" or "suspended." Nevertheless, the Defendants included her in the allegations against Pastor Weems and needlessly and unnecessarily lumped her into the Defamatory Report and publicly disclosed her personal and private health care information on the Internet (*id.* at ¶ 119).

Weems Investigation | Celebratic

https://www.celebration.org/weemsinvestigation/

WEEMS INVESTIGATION

STATEMENT REGARDING INVESTIGATION OF FORMER SENIOR PASTOR

Celebration Church Family and Staff:

It is with heaviness of heart that we inform you of the difficult decisions that the Board of Trustees has made concerning the investigation of former Senior Pastor, Stovall Weems. As many of you are aware from public records and public statements made by Stovall and Kerri Weems, the Weemses filed a lawsuit against the Church after Stovall was placed in "not good standing" by the Board pending an Investigation into instances of pastoral misconduct. Pastoral misconduct was found to be present based on facts and corresponding documentation. The Church's attorneys conducted a months-long investigation, interviewing more than 20 witnesses and reviewing thousands of documents. Stovall and Kerri Weems were asked multiple times to participate in the Investigation, but they refused. On April 24, 2022, the Board met to review the Investigation Report. In the report, the Church's attorneys recommended 7 action steps, all of which were approved by the Board. Those steps are:

1. Accept the resignation of Stovall Weems and Kerri Weems as employees of Celebration effective April 15, 2022 without further compensation or benefits.

2. Pursue the removal of Stovall Weems and Kerri Weems from any positions of authority relating to the Church, Honey Lake Farms, Honey Lake Clinic, and AWKNG.

3. Require Stovall Weems and Kerri Weems to account for and return to the Church all funds misappropriated by them.

4. Remove Stovall Weems and Kerri Weems from the parsonage and sell the property.

5. Require Northstream Management, Habitat for Wholeness, Honey Lake Farms and AWKNG to repay all receivables and loans made by the Church to those entities.

6. Report these findings to the appropriate authorities to determine whether criminal charges should be brought.

7. Engage in the Christian Conciliation Process outlined in Celebration's bylaws.

To ensure the transparency of this process and promote healing and restoration, the investigation report is being made public. It can be found here. We trust that God will continue to work in and through Celebration Church, and we are grateful for each and every one of you that calls Celebration Church home.

WEEMS INVESTIGATION

The bottom of the church's "Weems Investigation" page contains a hyperlink[14] that leads to a pdf of the Defamatory Report, which visitors are free to view and download.

Defendants published the Defamatory report on Celebration Church's main, public webpage, which was designed for the general public and visitors, not congregants (www.celebration.org). Communication to the Celebration Church congregation has and continues to be through the church's database system. Emails, texts and phone calls are regularly sent through the database system, where things can be filtered to a certain demographic of the church if necessary

Defendants knew and intended when they created and posted the Defamatory Report and accompanying statement on Celebration Church's website that their false and defamatory statements would be widely viewed, disseminated publicly, and reported on in the press (*id.* at ¶ 202). In fact, Defendants leaked the report to the press before posting it on Celebration Church's website, leading to the press began running stories about the report on April 25 2022, in which a pdf of the report was embedded [Weems Decl. ¶¶ 19-23]:

[14]https://celebrationchurch.sharepoint.com/sites/CelebrationPublicsite/Shared%20Documents/Forms/AllItems.aspx?id=%2Fsites%2FCelebrationPublicsite%2FShared%20Documents%2FWeems%20investigation%20report%20%284%2D26%2D2022%29%2Epdf&parent=%2Fsites%2FCelebrationPublicsite%2FShared%20Documents&p=true&ga=1

LOCAL NEWS

I-TEAM: Celebration Church releases findings of explosive investigation into founding pastor

Stovall Weems denies report's findings of embezzlement, 'narcissistic' behavior and emotional abuse

Stacey Readout, Assistant News Director

Renee Beninate , Reporter

Published: **April 25, 2022 at 5:56 PM**
Updated: **April 26, 2022 at 10:21 AM**

Tags: **I_Team, Investigations, Duval County**

Tags: I_Team, Investigations, Duval County

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78° WATCH

NEWS WEATHER GETS REAL TRAFFIC VIDEO INVESTIGATES SPORTS FLORIDA LOTTERY SHARE WITH US FAMILY FOCUS CONTACT US STEALS AND DEALS

BREAKING NEWS | Shooting in St. Johns County leaves one teen hurt and one in custody 1/1

Celebration Church releases investigation into founding pastor accused of fraud

founding pastor accused of fraud

Weems launched **a new Instagram page, Stovall Weems Ministries**, dedicated to posting ministry videos. He also answered questions about the ongoing dispute with Celebration Church.

Weems Investigation Report Contributed by Nick Jones (WJXT)

REPORT OF INVESTIGATION
to
CELEBRATION CHURCH
OF JACKSONVILLE, INC.

April 24, 2022

III. THE OPERATIVE ALLEGATIONS

Plaintiffs' Second Amended Complaint asserts causes of action for defamation *per se* (Counts I-VI), conspiracy to defame (Counts VII-VII), invasion of privacy (Counts IX-X), intentional infliction of emotional distress (Count XI), and conspiracy to invade privacy (Count

XII) based on statements ***first published*** in the Defamatory Report ***after*** Plaintiffs were indisputably no longer members of Celebration Church (*see* Second Amended Complaint at ¶¶ 196-210).

The Second Amended Complaint discusses the Coup and "sham investigation" of Pastor Weems as ***background facts***[15] for the claims it asserts (*see* Second Amended Complaint at ¶¶ 45-112), but the claims themselves are **not** based on and do ***not*** challenge the propriety of the investigation, the church's governance, any allergy religious-based conclusions, Plaintiffs' fitness for office, or any of the Defendants' beliefs. The actionable conduct upon which the claims asserted in the Second Amended Complaint are based is the publication of statements in the Defamatory Report that accuse Plaintiffs of violating secular law and invaded K. Weems's privacy

Plaintiffs specifically allege "Celebration's Corporate Governance" does not form the basis of their claims (id. at ¶ 129). Rather, they base their claims on specific statements that are identified in certain numbered paragraphs, none of which involve religious beliefs, doctrine, governance, or discipline. These specifically identified tortious statements accuse Plaintiffs of specific acts of secular misconduct, such as "improper and unauthorized financial transactions" and "violations of law"[16] or disclose private facts about K. Weems (*see* Second Amended Complaint at ¶¶ 206-210).

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[15] . *See Mendes v. da Silva*, 980 So.2d 631, 632 (Fla. 2d DCA 2008), (including "'background facts" describing the alleged improper methods [defendants] followed to initiate an inquiry into the plaintiff's fitness "to continue in the employment of the defendant religious institution did not implicate the abstention doctrine because the plaintiff did "not point to these irregularities in church protocol to support her causes of action for libel and slander.")

[16] The actionable statements include: the refusal to be interviewed as part of the investigation (¶ 127);the Network King "Baseline Report" was a "scathing indictment of the Weemses' [sic] failed leadership" (¶¶ 136-138; Defamatory Report at pp. 7-8); "embezzlement" of money associated with the Parsonage at 16073 Shellcracker Road (¶¶ 144-154; Defamatory Report at pp. 13-15); misuse and investment of PPP loan proceeds for personal gain (at ¶¶ 155-179; Defamatory Report at pp. 15-18); "fraudulent mischaracterization and cancellation of Honey Lake Farms debt (¶¶ 180-181; Defamatory report at pp. 18-19); "Misappropriation of Designated Funds" (¶¶ 182-188; Defamatory Report at p. 19); and Termination of Access to Credit Lines (¶¶ 189-192; Defamatory Report at p.p. 19-20).

All of the statements upon which the claims are based falsely accuse Plaintiffs of violating **secular law**, which is best encapsulated by the "Summary" of the "Findings of Fact" and the "Conclusions" sections of the Defamatory Report:

> Stovall Weems engaged in a series of improper and unauthorized financial transactions through which he personally benefitted, either directly or indirectly, at the expense of the Church. Weems failed to present these transactions to the Board for its review and approval, which he was required to do pursuant to Florida law and the Church's governing documents. When three Trustees sought to question these transactions, Weems retaliated by attempting to remove them. Although Weems has a duty to cooperate with this investigation, he has refused to do so.

> **III. CONCLUSIONS**
>
> Through the actions described above, Stovall Weems violated the law by breaching his fiduciary duties to Celebration, committing fraud, unjustly enriching himself at the expense of the Church, and failing to meet the fiduciary duties and standards of care required by his office. He has brought Celebration to the brink of insolvency. The current amount of Accounts Receivable that remain outstanding and unpaid is $3,389,835 (excluding the embezzled profit from the Shellcracker sale). But for the steadying leadership of Pastor Tim Timberlake and the actions of Celebration's Board, Celebration would have likely already failed as an institution.

The falsity of all the defamatory statements upon which the claims in the Second Amended Complaint are based is easily established by comparing the statements to documents and events which transpired and applying secular law to determine whether Plaintiffs embezzled, misused, or misappropriated church funds for personal gain or engaged in other acts that resulted in financial losses to the church. Making these determinations does not require a factfinder to delve into religious doctrine, practices or beliefs, and will not "directly implicate matters of pastoral discipline" or "church autonomy."

IV. ARGUMENT

Plaintiffs' causes of action are not barred by the ecclesiastical abstention doctrine because they do not implicate the "church autonomy" or require the "adjudication of questions of religious doctrine" nor an analysis of "theological controversy, church discipline, ecclesiastical government, or the conformity of the members of the church to the standard of morals required." *See Malichi v. Archdiocese of Miami*, 945 So.2d 526, 529 (Fla. 1st DCA 2007). Rather, Plaintiffs' claims can be "decided based on neutral principles of secular law without this court intruding upon, interfering with, or deciding church doctrine." *See Flynn*, 221 So.3d at 1247; *see also Malicki v. Doe*, 814 So.2d 347, 357 (Fla. 2002).

Plaintiffs' claims are not required to be arbitrated because the Bylaws only require arbitration amongst "Members" and as explained in Section II.B., Plaintiffs were no longer "members" of the church as of **April 15, 2022**, and their claims did not accrue until at least **April 24, 2022**.

A. ECCLESIASTICAL ABSTENTION IS NOT REQUIRED

"The ecclesiastical abstention doctrine prevents civil [or secular] courts from deciding disputes requiring an adjudication of 'theological controversy, church discipline, ecclesiastical government, or the conformity of the members of the church to the standard of morals required.'" *Flynn*, 221 So.3d at 1245 (quoting *Watson*, 80 U.S. AT 733); *see also Malichi*, 945 So.2d at 529. "The doctrine precludes secular courts from becoming arbiters of religious matters and the circumvention or erosion of church doctrine by those who disagree with it." *Flynn*, 221 So.3d at 1246. It "has its core application in cases where a court intrudes on a church's autonomous management of its own internal affairs and property, thereby either burdening or inhibiting the

exercise of religious freedom (free exercise clause) or fostering an excessive government entanglement with religion (establishment clause)." *Id.*

"A lawsuit does not, of course, become a theological controversy just because one of the litigants is a church." *Springhill Missionary Baptist Church, Inc. v. Mobley*, 251 So.3d 281, 283 (Fla. 1st DCA 2018) (*citing Flynn*, 221 So.3d at 1247). "The scope of the doctrine is not unlimited; courts have held that the application of a neutral law that does not require inquiry into or resolution of an ecclesiastical matter may be permissible, for example by the application of secular tort claims by third parties against a religious institution…" *Flynn,* 221 So.3d at 1247.

1. Defendants Failed to Meet Their Burden to Prove the Doctrine Applies

Importantly, the burden is on Defendants to establish that the ecclesiastical abstention doctrine applies: a "church or religious organization seeking to avoid application of a neutral state law must first show why application of the law requires adjudication of an ecclesiastical matter." *Flynn*, 221 So.3d at 1247 (*citing Malichi*, 945 So.2d at 529 and *Malicki*, 814 So.2d at 360) (emphasis added). The "threshold inquiry is whether there is a **conflict between conduct that is required by law and conduct that is prohibited by religious principles**." *Malicki,* 814 So.2d at 360 (internal citation omitted) (emphasis added). Here, there is no such conflict.

The Court is required to consider "the nature of the dispute and whether it can be decided on neutral principles of secular law without a court intruding upon, interfering with, or deciding church doctrine." *Flynn*, 221 So.3d at 1247. Equally important, the doctrine is not an "all or nothing" proposition. Where there are aspects of a claim that can be adjudicated without resorting to applying or interpreting church doctrine, those aspects of the claim should be litigated. *See e.g., House of God Which is the Church of the Living God, The Pillar and Ground of the Truth Without*

Controversy, Inc. v. White, 792 So.2d 491, 494 (Fla. 4th DCA 2001); *Goodman v. Temple Shir Ami, Inc.*, 712 So.2d 775, 777 (Fla. 3d DCA 1998)

2. Defendants Fail to Show Why Application of the Law Requires Adjudication of an Ecclesiastical Matter

(a) Celebration is a NOT a Hierarchical Church

In *Kerdoff v. St. Nicholas Cathedral of Russian Orthodox Church in North America*, 344 U.S. 94, 110 (1952), the Supreme Court established that: "Hierarchical churches may be defined as those organized as a body with other churches having similar faith and doctrine and with a common ruling convocation or ecclesiastical head." Florida's Supreme Court subsequently recognized that Hierarchical churches are "obedient to a larger or more important religious organization and [] governed by it, such as the Presbyterian, Catholic, Episcopal, Methodist, and Lutheran." *St. Johns Presbytery v. Central Presbyterian Church of St. Petersburg*, 102 So.2d 714, 718 (Fla. 1958). In *Flynn v. Estevez*, 221 So.3d 1241, 1245 and 1250 (*citing Kerdoff*, 344 U.S. at 110), the First DCA recognized that the "Diocese is hierarchical" because the Catholic Church's Code of Canon Law "plainly evidence a hierarchical decision-making process" and "its official documents show[] that it is the highest authority on internal religious matters within its geographic area."

On the other hand, "congregational" churches are autonomous in their government and "have no organic connection with any external ecclesiastical body." *Epperson v. Myers*, 58 So.2d 150, 152 (Fla. 1952); *First Independent Missionary Baptist Church of Chosen v. McMillan*, 153 So.2d 337, 342 (Fla. 2d DCA 1963); *Austin v. Mt. Zion Primitive Baptist Church of West Palm Beach*, 165 So.2d 412, 414 (Fla. 1st DCA 1964). The Baptist church is "congregational" in its government. *Epperson*, 58 So.2d at 152.

Defendants' abstention argument heavily relies on *Milivojevich's* discussion of "deference" and courts avoiding involvement in religious controversy, but they ignore the explicit connection between those concepts and hierarchical churches *Milivojevich,* 426 U.S. at 709 ("To permit civil courts to probe deeply enough into the allocation of power within a ***hierarchical church*** to decide religious law (governing church polity) would violate the First Amendment.") (emphasis added). *Milivojevich's* statement [cited by Defendants (Wedekind Motion at p. 5)] that "religious controversies are not the proper subject of civil court inquiry" was made in the context of "ecclesiastical decisions of the highest church judicatories of a religious organization of ***hierarchical polity***." *Id.* at 713 (emphasis added). The same holds true for the pronouncement that "[w]e are bound to accept the decisions of the highest judicatories of a ***religious organization of hierarchical polity*** on matters of discipline, faith, internal organization, or ecclesiastical rule, custom, or law." *Id.* (emphasis added).

Milivojevich was explicitly addressing a hierarchical church. In fact, the Court went to great lengths in describing and identifying the evidence establishing its hierarchical structure. 426 U.S. at 699 and 713-715, n.9.

The distinction between hierarchical and congregational churches is significant because they are treated differently under the law. For example, in *Mills v. Baldwin*, 362 So.2d 2, 4, *vacated*, 443 U.S. 914 (1979), *reinstated*, 377 So.2d 971 (1979), after recognizing that the Presbyterian church was "hierarchical,[17]" Florida's Supreme Court disagreed with the First DCA's majority decision that the distinction between hierarchical and congregational churches was

[17] In *Mills*, the court described some of the hallmark characteristics of a hierarchical church: "Presbyterian churches in the Unites States are not congregational in government but are representative, they are governed by an ascending series of judicatories known as the session, the presbytery, the synod and the general assembly, which is governed by a constitution and an ecclesiastical code giving it legislative, executive and judicial powers." 362 So.2d at 5.

"immaterial," and instead adopted the reasoning of the dissent, which acknowledged the well-established rule distinguishing between the types of church governance addressed in *Watson* and *St. John's Presbytery*.

The "deference" afforded to decisions of church adjudicative bodies in hierarchical churches is not required in congregational institutions. *St. John's Presbytery*, 102 So.2d at 919; *McMillan*, 153 So.2d at 340; *New Magnolia Baptist Church, Inc. of Branford v. Ellerker*, 353 So.2d 204, 205 (Fla. 1st DCA 1978). In *New Magnolia*, the First DCA recognized it had "the right, indeed the duty, of applying and enforcing sterile principles of property law" because that case involved a "dispute between two factions of a congregational, as distinguished from a hierarchical church." 353 So.2d at 205.

In *Franzen v. Poulos*, 604 So.2d 1260, 1263 n.4 (Fla. 3d DCA 1992), the court distinguished cases where "the judiciary is obligated to defer to the hierarchical church's internal decisional processes of matters of internal church discipline and government" [such as *Milivojevich*, *Mills*, and *Townsend v. Teagle*, 467 So.2d 772 (Fla. 1st DCA), *rev. denied*, 479 So.2d 118 (Fla. 1952)] from cases that did not "involve independent congregations which are not part of a hierarchical church organization" [such as *Epperson; Hemphill v. Zion Hope Primitive Baptist Church of Pensacola, Inc.* 447 So.2d 976 (Fla. 1st DCA 1984); *Covington v. Bowers*, 442 So.2d 1068 (Fla. 1st DCA 1983); and *Umberger v. Johns*, 363 So.2d 63 (Fla. 1st DCA 1978)]. [18]

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[18] *Epperson*, 58 So.2d at 152, noted that the Baptist church is "congregational in government" and, accordingly, found exercising jurisdiction was appropriate where "a 'faction' of the church arrogates authority to itself, disrupts the organization and sets naught well defined rules of church order, there is no course left for this who desire their rights settled through orderly processes but to resort to the courts." *Hemphill,* 447 So.2d at 977, recognized that abstention is improper where the issue is whether Trustees removed a pastor "according to [the church's] corporate charter." *Covington*, 442 So.2d at 1069, held that application of the abstention doctrine was improper in a fight between two factions of a congregational (the Baptist) church over the removal of a Pastor. Likewise, abstention was not required in *Umberger,* 363 So.2d 63,

Defendants cite *Eglise Baptiste Bathanie De Ft. Lauderdale, Inc. v. Bank of America, N.A.*, 321 So.3d 245, 247 (Fla. 4th DCA 2021), for the proposition that "ecclesiastical abstention doctrine barred claims by faction asserting control of church that banks negligently transferred control of church bank accounts to rival faction because resolution of dispute would require determination" (Wedekind Motion at p. 14). However, *Eglise Baptiste* is a Fourth DCA case decided inconsistently with the Florida Supreme Court's decision in *Epperson* and the First DCA's decisions in *Hemphill, Covington, and Umberger*. *Eglise Baptiste's* dissent, 321 So.3d at 248-251, artfully explains why the Fourth DCA's majority opinion missed the mark, including that:

> The ecclesiastical abstention doctrine applies to church property disputes in hierarchical religious organizations. A different rule applies to churches which are congregational organizations. Based upon the correct rule, dismissal was error.
>
> ...
>
> To simplify these holdings, in cases involving churches that follow a congregational form of government, civil courts should decide church property disputes by ordinary principles of association law. This generally will result in a majority rule determination of which side of a church schism controls the property. Where a church is part of a hierarchical organization, decisions by the highest tribunal of the organization must be accepted as final in the civil courts for church property disputes.
>
> ...
>
> Thus, the form of church government is critical to determining the role of the civil courts in disputes involving church property. Where that form of government is congregational, the court applies neutral principles of law to decide the issue, and if those are insufficient, then the rule of the majority. While the Church argued in the trial court and in this Court that the court can apply neutral principles of law to determine these issues, the trial court applied principles applicable only to a hierarchical organization an improperly dismissed this case.
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> ...

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because the case involved a "faction [that] effected change in the bylaws without notice" in a congregational (Baptist) church

The rationale for treating congregational churches differently is that ***they are governed by the same neutral laws that govern other voluntary associations.*** *Watson*, 80 U.S. at 714 (a "schism" in a congregational or independent church must be determined by ordinary principles which govern voluntary associations); *St. John's Presbytery*, 102 So.2d at 718; *Ellerker*, 353 So.2d at 205; *McMillan*, 153 So.3d at 340. In this regard, Celebration Church's Bylaws clearly establish that it is "subject to" and "shall have those powers as set forth in" Florida's Non-Profit Act (Chapter 617)

AMENDED AND RESTATED BYLAWS
OF
CELEBRATION CHURCH OF JACKSONVILLE, INC.

These Amended and Restated Bylaws (hereinafter referred to as "these Bylaws") govern the affairs of Celebration Church of Jacksonville, Inc., a Florida religious nonprofit corporation (the "Church" or "Corporation"). The Church is organized under the Florida Not For Profit Corporation Act (the "Act"). These Bylaws amend and restate, in its entirety, the previous Bylaws of the Church, as amended.

3.03 Powers and Restrictions.

Except as otherwise provided in these Bylaws and in order to carry out the above-stated purposes, the Church shall have all those powers set forth in the Act, as it now exists or as it may hereafter be amended. Moreover, the Church shall have all implied powers necessary and proper

Legally and factually, Celebration Church is not hierarchical. It is congregational—an autonomous, independent church governed by secular law governing voluntary associations. *Matthews,* 520 So.2d at 335.

(b) The Neutral Principles of Law Approach Applies.

Defendants also argue the neutral principles of law test does not apply (Wedekind Motion at p. 3 (*citing Napolitano v. St. Joseph Catholic Church*, 308 So.3d 274, 278 (Fla. 5th DCA 2020); Church Motion at p. 15), but they are wrong. Notably, *Napolitano* is a Fifth DCA case that involved a ***hierarchical church***:[19]

> At the heart of the dispute between Napolitano and the Church Defendants is whether Father Brown had the authority under Canon Law to obligate successor administrations of St. Joseph to retain his chosen employees. Simply put, Napolitano has requested that a secular court examine a ***hierarchical religious organization*** and determine who has the authority to speak and act on its behalf. (emphasis added)

Notably, the Fifth DCA decided in the context of a defamation case that "that "***Florida has adopted the neutral principles approach***":

> Most courts, however, have adopted a narrower view of the doctrine and hold that the rights guaranteed by the First Amendment are not violated if the tort claims can be resolved through the application of "neutral principles" of tort law, particularly where there is no allegation that the conduct in question was part of a sincerely held religious belief or practice. *Malicki,* 814 So.2d at 358; *see, e.g., Gibson v. Brewer,* 952 S.W.2d 239, 246 (Mo.1997). Florida has adopted the "neutral principles" approach.

Bilbrey v. Myers, 91 So.3d 887, 891 (Fla. 5th DCA 2012) (citing the Florida Supreme Court's decision in *Mali*cki).

The First DCA and most other DCAs have consistently applied the neutral principles of law test, including in cases involving defamation claims. *Flynn*, 231 So.3d at 1245-1246; *Diocese of Palm Beach, Inc. v. Gallagher*, 249 So.2d 657, 662 (4th DCA 2018); *Springhill*, 251 So.3d at

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[19] *Napolitano*, 308 So.3d at 275, involves the Catholic church. At issue was whether a priest "had actual or apparent authority under Canon Law to form an employment contract" with the plaintiff. *Id.*

283. The First DCA applied the neutral principles of law approach in *World of Life Ministry, Inc. v. Miller*, 778 So.2d 360, 362-363 (Fla. 1st DCAS 2001), to resolve a dispute between a church and its retiring husband and wife ministers. In *Bendross v. Readon*, 89 So.3d 258, 259-260 (Fla. 3d DCA 2012), the Third DCA determined a dispute between factions in a Baptist (congregational) church was not barred by the ecclesiastical abstention doctrine by applying the neutral principles of law approach.

In *Southeast Conference Assoc. of Seventh-Day Adventists, Inc. v. Dennis*, 862 So.2d 842 (Fla. 4th DCA 2003) [cited by Defendants], the Fourth DCA concluded there was no jurisdiction over a "claim against a religious organization based on its alleged negligence in suspending one of its clergy." *Id.* at 844. However, *Dennis* (like *Napolitano*) is a hierarchical church case that also involved "whether an individual is qualified to be a clergy member," which is "determined by the procedures and dictates of that particular faith." *Id.* at 844 (specifically discussing the criteria for hierarchical churches --"where religious organizations establish rules for the internal discipline and governance and tribunals for adjudicating disputes").

Defendants also incorrectly suggest (Wedekind Motion at p. 7) based on *Dennis* and *Archdiocese of Miami, Inc. v. Minagorri*, 954 So.2d 640 (Fla. 3d DCA 2007, that there is a *per se* rule of abstention in "employment and disciplinary disputes." As noted above, *Dennis* is a hierarchical church case. *Minagorri*, 954 So.2d at 641, is also (Catholic church). Notably, the Fourth DCA still confirmed in *Dennis,* 862 So.2d at 844 (emphasis added), that "when a church-related dispute can be resolved ***by applying neutral principles of law*** without inquiry into religious doctrine and without resolving a religious controversy, the civil courts may adjudicate the dispute."

Regardless of what *Dennis* and *Minagorri* might say, the First DCA **explicitly rejected such a *per se* rule** in *Malichi v. Archdiocese of Miami*, 945 So.2d 526, 530 (Fla. 1st DCA 2007) ("[t]he subject of a priest's employment relationship with his church is not per se barred by the church autonomy doctrine.") In *Malichi*, the First DCA noted that when analyzing jurisdiction under the autonomy doctrine courts must consider the nature and substance of the claim and rejected the argument that "our analysis ends the moment a [church] asserts that a dispute falls outside civil court review." *Id.* at 529. "A church seeking to avoid the application of neutral state law must first show why application of the law requires the adjudication of an ecclesiastical matter." *Id.* (*citing Malicki v. Doe*, 814 So.2d 347, 354 (Fla. 2002)). Here, no ecclesiastical matters are implicated.

(c) Defendants' Arguments Ask the Court to Violate Plaintiffs' Plaintiffs' First Amendment Rights

To determine whether abstention applies, one of the first steps is determining whether the plaintiff is a member of the church or a third-party asserting a tort claim. *Flynn*, 221 So.3d at 1247. For the reasons explained above, Plaintiffs are "third-parties" because they were not members of the Church when their claims accrued.

Defendants cannot force Plaintiffs to remain members of the church against their will to support their ecclesiastical abstention argument. Pastor Weems and K. Weems, like everyone else, have the "inalienable right" under the First Amendment to the U.S. Constitution and Article I Section 3 of the Florida Constitution[20] to the free exercise of their religion "according to the dictates of their own consciences." *Beckwith Elec. Co., Inc. v. Sebelius*, 960 F.Supp.2d 1328, 1340

[20] Florida's free exercise and establishment track the language of the First Amendment and generally are interpreted the same way. *Williamson v. Brevard County*, 276 F.Supp.3d 1260, 1297 (M.D. Fla. 2017); *Todd v. State*, 643 So.2d 625, 683 n. 3 (Fla. 1st DCA 1994).

(M.D. Fla. 2013). A person cannot be forced to profess belief or disbelief in any religion. *Torcaseo v. Watkins*, 367 U.S. 488, 495 (1961). "The constitutional freedom to question, to doubt, and to change one's convictions [is] protected by the Free Exercise and Establishment Clauses." *Zummo v. Zummo*, 574 A.2d 1130, 1146 (Pa. Super. 1990).

"Just as freedom of worship is protected by the First Amendment, so also is the liberty to recede from one's religious allegiance." *Guinn v. Church of Christ of Collinsville*, 775 P.2d 766, 776 (Okl. 1989). "One of the fundamental purposes of the First Amendment is to protect the people's right to worship as they choose. Implicit in the right to choose freely one's own form of worship is ***the right of unhindered and unimpeded withdrawal from the chosen form of worship***." *Id.* (emphasis added); *see also Bixler v. Super. Ct. of California, Cty. of L.A.*, 2022 WL 167792 (Cal. Sup. Jan. 19, 2022).

The Oklahoma's Supreme Court's decision in *Guinn*, although not binding on this Court, but was decided based on the same controlling law and policies Florida follows, is strikingly similar to this case. The plaintiff left the Church of Christ ***after*** they subjected her to discipline (here, Plaintiffs left ***before***). *Guinn*, 775 P.2d at 768. Although Guinn abandoned her church membership, the church nonetheless published disparaging remarks about Guinn ***to church members***. *Id.* The Church Elders, like the Trustees, believed one can never withdraw from church membership. *Id.* The Oklahoma Supreme Court disagreed, upholding a jury's verdict for actual and punitive damages for the torts of outrage and invasion of privacy, finding the "shield from liability evaporates for claims that arise after a member has separated from the church and is no longer a church member." *Id.* In reaching this conclusion, the court reasoned as follows:

> The Elders had never been confronted with a member who chose to withdraw from the church. ***Because disciplinary proceedings against Parishioner had already commenced when she withdrew her membership***, the Elders concluded their actions could not be

hindered by her withdrawal and would be protected by the First Amendment. Parishioner relies on her September 24, 1981 handwritten letter to the Elders in which she unequivocally stated that she withdrew her membership and terminated her consent to being treated as a member of the Church of Christ communion. By common-law standards we find her communication was an effective withdrawal of her membership and of her consent to religious discipline.

Just as freedom to worship is protected by the First Amendment, so also is the liberty *to recede* from one's religious allegiance. In *Torcaso v. Watkins* the Court reaffirmed that neither a state nor the federal government can force or influence a person *to go or to remain away from* church against one's will or *to profess a belief or disbelief* in any religion. The First Amendment clearly safeguards the *freedom to worship* as well as the *freedom not to worship.*

...

Implicit in the right to choose freely one's own form of worship is the right of unhindered and unimpeded withdrawal from the chosen form of worship. In *Engel* it was the government that, by advocating one particular form of religious worship, threatened to limit freedom of choice; here, it is the Collinsville Church of Christ that, by denying Parishioner's right to disassociate herself from a particular form of religious belief, is threatening to curtail her freedom of worship according to her choice...

...

Parishioner claims that the Elders invaded her privacy when they wrongfully publicized private facts about her life and that this invasion caused her severe emotional stress. After she wrote a letter to the Elders unequivocally withdrawing her membership from the Church of Christ, the Elders continued their disciplinary actions against her. During Sunday services the Elders read to the congregation those scriptures which Parishioner had violated. This exposure of her private life, done without her consent, was unprotected by the First Amendment; the Elders' conduct became hence amenable to state regulation through the imposition of tort liability.

Conduct conforming to and motivated by one's religious beliefs is not always immune from governmental regulation: "[A] determination of what is a "religious" belief or practice entitled to constitutional protection may present a most delicate question, [but]

the very concept of ordered liberty precludes allowing every person to make his own standards on matters of conduct in which society as a whole has important interests." [Emphasis added.]

Disciplinary practices involving members of an ecclesiastical association, which do not pose a substantial threat to public safety, peace or order, are unquestionably among those hallowed First Amendment rights with which the government cannot interfere. If these sectarian matters were easily subject to civil adjudication and liability by secular judicature, the First Amendment shield under which "many types of life, character, opinion and belief can develop unmolested and unobstructed" would be rendered impotent.

...

First Amendment protection does not extend to all religiously motivated disciplinary practices in which ecclesiastical organizations might engage. By its very nature, ecclesiastical discipline involves both church and member. It is a means of religious expression as well as a means of ecclesiastically judging one who transgresses a church law which one has consented to obey. The right to express dissatisfaction with the disobedience of those who have promised to adhere to doctrinal precepts and to take ecclesiastically mandated measures to bring wayward members back within the bounds of accepted behavior, are forms of religious expression and association which the First Amendment's Free Exercise Clause was designed to protect and preserve. And yet the constitutionally protected freedom to impose even the most deeply felt, spiritually inspired disciplinary measure is forfeited when the object of "benevolent" concern is one who has terminated voluntary submission to another's supervision and command.

While the First Amendment requires that citizens be tolerant of religious views different from and offensive to their own, it surely does not require that those like Parishioner, who choose not to submit to the authority of any religious association, be tolerant of that group's attempts to govern them. Only those "who unite themselves" in a religious association impliedly consent to its authority over them and are "bound to submit to it." Parishioner voluntarily joined the Church of Christ and by so doing consented to submit to its tenets. When she later removed herself from membership, Parishioner withdrew her consent, depriving the Church of the power actively to monitor her spiritual life through overt disciplinary acts. No real freedom to choose religion would exist in this land if under the shield of the First Amendment religious

> institutions could impose their will on the unwilling and claim immunity from secular judicature for their tortious acts.

Guinn, 775 P.2d at 774-781.

Oklahoma's Supreme Court subsequently reaffirmed in *Hadnot v. Shaw,* 826 P.2d 978, 988 (Okla. 1992), that "the church has no power over those who live outside of the spiritual community." *See also Doe v. First Presbyterian Church U.S.A. of Tulsa,* 421 P.3d 284, 290 (2017) (*citing Guinn*, 775 P.2d at 776) ("[W]e were unequivocal, '[j]ust as freedom to worship is protected by the First Amendment, so also is the liberty to recede from one's religious allegiance.'... We went further: 'The First Amendment clearly safeguards the freedom to worship *as well as the freedom not to worship.*'")

Florida follows the same legal principles underlying the Oklahoma Supreme Court's decisions. "In a representative form of government, individual members of a particular church or congregation are free to withdraw their membership at any time." *Presbytery of Everglades v. Morgan*, 125 So.2d 762, 766 (Fla. 3d DCA 1961), *cert quashed*, 133 So.2d 318, *cert. denied*, 369 U.S. 812.

Defendants, however, rely heavily on *Anderson v. Watchtower Bible Tract Soc. Of New York, Inc.*, 2007 WL 161035, *26 (Tenn. 2007), in arguing that they had the right to publish the Defamatory Report. However, Defendants' reliance on *Anderson* is misplaced because it involved the ***exclusion*** of a member (a decision made by the church), not the ***resignation*** of a church member. 2007 WL 161035, *9 ("decisions to exclude persons from church membership are not reviewable by civil courts").

In fact, *Anderson,* 2007 WL 161035, at *26, cites *Hadnot*, 826 P.2d at 987, for the proposition that "defamation and other tort claims arising entirely out of a ***decision to expel*** a

member are generally beyond the jurisdiction of civil court." Moreover, the plaintiff ***was still a church member*** when they were defamed. 826 P.2d at 986 ("church had proper ecclesiastical cognizance when the [allegedly defamatory] letters were delivered. The petitioners had not withdrawn their membership.") *Hadnot* cites *Guinn* for the proposition that engaging in a positive act to withdraw membership ceases the church's jurisdiction. 826 P.2d at 988. However, the plaintiff in *Hadnot* did not, like Plaintiffs did here, resign before they the defamation occurred. *Id.* ("it is undisputed in this case that parishioners never withdrew their membership from the church").

Guinn, 775 P.2d at 780-781, explains in detail the critical distinction between a decision to expel a member as compared to a member's resignation:

> The Elders' post resignation conduct in *Paul*[21] was ***passive***. Their ***disassociation*** from Ms. Paul through shunning was merely a reiteration of her prior rejection, not an active attempt to involve her in the religious practices of a church whose precepts she no longer followed. The church's decision to turn away from her was protected under the First Amendment as a passive exercise of religious freedom, the legitimacy of which was not grounded in her prior acquiescence.
>
> For purposes of First Amendment protection, ***religiously motivated disciplinary measures that merely exclude a person from communion are vastly different from those which are designed to control and involve.*** A church clearly is constitutionally free to exclude people without first obtaining their consent. ***But the First Amendment will not shield a church from civil liability for imposing its will, as manifested through a disciplinary scheme, upon an individual who has not consented to undergo ecclesiastical discipline.*** The court in *Paul* stated that "[c]ourts generally do not scrutinize closely the relationship among members (*or former members*) ...," and that "[c]hurches are afforded great latitude when they impose discipline on members or former members," [emphasis added] but it provided no support for this view. Regardless of our disagreement with the court's refusal in *Paul*

[21] *Paul v. Watchtower Bible & Tract Soc. of New York*, 819 F.2d 875,883 (9th Cir. 1987), *cert. denied*, 484 U.S. 926 (1987):

> to distinguish between "former" and "present" church members when assessing a church's freedom to visit religious discipline, it is apparent that the stated rationale did not form the basis of the court's holding. We believe that the conclusion reached in *Paul* and our holding today are entirely consistent and easily reconcilable.

Anderson is also distinguishable because its holding relies on *Bryce v. Episcopal Church in the Diocese of Colorado*, 289 F.3d 648, 289 (10th Cir. 2002), which involved statements made "***at church meetings and in letters to church leaders discussing an internal church personnel matter***..." and where the plaintiff "was still voluntarily associated with ... was still employed" and "attempting to retain her position" and "[a]ll of the activities of which [plaintiff] complains took place while she was still voluntarily associated with the church." *Bryce v. Episcopal Church in the Diocese of Colorado* 121 F.Supp.2d at1327, 1343 D. Col. 2000). Like *Hadnot*, the District Court opinion in *Bryce* cites *Guinn*:

> In an unrelated section of their brief, Plaintiffs cite *Guinn v. Church of Christ,* 775 P.2d 766 (Okla.1989) where the court allowed a former member of the congregation to sue in tort the elders of a church. There the court made a distinction between the actions taken by the elders while the plaintiff was a member of the church and those taken after she revoked her membership. *Guinn,* 775 P.2d at 775. Those actions that occurred before she revoked her membership were shielded by the barriers of the First Amendment. *Id.* The *Guinn* court recognized the importance of the plaintiff's voluntary association with the church whereby she voluntarily consented to the elder's governance. *Id.* (citing *Watson,* 80 U.S. at 728–29, 80 U.S. 679). As in *Guinn,* Plaintiff Bryce was still voluntarily associated with St. Aidan's; she was still employed with St. Aidan's and was attempting to retain her position. All of the activities about which Plaintiff complains took place while Plaintiff Bryce was still voluntarily associated with St. Aidan's. In fact, Plaintiff Bryce remained employed with St. Aidan's until June 1999. Therefore, the disputed actions taken by Defendants are within the purview of Defendants' governing powers secured by the First Amendment. *See Watson,* 80 U.S. at 728–29.

121 F.Supp.2d at 1343.

Here, Plaintiffs clearly and unequivocally terminated their membership. After that occurred, Defendants actively engaged in tortious conduct by publishing defamatory and invasive statements outside the church.

(d) Abstention is NOT Required for Defamation Claims Based on Secular Law

Abstention is not required in a defamation, invasion of privacy, or intentional infliction of emotional distress claims where neutral principles of law can be applied to decide the case. This holds true regardless of whether the plaintiff is still a member of the church and whether the publication of the tortious statements occurred inside or outside the church. Obviously, in cases such as this one—where the tortious statements were made publicly and after the Plaintiffs were no longer church members—the facts weigh even more heavily in favor of exercising jurisdiction.

In Bilbrey *v. Myers*, 91 So.3d 887, 890-891 (Fla. 5th DCA 2012), the Fifth DCA reversed a trial court's dismissal of a defamation claim based on the church autonomy doctrine. After performing an extensive analysis of the abstention doctrine and recognizing that Florida follows the "neutral principles approach," the court concluded that the "First Amendment does not grant [a defendant] carte blanche to defame church members and ***ex-members***" and that where the falsity of a defamatory statement can be determined without resorting to "religious doctrine or practice" that claim can be adjudicated "without implicating the First Amendment" and would be "improperly dismissed based on the church autonomy doctrine." 91 So.3d at 891. Contrary to Defendants' argument (Wedekind Motion at p. 10, n.8), *Bilbrey* did involve church governance and discipline. 91 So.3d at 891-892 (defamatory statements at issue were made to another church within the context of transferring the plaintiff's ministerial license).

The Third DCA reached the same result in *LeGrande v. Emmanuel*, 889 DSo.2d 991, 994 (Fla. 3d DCA 2004), reversing the dismissal of slander claims based on the ecclesiastical

abstention doctrine because they "involve[d] a neutral principle of tort law that does not involve 'excessive' entanglement in internal church matters or in the interpretation of religious doctrine or ecclesiastical law." *LeGrande*, 889 So.2d at 994. The slander at issue in *LeGrande* included a statement the defendants made ***to the church's congregation*** accusing the church's pastor of "purchas[ing] a 2002 Mercedes in cash and us[ing] money he stole from the church to purchase the car." *Id.* at 993. These false statements were made to the congregation. *Id.*

Here, Defendants falsely accused Plaintiffs of synonymous financial improprieties:

> Stovall Weems engaged in a series of improper and unauthorized financial transactions through which he personally benefitted, either directly or indirectly, at the expense of the Church. Weems failed to present these transactions to the Board for its review and approval, which he was required to do pursuant to Florida law and the Church's governing documents. When three Trustees sought to question these transactions, Weems retaliated by attempting to remove them. Although Weems has a duty to cooperate with this investigation, he has refused to do so.

> **III. CONCLUSIONS**
>
> Through the actions described above, Stovall Weems violated the law by breaching his fiduciary duties to Celebration, committing fraud, unjustly enriching himself at the expense of the Church, and failing to meet the fiduciary duties and standards of care required by his office. He has brought Celebration to the brink of insolvency. The current amount of Accounts Receivable that remain outstanding and unpaid is $3,389,835 (excluding the embezzled profit from the Shellcracker sale). But for the steadying leadership of Pastor Tim Timberlake and the actions of Celebration's Board, Celebration would have likely already failed as an institution.

In *Mendes v. da Silva*, 980 So.2d 631, 632 (Fla. 2d DCA 2008), the Second DCA affirmed a trial court's denial of a motion to dismiss a defamation complaint based on the ecclesiastical abstention doctrine. Contrary to Defendants' position (Wedekind Motion at p. 10, n. 8), Mendes specifically involved a church's investigation of an employee and her "fitness" for the job. 980

So.2d at 632 (case involved "improper methods…followed to initiate inquiry into [plaintiff's] fitness to continue as a schoolteacher.")

As Defendants note, there are several Florida appellate decisions where defamation claims were barred by the ecclesiastical abstention doctrine. *See Mobley*, 251 So.3d 281; *Goodman,* 712 So.2d 775; *Gallagher*, 249 So.3d 657; *White*, 792 So.2d 491. However, each of these cases involved situations where a trial court was being asked to determine the plaintiff's fitness for religious office or deciding the truth or falsity of statements required the interpretation of religious doctrine or practice, thus extensively entangling the trial court in church doctrine or governance. That is not the case here.

In *Mobley*, the plaintiff's slander claim was based on a statement accusing the plaintiff of "being a Heretical Apostate[22] committing acts against the Church, Spiritual Beliefs, Faith and God" and his libel claim was based on statements in a letter asserting that the plaintiff's "public and private 'heretical statements' regarding the inerrancy of the Bible and the divinity of Jesus Christ" which required the termination of the plaintiff's membership in the church "to maintain the integrity of the church's doctrine, and to protect the church from false teaching." *Mobley*, 251 So.2d at 282-283. Here, Plaintiffs' claims are **not** based on any statements accusing them of heretical or unbiblical conduct—although such accusations are made in the Defamatory Report.[23]

In Defendants' primary case, *Goodman*, the plaintiff (a Rabbi) sued over his Temple's failure to renew his contract and also asserted a defamation claim based on statements made at a Temple board meeting "including various ones related to disagreement over religious concepts"

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[22] Generally speaking, apostasy is the total rejection of Christianity by a baptized person who, having at one time professed the Christian faith, publicly rejects it; and heresy is the rejection of one or more Christian doctrines by one who maintains an overall adherence to Jesus Christ.

[23] To be clear, Plaintiffs dispute all such accusations in the Defamatory Report, but have not based their causes of action in this proceeding on such statements.

and a report about an altercation (and other comments) involving the plaintiff. *Goodman*, 712 So.2d at 776-777. The appellate court affirmed the trial court's dismissal of the defamation claim because it "would have had to immerse itself in religious doctrines and concepts and 'determine' whether the religious disagreements were a 'valid' basis for the termination of Rabbi Goodman's services." *Id.* at 777. Importantly, the determination of the Rabbi's defamation claims in *Goodman* required ***"[i]nquiring into the adequacy of the religious reasoning behind the dismissal of a spiritual leader,"*** which is not a proper task for a civil court. *Id.*

However, *Goodman* is clearly distinguishable from this case because the plaintiff in *Goodman* asserted a defamation claim in conjunction with tortious interference/wrongful termination claims, all of which were based on statements made ***internally*** at a Temple board meeting before the plaintiff's termination on religious grounds; and concerned the religious grounds for his termination. Here, the statements at issue here were published ***publicly*** and ***after*** Pastor Weems resigned and Plaintiffs ended their relationship with the church.

Gallagher, in which the Fourth DCA relied heavily on *Goodman,* is distinguishable on the same grounds: the allegedly defamatory statements asserted that the plaintiff (a priest) "was unfit to serve as a priest and needed professional help." *Gallagher*, 249 So.3d at 663-664. "Determining whether Father Gallagher was unfit to serve gets the court excessively entangled in Catholic Church doctrines and canonical law [because the] ***falsity question turns on whether Father Gallagher was doing what he was supposed to be doing as a priest*** and parochial administrator at Holy Name…[i]n ***his interactions with parishioners, fellow priests, and the diocese hierarchy***…" *Id.* In *Gallagher*, resolution of the defamation claim required the court to "determine the duties assigned to a priest that make him fit to serve, and whether [he] was qualified to do the job." *Id.*

This Court is not being asked to make any such determinations concerning Pastor Weems's duties or qualifications as a Pastor or church leader. Rather, the defamation claims at issue here simply require the Court to determine whether Pastor Weems engaged in financial transactions the church told the public on its website were illegal and improper under secular law. Determining the truth or falsity of these statements does not require any adjudication of church policies or excessive entanglement in religious doctrine or practice. The defamatory statements at issue involve accusations that Plaintiffs engaged in financial improprieties that violated secular law, the truth or falsity of which can be "decided on neutral principles of secular law without a court intruding upon, interfering with, or deciding church doctrine." *Flynn*, 221 So.3d at 1247.

In *White*, the plaintiff (a church member) sued her church and its pastor for defamation after the church pastor called her a "slut" while standing at the church altar in front of other clergy and parishioners. *White*, 792 So.2d at 492. Importantly, the plaintiff's defamation claims against the church were based on vicarious liability and negligent supervision theories. *Id.* The Fourth DCA held that the claims against the church were barred by the ecclesiastical abstention doctrine because the "negligent failure to supervise and control the pastor" would excessively entangle the court in the church's hiring, retention, and supervision policies, which necessarily are guided by religious doctrine and practice. *Id.* at 494. However, the court concluded the claim against the pastor who published the defamatory statements was **not** barred by the abstention doctrine. *Id.* at 495.

Here, unlike in *White*, Defendants are ***directly liable*** for publication of the defamatory statements at issue (see Amended Complaint at ¶¶ 196-203). This case does not involve a negligent supervision or control situation. Defendants liability is not dependent upon hiring, retention or supervision policies.

Defendants also rely on *Anderson* in claiming that their statements were "merely implementation of, still part of, inextricably related to, or a consequence of the decision." This argument is based on yet another portion of *Anderson* that cites *Hadnot,* which for the reasons explained above is clearly distinguishable. Defendants' reliance on *Anderson* on this issue is also misplaced because it stands for the proposition that the act of "informing church members" of a disciplinary decision is protected ***where the statements at issue are made to church members***. *Id.* at *28. Here, the statements at issue were published to the general public and the press.

Even Anderson recognizes that statements made outside disciplinary proceedings or beyond church membership are not fully protected. *Id.* at *28. In discussing this, *Anderson* cites *Ausley v. Shaw*, 193 S.W.3d 892, 896 (Tenn. Ct. App. 2005), which confirms that statements made to people outside the church are not protected by the church autonomy rule. *Ausley* is also cited in *Maize v. Friendship Cmty. Church, Inc.*, 2020 WL 6130918, * 5 (Tenn Ct. App. 2020), another case cited by Defendants that clearly is distinguishable because the plaintiff in Maize "ignored the elders' letter of termination and continued to act as the pastor of the Church," and "at oral argument, counsel for Mr. Maize, upon questioning by a member of the panel, acknowledged that [the defamatory statements] occurred during the period of time when his client's termination was occurring." *Id.* at *7.

Defendants also rely on several Texas appellate court decisions involving the Catholic Church's "credibly accused of sexually abusing a minor" lists. *Heras v. Diocese of Corpus Christi*, 2022 WL 710065 (Tex. App. Mar. 10, 2022); *In re Diocese of Lubbock*, 624 S.W.3d 506, 518-519 (Tex. 2021) (see motion p. 9). But these decisions are factually distinguishable because the plaintiffs still were priests and the statements at issue involved much broader public policy issues that are not present in this case. Moreover, other Texas decisions establish that statements made

outside a church are not protected. *Kelly v. St. Luke Cmty. United Methodist Church*, 2018 WL 654907, *1 (Tex. App. Feb. 1, 2018) (defamation claim was not barred "respecting statements allegedly published to persons outside the church.")

Generally, most states agree that statements made outside the church are not subject to abstention. *See e.g.*, *Kliebenstein v. Iowa Conference of United Methodist Church*, 663 N.W.2d 404, 406-07 (Iowa 2003) (Iowa Supreme Court held that the First Amendment did not bar a church member's defamation claim based on a letter that was "mailed not only to members of the congregation but also to other persons living in the Shell Rock community."); *Turner v. Church of Jesus Christ of Latter-Day Saints*, 18 S.W.3d 877, 896 (Tex. App.—Dallas 2000, pet. denied) (Dallas Court of Appeals held that the First Amendment did not bar a church member's defamation claim arising from the church's disclosure of information regarding his mental condition outside the church, including to his grandparents.); *Lipscombe v. Crudup*, 888 A.2d 1171, 1173 & n.2. (D.C. 2005) (D.C. court of appeals held that the First Amendment did not bar a church member's defamation claim against the church's pastor, in part because the member's allegation "that the statement was made 'to the public in an open meeting' sufficiently alleged that others besides church members were present," and his affidavit "asserted explicitly that '[t]he public gathering was not part of any church service and members from the public, including accountants, heard the Statement."); *Bowie v. Murphy*, 624 S.E.2d 74, 76–77, 79–80. (Va. 2006) (Virginia Supreme Court held that the First Amendment did not bar a church deacon's claim that the church's minister and other members defamed him by publicizing statements that he had "assaulted" another member); *Banks v. St. Matthew Baptist Church*, 750 S.E.2d 605, 607–08 (S.C. 2013) (South Carolina Supreme Court held that the First Amendment did not bar defamation claims asserted by a church's trustees against the church's pastor, who allegedly accused the trustees of mismanaging (and,

impliedly, stealing) the church's property and of lying to the pastor about their conduct.); *McRaney v. N. Am. Mission Bd. of the S. Baptist Convention, Inc.*, 966 F.3d 346, 349 (5th Cir. 2020) (holding First Amendment did not bar defamation claim brought by executive director of church's local mission board against church's national mission board, based on alleged statements accusing director of refusing to meet with national board's president, because resolution of claim would not "require the court to address purely ecclesiastical questions"); *Drevlow v. Lutheran Church*, 991 F.2d 468, 471–72 (8th Cir. 1993) (holding First Amendment did not bar minister's libel claim against church based on false statements church allegedly made about minister's wife, because resolution of claim would not "definitely involve the district court in an impermissible inquiry into the Synod's bylaws or religious beliefs"); *Tubra v. Cooke*, 225 P.3d 862, 864 (Or. 2010) (holding First Amendment did not bar pastor's defamation claim based on church leaders' statements that minister "had misappropriated church funds and was dishonest during his time as pastor"); *Connor v. Archdiocese of Phila.*, 975 A.2d 1084, 1107 (Pa. 2009) (holding First Amendment did not bar parents' defamation claim based on parochial school's alleged statements that child "brought a weapon to school" because "this is not a case in which religious authority would be directly relevant to a party's showing on the merits of his or her opponent's claims"); *Lipscombe*, 888 A.2d at 1173–74 (holding First Amendment did not bar defamation claim because resolution did not require "inquiry by the court into church religious practices or financial management"); *McAdoo v. Diaz*, 884 P.2d 1385, 1390–91 (Alaska 1994) (holding First Amendment did not bar church volunteer's defamation claim against pastor because "a determination of whether the statements were true and the amount of damage to [the volunteer's] reputation does not present a religious question").

Gorman v. Swaggart, 524 So.2d 915, 921-922 (4th Cir. La. 1988), is another strikingly similar case in which the abstention doctrine was not applied:

> In this case it was alleged that Swaggart and the other defendants made a variety of statements, both oral and written, which falsely and maliciously accused Gorman of repeated acts of adultery and immoral conduct. The petition goes on to allege that the **defendants falsely and maliciously accused Gorman of embezzling funds from his church** and of having connections with the Mafia. It is also alleged (albeit in a vague and somewhat indirect manner) that the **defendants impugned the credit and business practices** of MGM to lenders and television stations. It is further alleged that these statements ***were made and publicized to a wide range of people both inside and outside the Assemblies of God.***
>
> ...
>
> The First Amendment of the United States Constitution and Article 1, Sec. 4 of the Louisiana Constitution both guarantee religious freedom and have been interpreted to forbid courts from interfering in the ecclesiastical matters of religious groups. *The Serbian Eastern Orthodox Diocese for the U.S. and Canada v. Milivojevich,* 426 U.S. 696, 96 S.Ct. 2372, 49 L.Ed.2d 151 (1976); *Wilkerson v. Battiste,* 393 So.2d 195 (La.App. 1st Cir.1980). This prohibition extends to matters of religious discipline, faith, or custom, as well as to the appointment and removal of ministers. *Milivojevich, supra*; *Joiner v. Weeks,* 383 So.2d 101 (La.App. 3d Cir.1980). However, there are limits to this prohibition, and in those cases where religious doctrine is not involved, or may be deferred to, civil courts retain the power to resolve disputes. *LeBlanc v. Davis,* 432 So.2d 239 (La.1983); *Bourgeois v. Landrum,* 396 So.2d 1275 (La.1981); *Thomas v. Craig,* 424 So.2d 1090 (La.App. 1st Cir.1982)
>
> In spite of defendants' arguments to the contrary, Gorman ***clearly is not disputing his dismissal as a minister. How could he when his voluntary resignation predated his formal dismissal?*** This fact alone distinguishes this case from many of those cited by defendants and lessens the impact of their holdings. More important, however, is the fact that Gorman's suit alleges defamatory acts which occurred **outside the Assemblies of God after he had resigned** as a member of that denomination and been formally dismissed as one of its ministers. We have been presented with no plausible argument to justify these allegedly defamatory actions as part of internal church discipline. Moreover, even were we to find that the defendants' post-dismissal statements were legitimately part of internal church discipline, there is a serious question as to whether the First Amendment's protection would extend to those statements allegedly

> made to the press, the general public and pastors of other denominations. ***In our opinion, these allegations take the case beyond the scope of an internal religious matter***. This court may be powerless to interpret the religious doctrine which defendants claim compelled them to publicize their accusations to other members of their church, ***however, this does not mean they can make those accusations outside their church and not face the legal consequences. Neither the United States or the Louisiana Constitution provides religious organizations or their members with unqualified blanket immunity from the civil consequences of potentially defamatory statements. To the extent that the Assemblies of God interprets scripture and its own internal rules to require disclosure of Swaggart's accusations against Gorman to its members as part of the disciplinary process, civil courts may be precluded from interfering, even if the accusations appear to be false or defamatory. However, by taking their accusations outside their church, the defendants have also taken themselves outside the scope of the First Amendment's protection and, to that extent, have exposed themselves to the jurisdiction of the civil courts.***

What all the foregoing cases clearly show is that the ecclesiastical abstention doctrine does not apply to the claims at issue in this case.

B. THE ARBITRATION PROVISION OF THE BYLAWS DOES NOT APPLY

Defendants are not entitled to compel arbitration in this case because there is no valid agreement to arbitrate and, even if there was, any right to arbitration has been waived. A party seeking to compel arbitration must establish (1) a valid written agreement to arbitrate; (2) the existence of an arbitrable issue; and (3) whether the right to arbitrate has been waived. *Orkin v. Petsch*, 872 So.2d 259, 263 (Fla. 2d DCA 2004)

The arbitration provision of Celebration Church's Bylaws only applies to **Members**:

> **19.05 Christian Alternative Dispute Resolution.**
>
> In keeping with 1 Corinthians 6:1-8, all disputes which may arise between any member of the Church and the Church itself, or between any member of the Church and any Pastor, Trustee, Overseer, Elder, Director, officer, employee, volunteer, agent, or other member of this Church, shall be resolved by mediation, and if not resolved by mediation, then by binding arbitration under the procedures and supervision of the Rules of Procedure for Christian Conciliation, Institute for Christian Conciliation. In the event that this group ceases to exist during the course of this Agreement, arbitration under this section shall be conducted according to the rules of the American Arbitration Association. Judgment upon an arbitration award may be entered in any court otherwise having jurisdiction. The parties each agree to bear their own costs related to any mediation or arbitration proceeding including payment of their own attorneys' fees. Either party may file a motion seeking temporary injunctive relief from a court of competent jurisdiction in order to maintain the status quo until the underlying dispute or claim can be submitted for mediation or arbitration.

"Arbitration provisions are contractual in nature, and therefore, construction of such provisions and the contracts in which they appear is a matter of contract interpretation." *Wiener v. Taylor Morrison Services, Inc.,* 285 So. 3d 391, 393 (Fla. 1st DCA 2019) (citing *Seifert v. U.S. Home Corp.,* 750 So. 2d 633 (Fla. 1999)). "The intent of the parties to a contract, as manifested in the plain language of the arbitration provision and contract itself, determines whether a dispute is subject to arbitration." *Jackson v. Shakespeare Found., Inc.,* 108 So. 3d 587, 593 (Fla. 2013) (citing *Seifert,* 750 So. 2d at 636) (emphasis added); *see also Austin Commercial, L.P. v. L.M.C.C.*

Specialty Contractors, Inc., 268 So. 3d 215 (Fla. DCA 2019) ("To ascertain the parties' intent we examine the plain language of the contract"). The plain language of arbitration provision of Celebration Church's Amended and Restated Bylaws is clear and unambiguous: arbitration is only required for **members**.

Defendants do not dispute the arbitration provision only applies to "members." And, for the reasons explained above, Plaintiffs were not members when the claims alleged in the Second Amended Complaint accrued.

It also appears that, even if the claims at issue here could be subject to arbitration, that right has been waived. Prosecuting a lawsuit on issues subject to arbitration waives the right, and once waived that right cannot be reclaimed. *Timber Pines Plaza, LLC v. Zabrzyski*, 211 So.3d 1147 (Fla. 5th DCA 2017); *Green Tree Servicing, LLC v. McLeod*, 15 So.3d 682, 687 (Fla. 2d DCA 2009). The party relying on the right to arbitration "must safeguard the right and not act inconsistently with it." *Wilson v. Amerilife of East Pasco, LLC*, 270 So.3d 542, 545 (Fla. 2d DCA 2019); *Owns & Minor Medical, Inc. v. Innovative Marketing and Dist. Srvs., Inc.*, 711 So.2d 176, 177 (Fla. 4th DCA 1998). Moreover, prejudice is not required to find such a waiver. *Raymond James Financial Srvs., Inc. v. Saldukas*, 896 So.2d 707 (Fla. 2005).

As noted above, Celebration filed Eviction Suit against Plaintiffs after this case was filed and after Plaintiffs filed their First Amended Complaint. Those actions are sufficient demonstrate a waiver of Defendants' rights, if any, to arbitrate.

WHEREFORE, Plaintiffs respectfully request that the Court deny Defendants Motions to Dismiss and order them to answer the Second Amended Complaint within ten (10) days and grant such other and further relief as the Court deems just and appropriate.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of August, 2022, I caused a true and correct copy of the foregoing to be served via the Florida Court's E-Filing Portal upon the following counsel of record:

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EXHIBIT A

to

PLAINTIFFS' OMNIBUS RESPONSE IN OPPOSITION TO
DEFENDANTS' MOTIONS TO DISMISS SECOND AMENDED COMPLAINT

IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT
IN AND FOR DUVAL COUNTY, FLORIDA

CHARLES STOVALL WEEMS, IV
and KERRI WEEMS, individuals,

Plaintiffs,

v.

CELEBRATION CHURCH OF
JACKSONVILLE, INC., a Florida
nonprofit corporation, KEVIN
CORMIER, MARCUS ROWE,
ANGELA CANNON, JACOB
WILLIAM, and LEE WEDEKIND, III,

Defendants.
_____/

Case No.: 2022-CA-1047
Division: CV-F

DECLARATION OF CHARLES STOVALL WEEMS

I, CHARLES STOVALL WEEMS, IV, pursuant to section 92.525, *Florida Statutes*, declare and state as follows under penalty of perjury:

1. My name is CHARLES STOVALL WEEMS, IV. I am over the age of 18 and competent to make this Declaration.

2. I founded Celebration Church of Jacksonville, Inc. ("Celebration Church") with my wife Kerri Weems, in 1998, and served as its Senior Pastor, President and CEO, and Chair member of the Board of Trustees until April 15, 2022.

3. In that capacity, I am thoroughly familiar with and have personal knowledge of Celebration Church's operations, corporate governance, structure, and Bylaws.

4. I have been a Pastor for thirty years.

5. I am familiar with hierarchical churches and congregational churches.

6. Celebration Church is not a hierarchical church.

7. As its states in Article 3.01 of Celebration Church's Bylaws, Celebration is "autonomous and maintains the right to govern its own affairs, independent of any denominational control."

8. Celebration is an independent, non-denominational congregation.

9. Celebration Church is not part of any hierarchical religious organization.

10. Celebration Church is not obedient to or governed by any other religious organization.

11. Celebration Church is **one** multi-site church with various "locations" (or as it is described on its website, a "global house comprised of many rooms around the world"[1]).

12. As stated in Article 3.01 of the Bylaws, Celebration Church voluntarily affiliates with other churches. However, it does not control nor is it controlled by any church with which it affiliates.

13. There are no rules or codes in place establishing a hierarchical decision-making process between Celebration Church and its locations or other churches with which it is affiliated.

14. Celebration Church's locations are not obedient to or governed by Celebration Church.

15. Celebration Church has been a member of the Association of Related Churches ("ARC") since ARC's inception. ARC is "a cooperative of **independent** churches" that provides various services, such as training and other valuable resources to independent churches. I served on the Executive Leadership Team and Lead Team of ARC in the past.

[1] https://www.celebration.org/

16. Throughout my entire 20+ year tenure with Celebration Church, we never referred to it as a "mother church" and I have never heard anyone use that phrase to describe or refer to Celebration Church.

17. In March 2022, after receiving a copy of Celebration Church's Motion to Dismiss our Complaint in the above-captioned case, I realized the lengths to which certain of Celebration Church's Trustees were willing to go after they unlawfully seized control over Celebration Church and its resources, and believed (particularly based on the unsubstantiated, unnecessary personal attacks in the Church's Motion to Dismiss) that they were going to wage an all-out war against and try to destroy me and my family, in particular, I came to the difficult conclusion that I could no longer be a part of Celebration Church and needed to try to protect my family from any further attacks by resigning and completely severing all ties with the church.

18. On April 15, 2022, I sent the letter attached hereto as **Exhibit A.** As it states, the purpose of my April 15, 2022 letter was to resign all of my positions with Celebration Church and to legally separate from the church in all respects and continue our ministry elsewhere.

19. On April 25, 2022, I first learned about the "Report of Investigation" published by the Defendants about me and my wife. I found out about the report after it was leaked to the press and news stories started appearing discussing the report.

20. The following day, I was able to access the report on Celebration Church's main website: www.celebration.org

21. www.celebration.org is Celebration Church's main, public webpage and was designed for the general public and visitors, not congregants.

22. The Report of Investigation was posted on Celebration Church's public website at: https://www.celebration.org/weemsinvestigation/

23. At the time it was posted, the homepage was updated to include a new menu option called "Report," which directed website visitors to https://www.celebration.org/weemsinvestigation/

24. Communication to the Celebration Church congregation has and continues to be through the church's database system. Emails, texts and phone calls are regularly sent through the database system, where things can be filtered to a certain demographic of the church if necessary.

PURSUANT TO § 92.525, *FLORIDA STATUTES*, UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ EVERY STATEMENT MADE IN THIS DECLARATION AND DECLARE THAT EACH STATEMENT IS TRUE.

August 4, 2022
Date

Charles Stovall Weems, IV

DECLARATION OF STOVALL WEEMS

EXHIBIT A

To the Trustees, Directors and Officers of Celebration Church of Jacksonville, Inc. ("CCJ")

From: Pastor C. Stovall Weems, IV

Re: Separation and Resignation from CCJ

Date: April 15, 2022

This letter is to inform you that I am resigning from my positions as Senior Pastor, President and Chief Executive Officer, Chair and member of the Board of Trustees, and Registered Agent of CCJ – the church I founded and poured my life into. My resignation is effective immediately.

I have spent much time in prayer and received counsel from other pastors here in the city, the region, and around the world. The Trustees' actions leave me and my family with no choice but to legally separate from CCJ and continue our ministry elsewhere, placing ourselves under the proper accountability and oversight of a council of apostolic pastors and elders in our city, nation, and world that understand and model biblical governance. This is absolutely necessary if I am to continue to honor the Lord and be true to what I believe. I shall not and cannot be legally connected to any church in which the leadership abandons the clear biblical principles and scriptural qualifications for spiritual covering, spiritual authority, and ecclesiastical governance and oversight.

My resignation from CCJ does not and will not affect with any claims that have or may be filed by me or Kerri Weems against CCJ trustees and officers or against any individuals or organizations associated with what I believe to be the illegal seizure of the institution and its resources.

Sincerely,

C. Stovall Weems IV

EXHIBIT B

to

PLAINTIFFS' OMNIBUS RESPONSE IN OPPOSITION TO
DEFENDANTS' MOTIONS TO DISMISS SECOND AMENDED COMPLAINT

Filing # 148519735 E-Filed 04/27/2022 04:23:11 PM

IN THE CIRCUIT COURT, FOURTH JUDICIAL CIRCUIT, IN AND FOR DUVAL COUNTY, FLORIDA

Case No. 2022-CA-1047

Division: CV-F

CHARLES STOVALL WEEMS, IV and KERRI WEEMS, individuals,)
)
Plaintiffs,)
v.)
CELEBRATION CHURCH OF JACKSONVILLE, INC., a Florida nonprofit corporation,)
)
Defendant.)

CELEBRATION CHURCH'S AMENDED MOTION TO DISMISS

Celebration Church of Jacksonville, Inc. ("Celebration"), pursuant to Rules 1.140(b)(1) and 1.140(b)(6), Florida Rules of Civil Procedure, moves to dismiss the Complaint for Injunctive Relief filed by plaintiffs Charles S. Weems, IV ("Stovall Weems") and his wife Kerri Weems ("Kerri Weems"). The complaint is fatally defective for three fundamental reasons. First, this Court lacks subject matter jurisdiction over matters of ecclesiastical government and church discipline under the First and Fourteenth Amendments to the United States Constitution. Second, the complaint fails to state a cause of action because: (1) temporary injunctions are only available to address prospective conduct to maintain the *status quo,* not to undo prior acts that fundamentally alter the *status quo*; (2) the complaint seeks a declaratory judgment but fails to allege the necessary elements of that cause of action; (3) the requested gag order is an

ACCEPTED: DUVAL COUNTY, JODY PHILLIPS, CLERK, 04/27/2022 10:52:52 PM

unconstitutional prior restraint; and (4) there are no allegations whatsoever that state a cause of action on behalf of Kerri Weems. Finally, the case is moot. After the church filed its motion to dismiss, the Weemses resigned their positions at Celebration, which Celebration's board has formally accepted, and the parties have begun the Christian Conciliation alternative dispute resolution process outlined by the church's bylaws. Accordingly, the Weemses have no standing and there is no justiciable issue before the Court.

INTRODUCTION

> Everyone who does evil hates the light, and will not come into the light for fear that their deeds will be exposed. But whoever lives by the truth comes into the light, so that it may be seen plainly that what they have done has been done in the sight of God.
>
> *John* 3:20-21 (New International Version).

This action presents the latest chapter in a campaign of deception, manipulation, distraction, and abuse of power by Stovall and Kerri Weems against Celebration. Having founded Celebration, the Weemses over time came to act like they owned the church and could do with it what they wanted without the management and oversight required by Florida law and the church's governing documents. When the current board of trustees discovered that the Weemses had engaged in a series of unauthorized financial transactions, they requested an investigation. Since that time, the Weemses have sought desperately to avoid the accountability and transparency that the church's board is committed to pursuing for the glory of God and the advancement of His kingdom. For the reasons discussed below, the complaint should be dismissed.

BACKGROUND FACTS

I. Celebration's Governance, Management and Oversight Structure

Celebration is a hierarchical church comprised of a "mother church," referred to as Celebration Arena, where the church's corporate headquarters are located, and domestic local churches in Jacksonville, Amelia Island, Orlando, South Florida, Washington D.C., as well as several international affiliated churches. Each domestic local church is supported by a campus pastor and overseen by the senior pastor. All of the local churches are required to abide by Celebration's religious beliefs, which are set forth as the church's Statement of Faith in Article 2 of its Bylaws (Exhibit A). Celebration's church government "seeks to be led by the Holy Spirit *in all things*." Bylaws art. 5 (emphasis added).

Celebration is "autonomous and maintains the right to govern its own affairs, independent of any denominational control." Bylaws § 3.01. Its purposes are to minister the Word of God, conduct religious worship services, maintain facilities to facilitate its ministries, ordain qualified individuals, collect and disburse funds for the maintenance of the church, and make distributions to tax-exempt entities. Bylaws § 3.02. The church was organized as a nonprofit corporation under the Florida Nonprofit Corporation Act, FLA. STAT. § 617.01011, *et seq.*, and is governed by and subject to the act, the church's articles of incorporation, and its bylaws, under the management and control of the board. Bylaws, art. 4. The board also has approved policies and procedures that are required to be followed, including those in Celebration's Employee Handbook and those relating to the approval of financial transactions.

Management and oversight of the church is provided by a board of trustees, who "have plenary power to manage and govern the affairs" of the church. Amended and Restated Articles of Incorporation, art. 9 (Exhibit B). The trustees "have the duties and

the responsibilities generally associated with and exercised by a corporate board and as such, are the only governing body within the Church." Bylaws § 8.01. Accordingly, "[a]ll corporate powers shall be exercised by or under the authority of the Trustees," who are "the final authority solely over affairs pertaining to corporate matters of the Church." *Id.* The role of the trustees is "to serve the Church by assuring compliance with the Church's management policies and procedures, by approving the annual budget and other major financial commitments of the Church." Bylaws § 5(b). Specifically, the trustees are vested with responsibility "for the management and oversight of all of the Church's financial resources, including the acquisition and disposition of Church property (both real and personal)." Bylaws § 8.01. Even more specifically, this includes sole authority to approve the purchase, sale, mortgaging, pledging or encumbrance of property owned by the church; to approve or disapprove the transfer of church assets to other tax-exempt organizations; and to approve or disapprove of any transaction unrelated to the purposes of the church. *Id.*

With respect to the stewardship of Celebration's assets, the trustees (as the title implies) are biblically obligated to be trustworthy in managing the sacred tithe offerings of its members so that God will entrust the church with true riches: the kingdom of heaven. This is because "[n]o one can serve two masters. Either you will hate the one and love the other, or you will be devoted to the one and despise the other. You cannot serve both God and money." *Luke* 16:10-13 (NIV). Thus, while the church may hold title to its assets under the law, it does not own them in a spiritual sense. Instead, the church is bound to serve as a faithful manager of its assets on behalf of their true owner, which is God. The trustees are responsible, biblically and legally, to manage the church's assets.

The bylaws also authorize the trustees to investigate and discipline, if warranted, "all reported concerns or complaints regarding corporate accounting practices, internal controls, or auditing." Bylaws § 17.02(d). In responding to a complaint, the trustees are required to "determine whether an investigation is appropriate and the form that it should take." Bylaws § 17.02(d). The trustees are required to promptly investigate, and then to take appropriate corrective action if warranted by the investigation. Bylaws § 17.02(e).

The church's executive functions and day-to-day operations are nominally managed by the senior pastor. Bylaws, art. 7. The senior pastor serves as the president and chief executive officer of the church and is responsible to lead the church in accordance with biblical principles. Bylaws §§ 7.01-7.02. Specifically, the senior pastor's duties include: serving as the leader of the church body, staff, organizations, ministries, and trustees; defining and communicating the church's purpose; administering and coordinating the day-to-day operations of the church; nominating and removing overseers; appointing, directing, and overseeing the senior leadership team; hiring, directing, and overseeing church staff; and endeavoring to ensure that the directives and resolutions of the trustees are carried out. *Id.* The senior pastor is therefore subject to the control and authority of the trustees. While the senior pastor serves as the chairman of the board, that role is purely administrative—he calls the meetings to order and presents an agenda but is not entitled to vote on board matters. Bylaws § 7.05.

The bylaws provide that a group of overseers also have authority to respond to a request for investigation and impose discipline on the senior pastor. Bylaws § 7.07(b). The bylaws require that the church always have at least three overseers in place to perform these oversight functions. Bylaws § 10.03. It is the sole responsibility of the senior pastor to nominate overseers for the board's review and approval. *Id.* If disciplinary action

against the senior pastor is being considered, the composition of the overseers cannot be changed. Bylaws § 10.04.

Under the bylaws, if the senior pastor failed to nominate overseers and an investigation into unauthorized financial transactions conducted by the senior pastor had been requested, it could be argued that the bylaws contained an ambiguity between the interplay of the overseers' authority under Article 7 and the trustees' authority under Article 17. This was the predicament faced by the church in January 2022.

II. Resolving the Bylaws Ambiguity

In 2021, the church had only two overseers: Dino Rizzo and John Siebeling.[1] When both resigned in September 2021, Stovall Weems did not nominate any replacements. Then, on January 4, 2022, trustees Fitz Powell, Kevin Cormier, and Marcus Rowe requested that an investigation be conducted into potentially improper financial practices engaged in by Stovall Weems. In response, on January 4 Stovall Weems purportedly removed Mr. Cormier as a trustee and stated that Mr. Powell and Mr. Rowe could conduct an investigation. On January 5, Weems attempted to nominate three overseers: Sean Yost, Scott Volk, and Bryan Schwartz. Of these, Mr. Volk and Mr. Schwartz were not "ordained pastors at respected congregations" and therefore were not qualified to serve as overseers. Bylaws § 10.01. Even if they were qualified, though, the board could not approve them because the composition of the overseers could not be changed due to the pending investigation request. Bylaws § 10.04. Ultimately, the board did not approve the

[1] There is some question about whether Scott Volk was acting as an overseer in 2021. Whether he was or was not is immaterial, however, because he was not qualified to serve in that role under the bylaws.

nominated overseers.[2] As a result, the church had no overseers and no ability to appoint overseers. Stovall Weems took the position that only the overseers could conduct an investigation into his conduct.

The board of trustees is vested with the power to amend the bylaws at any time. FLA. STAT. § 617.0206. On January 13, 2022, the board approved an amendment to the bylaws to resolve this ambiguity. The amendment added Section 7.07(c), which provides that if there are fewer than three overseers, the board shall temporarily assume the roles and responsibilities of the overseers. That has occurred, and the board is therefore currently acting as the highest ecclesiastical authority in the church to determine matters involving governance, including the investigation and potential discipline of the senior pastor. This is consistent with the trustees' existing investigatory and disciplinary authority under Article 17 and the inherent authority of the board in its capacity as the sole governing body of the church under Article 8.

III. This is a religious dispute relating to matters of church governance and discipline

With great irony, the Weemses' complaint invokes Bylaws § 19.05—entitled Christian Alternative Dispute Resolution—in their request that this Court impose "secular law" over this dispute. *See* Compl. ¶¶ 90, 93. But Section 19.05 is expressly inspired by 1 Corinthians 6:1-8, in which Paul strongly rebukes the church in Corinth *against* bringing disputes before the courts:

> If any of you has a dispute with another, do you dare to take it before the ungodly for judgment instead of before the Lord's people? Or do you not know that the Lord's people will judge the world? And if you are to judge

[2] After his attempt to install overseers failed, on January 7, Weems reneged on his approval of Mr. Powell and Mr. Rowe to investigate these issues and instead purportedly removed them as trustees. Weems' purported trustee removals are invalid because they violate the church's anti-retaliation whistleblower safeguards. Bylaws § 17.03(b).

> the world, are you not competent to judge trivial cases? Do you not know that we will judge angels? How much more the things of this life! Therefore, if you have disputes about such matters, do you ask for a ruling from those whose way of life is scorned in the church? I say this to shame you. Is it possible that there is nobody among you wise enough to judge a dispute between believers? But instead, one brother takes another to court—and this in front of unbelievers!
>
> The very fact that you have lawsuits among you means you have been completely defeated already. Why not rather be wronged? Why not rather be cheated? Instead, you yourselves cheat and do wrong, and you do this to your brothers and sisters.

1 Corinthians 6:1-8 (NIV). This is consistent with the internal investigatory and disciplinary process laid out by Jesus himself: "If your brother or sister sins, go and point out their fault, just between the two of you. If they listen to you, you have won them over. But if they will not listen, take one or two others along, so that 'every matter may be established by the testimony of two or three witnesses.' If they still refuse to listen, tell it to the church; and if they refuse to listen even to the church, treat them as you would a pagan or a tax collector." *Matthew* 18:15-17 (NIV).

The origin of this dispute goes back to March 30, 2018. That evening during a Seder service, Stovall Weems claims to have had a first-hand encounter with Jesus Christ. According to Stovall Weems, during this encounter the Lord "deposited" in him a divine business model on how to restructure the church and many of its ministries. This divinely-inspired business plan is at the heart of this dispute because Stovall Weems repeatedly invoked "God's master plan" to "protect the holy deposit" of the church.

The tie between God's will and the board's decisions with respect to these issues was repeatedly underscored at church board meetings. At a meeting on December 10, 2020, Kerri Weems told the trustees that this "revelation" required the church to separate certain ministries into new, for-profit, companies that would be managed by the Weemses

to keep the church—as the bride of Christ—pure. At another board meeting in June 2021, Stovall Weems announced that developing this business plan was "one of the most sacred things that has been done here." At a July 2021 meeting, Stovall Weems's comments directly tied the board's decisions regarding his business plans to the act of prayer: "[T]his board will be the board that has the opportunity to prayerfully make decisions, some of the most important in the church, like getting out of debt. But that can't be done without this missional blueprint and getting the enterprise out of the church." Copies of the minutes of these meetings are attached as Exhibit C.

As the trustees analyzed the church's weakening financial position in December 2021, they discovered that the Weemses had made several large financial transactions earlier in 2021 without notice to or authorization from the board. These included: (1) multiple large transfers to entities that the Weemses intended to manage going forward; (2) the church's purchase of a parsonage (in which Stovall and Kerri Weems were to live rent-free) for $1,286,863.30 that a company solely owned by Stovall Weems had bought four months earlier for $855,000; (3) the advancement of nine months' salary to Kerri Weems and seven months' salary to Stovall Weems in violation of FLA. STAT. § 617.0833 and the church's own internal policies, despite neither Stovall nor Kerri Weems performing the duties of the offices that purportedly justified those salaries; and (4) the improper use of over $1,000,000 in PPP loan proceeds to fund the Weems-managed entity Honey Lake Farms, Inc. and to purchase TurnCoin, an illiquid, speculative digital currency. None of these financial transactions were disclosed to or authorized by the board, as required by the church's bylaws.

On January 3, 2022, Stovall Weems sent an email to Kevin Cormier informing him that his one-year term had concluded and that a new trustee would be appointed to

replace him. But that wasn't true, because Mr. Cormier was elected as a trustee on June 3, 2021, so his term had not expired as Stovall Weems claimed. On January 4, Mr. Cormier sent an email notifying the board that he, Fitz Powell and Marcus Rowe were requesting an investigation be conducted into Stovall Weems. In response, Stovall Weems immediately attempted to remove Mr. Cormier as a trustee, describing the request for an investigation as "completely seditious behavior." Stovall Weems then said that he prayed "mercy for the sake of your soul and family." Trustee Jacob William then requested that the board convene "to discuss prayerfully the appropriate next steps." Mr. William described this email exchange as an attack on God's kingdom by the devil and asked that God would grant everyone wisdom to navigate this dispute so that God's kingdom would be glorified. Stovall Weems rejected that request, claiming unilateral authority to remove Mr. Cormier as a trustee and claiming that the board had "slandered" him and Kerri Weems behind their backs. Stovall Weems then cited Proverbs 6 and Matthew 18. Again responding, Mr. William denied the allegations of slander, reinforced the independence of the board, and said the board would act "with God as our witness and the Word of God as our guideline." A copy of this email string is attached as Exhibit D.

These emails establish, without the possibility of doubt, that this dispute is fundamentally a religious one relating to matters of church governance, accountability, and discipline. It is impossible to separate the divine from the secular, as the complaint asks this Court to do.

IV. After Celebration filed its motion to dismiss, the Weemses initiated the mediation and arbitration process they sought in the complaint and resigned from their positions at the church.

The complaint alleges a single cause of action for a temporary injunction to "maintain the status quo," but the Weemses' subsequent actions have fundamentally changed the status quo in a way that moots their claims. On April 6, 2022, the Weemses' attorney advised that the Weemses had initiated mediation/arbitration proceedings before the Institute of Christian Conciliation. A copy of the notification letter is attached as Exhibit E. Then, on April 15, Stovall Weems resigned from all of his positions at Celebration. A copy of the resignation letter is attached as Exhibit F. The board accepted his resignation effective that day. A copy of the resolution accepting Weems's resignation is attached as Exhibit G.

The Weemses' complaint demands entry of an injunction that (1) restores the Weemses to their pre-suspension positions at the church, (2) restores their salaries and benefits, (3) requires the trustees to confirm Weems's nominated overseers, (4) determines the January 2022 bylaws amendment to be invalid, (5) requires the parties to comply with the bylaws' requirements for discipline and conflict resolution, (6) requires the church to issue statements recalling its prior statements regarding this dispute, and (7) imposes a gag order on the church. Because the Weemses no longer hold any positions at the church, they have no standing to challenge the church's actions. But even if they did have standing, the relief they seek is moot because either it cannot occur (because the Weemses resigned from their positions at the church) or because it has already occurred (because the mediation/arbitration process has been initiated). There are simply no justiciable matters for the Court to determine.

MEMORANDUM OF LAW

I. This Court lacks subject matter jurisdiction under the First and Fourteenth Amendments to the United States Constitution.

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.
>
> U.S. Const. amend. 1.

> The law knows no heresy, and is committed to the support of no dogma, the establishment of no sect. The right to organize voluntary religious associations to assist in the expression and dissemination of any religious doctrine, and to create tribunals for the decision of controverted questions of faith within the association, and for the ecclesiastical government of all the individual members, congregations, and officers within the general association, is unquestioned. All who unite themselves to such a body do so with an implied consent to this government, and are bound to submit to it. *But it would be a vain consent and would lead to the total subversion of such religious bodies, if any one aggrieved by one of their decisions could appeal to the secular courts and have them reversed.* It is of the essence of these religious unions, and of their right to establish tribunals for the decision of questions arising among themselves, that those decisions should be binding in all cases of ecclesiastical cognizance, subject only to such appeals as the organism itself provides for.
>
> *Watson v. Jones*, 13 Wall. 679, 728-729, 20 L.Ed. 666 (1872) (emphasis added).

Since its pronouncement of the Ecclesiastical Abstention Doctrine (or Church Autonomy Doctrine) 150 years ago, the United States Supreme Court has consistently held that civil courts have an extremely limited role in resolving religious controversies that have an incidental effect on a person's civil rights. "(T)he rule of action which should govern the civil courts ... is, that, whenever the questions of discipline, or of faith, or ecclesiastical rule, custom, or law have been decided by the highest of these church judicatories to which the matter has been carried, the legal tribunals must accept such decisions as final, and as binding on them, in their application to the case before them." *Id.* at 727, 20 L.Ed. 666.

It is a fundamental principle of American society that churches have a constitutional right "to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine." *Kedroff v. St. Nicholas Cathedral*, 344 U.S. 94, 116 (1952). For this reason, civil courts must defer to the decisions of a church's highest ecclesiastical authority regarding matters of governance and doctrine. *See Serbian E. Orthodox Diocese v. Milivojevich*, 426 U.S. 696, 709 (1976) ("[W]here resolution of the disputes cannot be made without extensive inquiry by civil courts into religious law and polity, the First and Fourteenth Amendments mandate that civil courts shall not disturb the decisions of the highest ecclesiastical tribunal within a church of hierarchical polity, but must accept such decisions as binding on them...").

Florida first adopted *Watson*'s deference to church authority approach in 1978. *See Mills v. Baldwin*, 362 So.2d 2 (Fla. 1978). That decision was appealed to the United States Supreme Court, which vacated the decision and remanded for reconsideration in light of the Supreme Court's recent opinion in *Jones v. Wolf*, 443 U.S. 595 (1979). In *Jones*, the Supreme Court held that states could use either a neutral principles approach or a deference approach. On remand, the Florida Supreme Court reiterated its adoption of the deference approach. *See Mills v. Baldwin*, 377 So.2d 971 (Fla. 1980).

Florida courts applying the deference approach "are precluded from rejecting the decisions of ecclesiastical tribunals of hierarchical churches, substituting their own inquiry into church policy, and then resolving the dispute based on their own interpretations of church law." *Townsend v. Teagle*, 467 So.2d 772, 775 (Fla. 1st DCA 1985) (holding that trial court was required to defer to decisions of church's governing body regarding transfers of property). "When analyzing jurisdiction under the church autonomy doctrine, courts must consider the nature and substance of the claim to

determine if the claim involves a prohibited inquiry." *Malichi v. Archdiocese of Miami*, 945 So.2d 526, 529 (Fla. 1st DCA 2006).

The claims brought by plaintiffs directly implicate matters of church governance and pastoral discipline. Stovall Weems is the Senior Pastor of Celebration who is currently suspended from that position pending an internal investigation into potential wrongdoing he engaged in while acting in that role. The complaint asks the Court to substitute its judgment for that of Celebration's board of trustees by reversing decisions regarding the form of the church's bylaws, the suspension of Stovall and Kerri Weems, and the salaries and benefits to be paid the Weemses. Granting this relief would allow Stovall Weems to avoid an investigation into his alleged wrongdoing and any resulting discipline. At stake is control of the church—the essence of a religious controversy into which this Court is prohibited from intervening. *See Rosenberger v. Jamison*, 72 So.3d 199, 203 (Fla. 1st DCA 2011) (court lacked jurisdiction to resolve dispute about church governance); *see also Malichi v. Archdiocese*, 945 So.2d at 532 (Church Autonomy Doctrine applied to bar a priest's workers' compensation claim because "[t]he relationship between an organized church and its ministers is its lifeblood .... Matters touching this relationship must necessarily be recognized as of prime ecclesiastical concern.") (*quoting McClure v. Salvation Army*, 460 F.2d 553, 558-59 (5th Cir. 1972).

The question of how a church should govern itself is "an essentially religious matter." *Rosenberger*, 72 So.3d at 204. There, a disagreement on how the First Baptist Church of Micanopy[3] should be governed led to a power struggle between competing

[3] In *Rosenberger*, the First District confirmed that the Church Autonomy Doctrine applies to congregationalist churches in the same way it does to hierarchical churches, a question it previously had raised in *Malichi*. Thus, a trial court is obligated to defer to and to recognize, as a matter of law, a church's self-characterization as a hierarchical church. *See*

factions of parishioners. When one group was ousted, it sued the church and its pastor for failing to follow the church's articles of incorporation and bylaws by removing the members, amending the bylaws to convert the church from a congregation-led to an elder-led church, and electing directors. *Id.* at 201. The deposed parishioners sought to undo each of these decisions. *Id.* at 202. The trial court dismissed the complaint on jurisdictional grounds. On appeal, the parishioners argued that the dispute implicated neutral legal principles relating to corporate governance. Framing the issue as "whether the First Amendment prohibits judicial review of actions taken by a corporation allegedly in violation of its articles of incorporation and bylaws when the corporation is a church," *id.* at 203, the district court rejected the parishioner's argument, holding that "any inquiry into whether the Church adhered to its bylaws in excluding members necessarily entangles the court in religious matters protected by the First Amendment." *Id.* at 204. The dismissal was affirmed.

A similar entanglement would ensnare this Court. Contrary to the plaintiffs' claim that they seek this Court to construe the bylaws "in accordance with Florida secular law," the evidence establishes that this dispute is permeated with religious issues, including the authority to govern the church and biblically-based procedures for redressing complaints.

New Jerusalem Church of God, Inc. v. Sneads Community Church, Inc., 147 So.3d 25, 29 (Fla. 1st DCA 2013).

A. Subject matter jurisdiction cannot be created by agreement

The complaint purports to be brought pursuant to Section 19.05 of the Amended and Restated Bylaws of the church.[4] That provision states:

> In keeping with 1 Corinthians 6:1-8, all disputes which may arise between any member of the Church and the Church itself, or between any member of the Church and any Pastor, Trustee, Overseer, Elder, Director, officer, employee, volunteer, agent, or other member of this Church, shall be resolved by mediation, and if not resolved by mediation, then by binding arbitration under the procedures and supervision of the Rules of Procedure for Christian Conciliation, Institute for Christian Conciliation ... Either party may file a motion seeking temporary injunctive relief from a court of competent jurisdiction in order to maintain the status quo until the underlying dispute or claim can be submitted for mediation or arbitration.

Bylaws § 19.05. In addition to being further evidence that this dispute is a religious one, not one of "secular law," this mandatory arbitration provision precludes this Court from exercising jurisdiction over this claim.

This is true despite the provision's last sentence, which states that the parties can request a court enter an injunction to maintain the *status quo* pending the required mediation and arbitration processes. This sentence does not confer subject matter jurisdiction on the Court, because subject matter jurisdiction "arises by virtue of the law. It cannot arise by agreement of the parties; neither can it be infused in the court by error or inadvertence of the parties or their counsel." *Florida Nat. Bank of Jacksonville v. Kassewitz*, 25 So.2d 271, 275 (Fla.1945) (reversing deficiency judgment entered by court of equity for lack of subject matter jurisdiction); *see also Cunningham v. Standard Guar. Ins. Co.*, 630 So.2d 179, 181 (Fla. 1994) ("We acknowledge that the parties cannot stipulate to jurisdiction over the subject matter where none exists ..."). Like in *Kassewitz*, the

[4] Although Exhibit A to the complaint is the 2015 version of the church's bylaws, the amended bylaws approved by the board in January 2022 contain an identical provision.

arbitration provision contained in the bylaws does not provide the Court with subject matter jurisdiction over this inherently religious dispute.

B. The requested relief greatly exceeds the narrow scope of the arbitration provision's exception

Assuming for the sake of argument that the Court does have jurisdiction, the scope of the relief requested in the complaint goes far beyond the arbitration exception's narrow bounds. As quoted above, the exception to engaging in the Christian Conciliation process outlined in Section 19.05 is limited to "seeking temporary injunctive relief from a court of competent jurisdiction in order to maintain the status quo..." *Id.* The list of demands made by the Weemses greatly exceeds this scope, and instead seeks to unwind all of the board's prior actions in connection with this dispute. The Weemses demand:

- They be reinstated in their former roles with the church;
- Be given complete access to all church accounts, presumably to include its bank accounts;
- Reinstate their salary and benefits and pay them backpay;
- Force the Trustees to vote on overseers nominated by Stovall Weems (which would violate Bylaws § 10.04);
- Invalidate the church's current bylaws;
- Require that the church issue a communication recalling allegedly previously-made statements; and
- Impose a gag order on the church.

Compl. ¶ 100. These demands do not maintain the *status quo*, but rather seek to use the court system to bend the church to the will of the state by replacing the good business judgment of the trustees with the decisions of the Court (or the Weemses). Because the

requested relief falls outside the narrow exception to the arbitration provision, it is beyond the jurisdiction of this Court to order.

II. The complaint fails to state a cause of action for a temporary injunction

A. Temporary injunctions are not favored by Florida law

"[T]he issuance of a preliminary injunction is an extraordinary remedy which should be granted sparingly, which must be based upon a showing of the following criteria: (1) The likelihood of irreparable harm; (2) the unavailability of an adequate remedy at law; (3) substantial likelihood of success on the merits; and (4) considerations of the public interest." *City of Jacksonville v. Naegele Outdoor Advertising Co.*, 634 So.2d 750, 752 (Fla. 1st DCA 1994) (*quoting Thompson v. Planning Commission*, 464 So.2d 1231 (Fla. 1st DCA 1985). To establish a substantial likelihood of success, "a trial court must be certain that the petition or other pleadings demonstrate a prima facie, clear legal right to the relief requested." *Naegele*, 634 So.2d at 753. This is an "essential requirement prior to the issuance of a temporary injunction." *Id.*

The facts alleged in the complaint do not satisfy these elements. First, the Weemses do not allege a likelihood of irreparable harm. The complaint alleges the Weemses have been suspended pending an investigation, nothing more. The Christian Conciliation process called for in the bylaws, and which the complaint seeks an injunction requiring the parties to participate, provides a mechanism and a structure through which the parties can resolve this dispute. Second, the Weemses have an adequate remedy at law. If the allegations of the complaint are presumed to be true (they aren't), then the Weemses can seek to recover damages as part of the arbitration require by the bylaws. Third, the Weemses have demonstrated no likelihood of success on the merits. Because this court does not have subject matter jurisdiction over this dispute, the Weemses have no

possibility of success on the merits because the Court will never reach the merits of this claim. Finally, granting the requested relief does not serve the public interest. The public interest is served by enforcing the constitutional rights of its citizens as well as clear and unambiguous arbitration provisions, not by the courts' intervention into the internal governance decision-making processes of the churches of this state. Plaintiffs have failed to make the necessary showing for this Court to grant the extraordinary remedy of a temporary injunction.

B. Temporary injunctions are prospective only and cannot be used to reverse past acts

The Weemses demand that this Court not only mandate that the church perform certain actions (*i.e.*, vote on nominated overseers, issue communications, then cease all communications), they also seek to have this Court undo actions already performed by the board, including reinstating the Weemses to their former positions, providing them with salaries, benefits, and backpay, and declaring the January 2022 amendment to the bylaws to be invalid.[5]

Retrospective injunctions are prohibited under Florida law. "Whether prohibitory or mandatory, an injunction is prospective. '[A]n injunction does not lie to prohibit an act which has already been committed.' '[A]n injunction will lie only to restrain ... future injury, since it is impossible to prevent what has already occurred.'" *Naegele*, 634 So.2d at 754 (citations omitted). That is because "[t]he trial court's stated objective of preserving the status quo is not served by a decree invalidating penalties already imposed." *Id.* Despite the complaint's allegation that these things should be done "[t]o maintain the

[5] Although this relief is properly characterized as seeking a declaratory judgment, the Weemses plead it as a "temporary" injunction.

status quo," Compl. ¶ 100, they do no such thing. The current *status quo*, and that in existence when the complaint was filed, is that the Weemses are suspended without pay pending an investigation undertaken by the board pursuant to the recently-amended bylaws. For this reason, the complaint fails to state a cause of action for the injunctive relief requested in subsections (i), (ii), and (iv) of paragraph 100.

C. The complaint fails to state a cause of action for a declaratory judgment

The Weemses' demand that the Court determine "that the purported January 2022 amendment to the Bylaws is invalid" is not proper injunctive relief because it is retrospective, as discussed above. In fact, this demand does not seek injunctive relief at all, but rather a declaratory judgment. FLA. STAT. § 86.021. However, the complaint fails to allege a cause of action for declaratory judgment. *See Coalition for Adequacy and Fairness in School Funding, Inc. v. Chiles*, 680 So.2d 400, 404 (Fla. 1996) (stating elements). Nor could it, because that form of relief exceeds the extremely narrow (and inapplicable) exception to the arbitration provision. *See supra* Section II(B).

"[A] motion to dismiss a petition for declaratory judgment does not go to the merits but goes only to the question of whether or not the plaintiff is entitled to a declaration of rights—not to whether or not he is entitled to a declaration in his favor." *Mills v. Ball*, 344 So. 2d 635, 638 (Fla. 1st DCA 1977). Under section 19.05 of the bylaws, the Weemses are not entitled to a declaration of rights by this Court.

D. The requested "gag order" is an unconstitutional prior restraint

The Weemses seek the extraordinary relief of a complete gag order "prohibiting any further communication regarding this dispute." Compl. ¶ 100(vii). This, too, is an infringement of the church's First Amendment rights.

Both the United States Constitution and the Florida Constitution prohibit laws that curtail the freedom of speech. U.S. Const. amend. 1. ("Congress shall make no law ... abridging the freedom of speech..."); Fla. Const. art. I § 4 ("Every person may speak, write and publish sentiments on all subjects but shall be responsible for the abuse of that right."). "A prior restraint on publication, or censorship of information that has already been published, is presumptively unconstitutional under the First Amendment." *Palm Beach Newspapers, LLC v. State*, 183 So.3d 480, 482-83 (Fla. 4th DCA 2016) (*citing Neb. Press Ass'n v. Stuart*, 427 U.S. 539, 559 (1976)). "Prior restraints on speech and publication are the most serious and the least tolerable infringement on First Amendment rights." *Vrasic v. Leibel*, 106 So.3d 485, 486–87 (Fla. 4th DCA 2013) (*quoting Stuart*, 427 U.S. at 559). "Temporary restraining orders and permanent injunctions—i.e., court orders that actually forbid speech activities—are classic examples of prior restraints." *Alexander v. United States*, 509 U.S. 544, 550 (1993). Because the requested gag order is unconstitutional, the complaint fails to state a cause of action and should be dismissed.

E. Kerri Weems fails to allege any facts that would entitle her to relief

The complaint wholly fails to include allegations of ultimate facts that state a cause of action on behalf of Kerri Weems. The sum total of the complaint's allegations with respect to Kerri Weems are:

- She is an individual who resides in Duval County. Compl. ¶ 3.
- She has retained plaintiff's counsel to represent her. *Id.* ¶ 7.
- She helped found the church in 1998. *Id.* ¶ 8.
- The church wrongfully halted her compensation. *Id.* ¶ 80.

The complaint does not allege that Kerri Weems had an employment relationship with the church or any other basis that would entitle her to receive compensation from

the church. These bareboned allegations do not constitute "a short and plain statement of the ultimate facts showing that the pleader is entitled to relief" required by Florida's pleading rule. Fla.R.Civ.P. 1.110(b)(2). In drafting a complaint, the plaintiff must "plead [a] factual matter sufficient to apprise his adversary of what he is called upon to answer so that the court may, upon proper challenge, determine its legal effect." *Messana v. Maule Indus.*, 50 So.2d 874, 876 (Fla.1951). In the absence of any ultimate facts that may entitle Kerri Weems to relief, the complaint should be dismissed.

F. The Weemses lack standing and the Complaint's claims are moot

Here, the complaint sought a temporary injunction to "maintain the status quo" of the parties. Celebration disputes that the requested injunctive relief would maintain the status quo and instead goes well beyond that. Specifically, the complaint seeks an injunction that restores the Weemses' pre-suspension positions at the Church, restores their salaries, benefits, and back-pay, requires the Board to approve nominated overseers, invalidates the Church's bylaws adopted by the Board, requires the Church to issue certain communications, then imposes a gag order on any further Church communications. Regardless, the Weemses' post-complaint actions have destroyed their standing to proceed in this case and have rendered their claims moot.

"An issue is moot when the controversy has been so fully resolved that a judicial determination can have no actual effect. A case is 'moot' when it presents no actual controversy or when the issues have ceased to exist. A moot case generally will be dismissed." *Godwin v. State*, 593 So. 2d 211, 212 (Fla. 1992) (citations omitted). Although *Godwin* identifies two exceptions to this general rule, neither applies here. *Id.* Here, the Weemses have voluntarily instituted the mediation and arbitration process set forth in

the bylaws and Stovall Weems has resigned all of his positions at the church. The issues regarding the Weemses' employment positions, salary, and benefits have ceased to exist.

Because the Weemses are not members of Celebration's corporate entity, they have no standing to challenge the Church's corporate acts. *See* FLA. STAT. § 617.0304; *see also Word of Life Ministry, Inc. v. Miller*, 778 So.2d 360, 365 (Fla. 1st DCA 2001)(affirming entry of summary judgment for lack of standing because plaintiffs were members of the congregation but not members of the non-profit corporation).

The relief sought by the complaint has either been rendered impossible by virtue of the Weemses' resignations or has already been begun by their initiation of mediation and arbitration. Because there is nothing left for judicial determination, the claims raised in the complaint are moot and the complaint should be dismissed.

CONCLUSION

The relief requested in the complaint would require this Court to insert itself into a purely religious dispute over matters of church governance and discipline. Such an intrusion would violate the First and Fourteenth Amendments and lead to "the total subversion" of the church by the state, as prohibited by *Watson* and its progeny. Additionally, the complaint contains procedural and substantive defects. For these reasons, the court lacks subject matter jurisdiction over this dispute, and, in any event, the complaint fails to state a cause of action. Finally, the Weemses lack standing and the relief they seek has been rendered moot. The complaint should be dismissed.

WHEREFORE, Celebration Church of Jacksonville, Inc. respectfully requests that this Court dismiss the complaint with prejudice.

NELSON MULLINS RILEY &
SCARBOROUGH LLP

By: *__/s/ Lee D. Wedekind, III__*

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Attorneys for Celebration Church of
Jacksonville, Inc.

CERTIFICATE OF SERVICE

The undersigned certifies that on April 27, 2022, a copy of the foregoing was served by email on the below addresses by filing through the Florida Courts' E-Filing Portal:

Christopher J. Greene
Devon S. Richards
Lyudmyla Kolyesnik
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Attorneys for Plaintiffs

/s/ Lee D. Wedekind, III
Attorney

EXHIBIT C

to

PLAINTIFFS' OMNIBUS RESPONSE IN OPPOSITION TO
DEFENDANTS' MOTIONS TO DISMISS SECOND AMENDED COMPLAINT

Filing # 150640090 E-Filed 06/01/2022 12:19:24 PM

IN THE COUNTY COURT, FOURTH JUDICIAL CIRCUIT, IN AND FOR DUVAL COUNTY, FLORIDA

Case No.

Division:

CELEBRATION CHURCH OF JACKSONVILLE, INC., a Florida corporation,	)
Plaintiff,	)
v.	)
CHARLES S. ("STOVALL") WEEMS, IV, and KERRI WEEMS, individuals,	)
Defendants.	)

COMPLAINT FOR EVICTION AND DAMAGES

Celebration Church of Jacksonville, Inc. sues defendants Charles S. "Stovall" Weems, IV and Kerri Weems, and alleges:

1. Celebration is a not-for-profit corporation organized under the laws of Florida. Celebration's principal place of business is located in Jacksonville, Florida.

2. Stovall and Kerri Weems are individuals who reside in Jacksonville, Florida.

3. This Court has jurisdiction pursuant to FLA. STAT. § 83.59.

4. Venue is proper because the residential premises that form the basis of this action is located in Jacksonville, Florida.

5. On June 6, 2021, Celebration purchased the real property and improvements located at 16073 Shellcracker Road, Jacksonville, Florida 32226 (the "Shellcracker Property"). The church's purchase of this property was not authorized by

ACCEPTED: DUVAL COUNTY, JODY PHILLIPS, CLERK, 06/06/2022 04:15:18 PM

the church's board but instead was unilaterally made by Stovall Weems on behalf of both the buyer—Celebration—and the seller—Weems Group, LLC—of which Stovall Weems was the manager. This purchase was not disclosed to or approved by Celebration's board, in direct violation of the church's governing documents and Florida law.

6. Stovall and Kerri Weems have been living in the Shellcracker property without any form of agreement with Celebration.

7. The Weemses purport to live at the Shellcracker property by virtue of Stovall Weems' former position at the church. But on April 15, 2022, Stovall Weems resigned his position and terminated all affiliations with the church.

8. Before he resigned, Stovall Weems was being paid a monthly salary. Pursuant to FLA. STAT. § 83.46(3), the tenancy is therefore presumed to be month-to-month.

9. On April 19, 2022, April 26, 2022, and May 16, 2022, Celebration notified the Weemses to vacate the Shellcracker Property by May 31, 2022[1] so that the property can be marketed and sold. Copies of Celebration's notices are attached as Composite Exhibit A.

10. The Weemses have refused to vacate the Shellcracker property.

11. Celebration has retained the undersigned law firm and is obligated to pay its attorneys' fees and costs in bringing this action. Pursuant to FLA. STAT. §§ 83.48 and 83.59, Celebration is entitled to recover its attorneys' fees and costs from the Weemses.

12. All conditions precedent to bringing this action have occurred, been performed, or been waived.

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[1] When the church realized the initial deadline of May 30, 2022 was Memorial Day, it agreed to extend the deadline to May 31, 2022.

13. The Ecclesiastical Abstention Doctrine does not apply to prevent this Court from exercising subject-matter jurisdiction over this dispute because the issues here do not involve matters of church government or discipline, and instead relate solely to neutral principles of law involving this property dispute that do not implicate any issues of doctrinal controversy. Accordingly, this civil action is constitutionally permissible. *See Jones v. Wolf*, 443 U.S. 595, 602 (1979).

14. Pursuant to FLA. STAT. § 83.59, Celebration is entitled to summary procedure as set forth in FLA. STAT. § 51.011, and the court should advance the cause on its calendar.

COUNT I
Eviction

15. Celebration incorporates by reference the allegations contained in paragraphs 1 through 12 above.

16. This is an action to evict tenants from residential real property located in Jacksonville, Duval County, Florida.

17. Celebration owns the Shellcracker Property.

18. The Weemses remain in possession of the Shellcracker Property despite Stovall Weems' resignation of employment, the Weemses' refusal to pay rent, and the church's demands that the Weemses vacate the premises.

19. There is no oral or written agreement for the Weemses to remain in possession of the Shellcracker Property. The Weemses have no right, title, or interest in or to the Shellcracker Property.

WHEREFORE, Celebration Church of Jacksonville, Inc. demands judgment for possession of the Shellcracker Property against defendants Charles S. "Stovall" Weems, IV and Kerri Weems, together with attorneys' fees and costs.

COUNT II
Damages

20. Celebration incorporates by reference the allegations contained in paragraphs 1 through 12 above.

21. This is an action for damages that do not exceed $30,000, exclusive of interest, attorneys' fees, and costs.

22. Pursuant to FLA. STAT. § 83.46, Celebration is entitled to rent for the period of April 15, 2022—the day of Stovall Weems' resignation—until the day that the Shellcracker Property is vacated at a rate equivalent to the rate charged by similarly situated residences in the area, plus interest.

23. Celebration seeks damages in accrued but unpaid rent, rent that will accrue following the filing of this action, and damages to the Shellcracker Property that become evident after the defendants are evicted.

WHEREFORE, Celebration Church of Jacksonville, Inc. demands judgment for damages against defendants Charles S. "Stovall" Weems, IV and Kerri Weems, together with attorneys' fees and costs.

Dated: this 1st day of June, 2022.

NELSON MULLINS RILEY &
SCARBOROUGH LLP

By: *___/s/ Lee D. Wedekind, III___*

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COMPOSITE EXHIBIT A

NELSON MULLINS

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April 19, 2022

By email

Christopher J. Greene
Purcell, Flanagan, Hay & Greene, P.A.
1548 Lancaster Terrace
Jacksonville, FL 32204
cgreene@pfhglaw.com

Re: Notice to Vacate Premises

Dear Chris:

This acknowledges receipt of your clients' resignation from all positions at Celebration Church of Jacksonville, Inc. effective as of April 15, 2022. Accordingly, notice is hereby given that Stovall and Kerri Weems are to vacate the premises located at 16073 Shellcracker Road, Jacksonville, Florida 32226. Please provide declaration pages for all insurance policies currently covering the property.

Please also contact me at your earliest convenience to discuss the timing of the Weemses' vacation of the premises. Thank you for your cooperation.

Very truly yours,

Lee D. Wedekind, III

LDW/aa

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April 26, 2022

By email

Christopher J. Greene
Purcell, Flanagan, Hay & Greene, P.A.
1548 Lancaster Terrace
Jacksonville, FL 32204
cgreene@pfhglaw.com

Re: Vacation of 16073 Shellcracker Road

Dear Chris:

On Sunday, the Board of Trustees of Celebration Church of Jacksonville, Inc. formally accepted the resignation of Stovall Weems effective on April 15, 2022. The Board also approved a deadline of May 30, 2022 for Stovall and Kerri Weems to vacate the Shellcracker property. We also understand that the Weemses have been storing taxidermy and other personal items at the church's Regency location. These items also need to be removed by the Weemses by May 30.

Thank you for your cooperation.

Very truly yours,

Lee D. Wedekind, III

LDW/aa

cc: Kristin Ahr, Esq.

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May 16, 2022

By email

Devin Richards, Esq.
Purcell, Flanagan, Hay & Greene
1548 Lancaster Terrace
Jacksonville, FL 32204
DRichards@pfhglaw.com

Re: Vacation of Shellcracker Road property

Dear Devon:

This responds to your May 13, 2022 letter, in which you claim that the Parsonage Use License Agreement permits Stovall and Kerri Weems to reside in the Shellcracker property until their deaths. This position is incorrect for the following reasons:

1. The Parsonage Use License Agreement does not apply to the Shellcracker property. The agreement defines "Parsonage" as "the real property owned by the Church that is located at 4504 Hunterston Lane, Jacksonville, FL 32224." It does not reference or apply to any other property.

2. The agreement terminated by operation of Section 1(B) when the Weemses abandoned the Parsonage by moving their permanent residence elsewhere. The use of the disjunctive "or" and the plain language of that subsection makes clear that the agreement terminated when "*any one* of the following events of termination occurs."

The Weemses have no legal right to continue possessing or using the Shellcracker property. If they refuse to vacate the property by May 31, Celebration will be forced to have them removed by operation of law.

Thank you for your cooperation.

Very truly yours,

Lee D. Wedekind, III

LDW/aa