

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

Case No. 2022-CC-006371

Division: CC-M

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

**CELEBRATION CHURCH’S SECOND
MOTION TO COMPEL DEPOSITIONS OF DEFENDANTS**

Plaintiff, Celebration Church of Jacksonville, Inc. (“Celebration”), pursuant to Rule 1.380(a), Florida Rules of Civil Procedure, moves for a second order compelling defendants Charles S. (“Stovall”) Weems (“Stovall Weems”) and Kerri Weems to appear for their depositions in this case.

This is an action for eviction and damages relating to residential property owned by Celebration and currently in the possession of Stovall and Kerri Weems. The Weemses obtained possession of the property as an incident of their employment by Celebration for use as a home and residence.¹ On April 15, 2022, Stovall Weems resigned from all

¹ Stovall Weems unilaterally purchased the property while he was Celebration’s Senior Pastor for his own personal use as a residence, and executed the closing documents on behalf of both the buyer (Celebration) and the seller (an LLC that he and his wife Kerri

leadership positions at the church but has refused to surrender possession of the property or to pay rent for its continued use.

On June 1, 2022, Celebration filed a complaint alleging causes of action for Eviction (Count I) and damages (Count II). In response, the Weemses served an answer, affirmative defenses and motion to dismiss. In their motion to dismiss, the Weemses argue that this Court lacks subject matter jurisdiction under the Ecclesiastical Abstention doctrine and because this is properly an action for ejectment—not eviction—and that the complaint fails to state a cause of action for eviction because the complaint fails to plead the existence of a landlord-tenant relationship. The Weemses also moved the Court determine the amount of rent to paid into the court registry.

On July 21, 2022, Celebration contacted defendants requesting to depose Stovall Weems and Kerri Weems. In response, counsel for the defendants refused to provide dates on which the defendants would appear for their depositions. Celebration therefore unilaterally noticed the defendants for their depositions. On the eve of these depositions, defendants moved for a protective order to avoid responding to Celebration’s document request and to avoid appearing for their depositions. In their motion, defendants argued that Celebration’s discovery should not be had because defendants moved to dismiss for lack of subject matter jurisdiction. Subsequently, Celebration moved to compel defendants to produce documents responsive to its July 21, 2022 request for production and to appear for their depositions.

jointly owned and controlled). The transaction was never presented to or approved by Celebration’s Board of Trustees. Therefore, there is no written agreement for the Weemses to remain in possession of the property.

On September 22, 2022, the Court conducted a hearing on defendants Motion for Protective Order and Celebration's Motion to Compel. On September 23, 2022, the Court issued an Order Granting Celebration's Motion to Compel and Denying Defendants' Motion for Protective Order. The Order required that defendants "appear for their depositions, the scope of which will be limited to their challenges to the Court's subject-matter jurisdiction." Order Granting Celebration's Motion to Compel and Denying Defendants' Motion for Protective Order, attached as Exhibit A, at 2.

On October 25, 2022, Celebration noticed defendants' depositions for December 7, 2022. The day before their scheduled depositions, defendants withdrew their first affirmative defense and objection to the court's subject matter jurisdiction based on the Ecclesiastical Abstention Doctrine. Notice of Withdrawal of Defendants' First Affirmative Defense and Objection to the Court's Subject Matter Jurisdiction Based on the Ecclesiastical Abstention Doctrine, attached as Exhibit B.

Given the withdrawal of the Weemeses' affirmative defense and objection to the Court's subject matter jurisdiction based on the Ecclesiastical Abstention Doctrine, Celebration filed a notice of postponement of defendants' depositions on December 6, 2022, so that depositions that were not limited to the subject matter jurisdiction issue could be coordinated.

Since postponing the depositions, counsel for Celebration has requested that counsel for defendants provide defendants availability for the postponed depositions. Specifically, counsel for Celebration has requested deposition dates via e-mails on December 6, December 9, and December 29. Emails from Lee D. Wedekind, III, Esq., attached as Exhibit C. To date, counsel for defendants have not responded to any of Celebration's request for dates for the postponed depositions.

Not only did the Court deny defendants' Motion for Protective Order, but defendants have now withdrawn their subject matter jurisdiction defense, leaving defendants with no basis to refuse to participate in discovery. Twice already, defendants have avoided their noticed depositions on the eves of those depositions, first through the filing of a motion for protective order and second by withdrawing the affirmative defense that was the basis of their Motion for Protective Order. Now, defendants' counsel has refused to respond to the undersigned counsel's repeated requests for new deposition dates. The defendants' pattern of behavior demonstrates the necessity of an order setting the defendants' depositions with the power of contempt to enforce the order if necessary.

CERTIFICATION OF GOOD FAITH CONFERRAL

Pursuant to Florida Rule of Civil Procedure 1.380(a)(2), the undersigned made a good faith attempt to obtain the requested discovery prior to seeking Court intervention. Counsel for Celebration sent numerous emails to counsel for defendants, to which defense counsel did not reply.

WHEREFORE, Plaintiff Celebration Church of Jacksonville, Inc. respectfully requests this Court to enter an order setting the depositions of defendants Charles S. ("Stovall") Weems and Kerri Weems, and ordering them to pay Celebration's attorneys' fees and costs incurred as a result of defendants' ongoing refusal to participate in discovery.

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 _____, a copy of the foregoing was filed with the Florida Courts E-Filing Portal, which served a copy of it on the following:

Christopher J. Greene, Esq.
Devon S. Richards, Esq.
Lyudmyla Kolyesnik, Esq.
Purcell, Flanagan, Hay & Greene, P.A.
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Attorneys for Defendants

/s/ Lee D. Wedekind, III
Attorney

4857-1194-7079

EXHIBIT A

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

Case No. 2022-CC-006371

Division: CC-M

CELEBRATION CHURCH OF)
JACKSONVILLE, INC., a Florida)
corporation,)

Plaintiff,)

v.)

CHARLES S. ("STOVALL") WEEMS, IV,)
and KERRI WEEMS, individuals,)

Defendants.)
_____)

**ORDER GRANTING CELEBRATION'S MOTION TO COMPEL
AND DENYING DEFENDANTS' MOTION FOR PROTECTIVE ORDER**

THIS CAUSE, having come before the Court on the Defendants' Motion for Protective Order dated July 25, 2022 and Celebration Church's Motion to Compel dated July 26, 2022, and the Court, having reviewed the motions, conducted a hearing on September 22, 2022, and being otherwise fully advised in the premises, it is

ORDERED:

1. Celebration Church's Motion to Compel is granted.
2. Defendants' Motion for Protective Order is denied.
3. Celebration shall be permitted to take the requested discovery as follows:
 - a. Defendants shall serve responses to the two requests contained in Celebration's July 21, 2022 request for production; and

b. Defendants shall appear for their depositions, the scope of which will be limited to their challenges to the Court's subject-matter jurisdiction.

DONE AND ORDERED, in Chambers at Jacksonville, Duval County, Florida, this

23rd day of September, 2022.



The Honorable Mose Floyd
County Judge

Copies to:

Lee D. Wedekind, III
John P. McDermott, Jr.
Christopher J. Greene
Devon S. Richards
Lyudmyla Kolyesnik

EXHIBIT B

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

CASE NO.: 16-2022-CC-006371
DIVISION: CC-M

CELEBRATION CHURCH OF
JACKSONVILLE, INC., a Florida
Corporation,

Plaintiff,

v.

CHARLES S. WEEMS, IV, and KERRI
WEEMS, individuals,

Defendants.

**NOTICE OF WITHDRAWAL OF DEFENDANTS' FIRST AFFIRMATIVE
DEFENSE AND OBJECTION TO THE COURT'S SUBJECT MATTER
JURISDICTION BASED ON THE ECCLESIASTICAL ABSTENTION DOCTRINE**

Defendants, Charles S. Weems, IV (“Pastor Stovall”) and Kerri Weems (“Kerri”) (collectively, the “Weemses”), by and through their undersigned counsel, hereby file this notice of withdrawal of their First Affirmative Defense – Ecclesiastical Abstention Doctrine and their objection to this Court’s subject matter jurisdiction based on the ecclesiastical abstention doctrine contained in section III(A) of their motion to dismiss. All remaining affirmative defenses and arguments asserted in the Weemses’ Answer, Affirmative Defenses, and Motion to Dismiss are expressly preserved and in full effect.

Respectfully submitted,

PURCELL, FLANAGAN, HAY & GREENE, P.A.

/s/ Lyudmyla Kolyesnik

Christopher J. Greene
Florida Bar No.: 516015
Devon S. Richards
Florida Bar No. 58211
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1548 Lancaster Terrace
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Telephone: (904) 355-0355
Facsimile: (904) 355-0820
Primary: litigation@pfhglaw.com
Secondary: service@pfhglaw.com
Counsel for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 6, 2022, a true and correct copy of the foregoing was electronically filed with the Clerk of Court via the Florida Courts E-Portal which will serve this document by electronic mail to:

Lee D. Wedekind, III
50 N. Laura Street, Suite 4100
Jacksonville, FL 32202
(904) 665-3652 (direct)
(904) 665-3699 (fax)
lee.wedekind@nelsonmullins.com
allison.abbott@nelsonmullins.com

Kristin M. Ahr
360 S. Rosemary Avenue, Suite 1410
West Palm Beach, FL 33401
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*Attorneys for Celebration Church of
Jacksonville, Inc.*

/s/ Lyudmyla Kolyesnik

Attorney

EXHIBIT C

Lee Wedekind, III

From: Lee Wedekind, III
Sent: Thursday, December 29, 2022 9:29 AM
To: Christopher J. Greene; Lyudmyla Kolyesnik; Devon S. Richards
Cc: John McDermott; Allison Abbott
Subject: RE: Celebration/Weems - Eviction

This is our third request for deposition dates for the Weemses in advance of the January 23 hearing. We would prefer to resolve this by agreement rather than motion practice if possible.

Thanks.

Lee



LEE D. WEDEKIND, III PARTNER
lee.wedekind@nelsonmullins.com
50 N. LAURA STREET | 41ST FLOOR
JACKSONVILLE, FL 32202
T 904.665.3652 F 904.665.3699
NELSONMULLINS.COM VCARD VIEW BIO

From: Lee Wedekind, III
Sent: Friday, December 9, 2022 3:20 PM
To: Christopher J. Greene <CGreene@pfhglaw.com>; Lyudmyla Kolyesnik <LKolyesnik@pfhglaw.com>; Devon S. Richards <DRichards@pfhglaw.com>
Cc: John McDermott <john.mcdermott@nelsonmullins.com>; Allison Abbott <allison.abbott@nelsonmullins.com>
Subject: RE: Celebration/Weems - Eviction

Following up on this request. Thanks.

Lee



LEE D. WEDEKIND, III PARTNER
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NELSONMULLINS.COM VCARD VIEW BIO

From: Lee Wedekind, III

Sent: Tuesday, December 6, 2022 3:16 PM

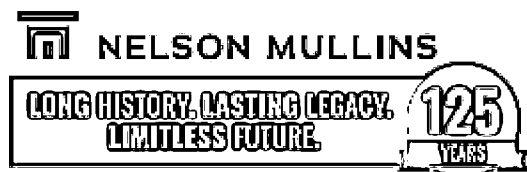
To: Christopher J. Greene <CGreene@pfhglaw.com>; Lyudmyla Kolyesnik <LKolyesnik@pfhglaw.com>; Devon S. Richards <DRichards@pfhglaw.com>

Cc: John McDermott <john.mcdermott@nelsonmullins.com>; Allison Abbott <allison.abbott@nelsonmullins.com>

Subject: Celebration/Weems - Eviction

Please provide dates your clients are available to be deposed so that we can reschedule the postponed depositions. Thank you.

Lee



LEE D. WEDEKIND, III PARTNER

lee.wedekind@nelsonmullins.com

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