HE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Jurisdiction of the Armed Forces and Chaplaincy; Plaintiff, v. Anglican Church in North America, Defendant.	C.A. No.: 2:25-cv-12848-BHH **DEFENDANT'S MEMORANDUM IN SUPPORT OF ITS MOTION TO DISMISS PURSUANT TO RULE 12(B)(6) AND THE CHURCH AUTONOMY DOCTRINE**

Defendant Anglican Church in North American (the "ACNA" or "Defendant"), submits this memorandum of law in support of its Motion to Dismiss pursuant to the church autonomy doctrine[1] and Rule 12(b)(6), Fed. R. Civ. P. This entire matter originated when the ACNA's Provincial Office received complaints that Bishop Derek Jones, the leader of the ACNA's Special Jurisdiction for the Armed Forces and Chaplaincy (the "SJAFC"), had abused his ecclesiastical authority. The ACNA's determination that these claims had merit and should be investigated prompted Bishop Jones to withdraw from the ACNA's College of Bishops and attempt to establish the ministry he formerly led within the ACNA as a new, independent Anglican church. In other words, Bishop Jones has apparently initiated a schism to avoid ecclesiastical discipline. The ACNA responded to this schism by replacing Bishop Jones as leader of the SJAFC and rebuilding the ministry under new leadership. The Plaintiff's claims are an attempt to use statutory and

[1] "Church autonomy" is shorthand for the wide-ranging constitutional protection afforded to religious entities that protects them from the courts interceding in, and becoming unconstitutionally entangled with, the organization, administration, employment decisions, church polity, and matters of church discipline of religious organizations. Some courts have used the term interchangeably with "ecclesiastical abstention."

common law tort remedies and to harness the powers of this Court to help Bishop Jones effect his schism.

Thus, Plaintiff's allegations stem entirely and completely from a dispute within the Anglican Church in North America over the ACNA's determinations of matters of organization and polity; its disciplinary proceedings regarding its Bishop, Derek Jones; the direction and control (and corporate identity) of its ministry, the Special Jurisdiction of the Armed Forces and Chaplaincy and the SJAFC's ownership of the ministry's property; the church's final and binding determinations regarding its office, the Bishop of the Armed Forces; and the church's findings and decisions regarding a purported schism led by Derek Jones in derogation of both his Oath of Obedience to the Archbishop of ACNA and his Oath of Conformity.

The following facts are important to an understanding of the ACNA's hierarchy and the place of the ministry of the armed forces chaplaincy within the ACNA and the ecclesiastical and organizational determinations by the ACNA on important matters of church polity as follows:

- The SJAFC has been and remains a ministry of and operated under the control of the ACNA and its Archbishop. It was created under the ACNA's canons and is an important component of the ACNA's religious mission.

- Bishop Derek Jones was ordained a bishop in the Church of Nigeria (Anglican Communion) and the Convocation of Anglicans in North America ("CANA"). CANA was one of a number of entities that had united to form the ACNA in July, 2009. Following the ACNA's formation, the ACNA received Bishop Jones as a Suffragan Bishop in June, 2010,and following a July, 2010 Protocol among the ACNA, the Church of Nigeria and CANA, CANA's Deanery for the Chaplaincy, which had been led by Bishop Jones, was assumed by the ACNA.

- To further the religious mission of the ACNA, the ACNA's Provincial Council and Provincial Assembly adopted a canon in 2014 to create the SJAFC to assume the ministry of the Deanery for the Chaplaincy. The College of Bishops elected Bishop Jones as Bishop of the Armed Forces to lead the SJAFC, which remained integrated into the ACNA's ministry and under the ACNA's ecclesiastical control and the oversight of the Archbishop. At that time, Archbishop Foley Beach installed

Bishop Jones as titular head of SJAFC, which remained a ministry of the ACNA and under its ecclesiastical control.

- To that end, Bishop Jones executed the required Oath of Obedience to the Archbishop and his successors. He also executed an Oath of Conformity recognizing his acceptance of and submission to the beliefs, worship and canonical requirements of the ACNA.

- In 2016, Bishop Jones created an Alabama nonprofit corporation under the name "Special Jurisdiction of the Armed Forces and Chaplaincy" to carry out some of the administrative functions of the SJAFC's ministry.

- At no time before September 2025 was the ministry known as the SJAFC separate from or independent of the organization and polity of the ACNA. The ministry remained fully integrated into the ACNA's ecclesiastical hierarchy and operated as a ministry of the ACNA.

- The canons of the ACNA require the approval of the ACNA's Executive Committee for any change to the SJAFC's canons. In 2020, the SJAFC petitioned the Executive Committee of the ACNA for permission to amend its canons to change the name of the SJAFC to "Jurisdiction of the Armed Forces and Chaplaincy." At its meeting on September 15, 2020, the ACNA Executive Committee voted unanimously to reject the request to change the name of the SJAFC. The subsequent use of the name "Jurisdiction of the Armed Forces and Chaplaincy" was therefore unauthorized and in violation of the ACNA canons. Regardless of the name under which the ministry was operated, the ministry remained under the ACNA's ecclesiastical and hierarchical control and subject to the ACNA's constitution and canons.

- In 2021, the ACNA and the SJAFC issued a joint statement recognizing that the so-called JAFC was fully integrated into the ACNA, operated as one of its ministries, was under its hierarchical control and was a part of its organization and polity.

- In 2024, Bishop Jones caused this entity to change its name to "Jurisdiction of the Armed Forces and Chaplaincy."

- As a ministry operating under the hierarchical control of the ACNA, any action by the SJAFC/JAFC in furtherance of the ACNA's religious mission, were performed as an agent of the ACNA and within the ACNA's ecclesiastical authority and control. This included the creation of financial systems and accounts; the filing of state and federal tax documents; filings with the Alabama Secretary of State or other governmental entities; the filing for and obtaining any trademark or copyright registrations with the Patent & Trademark Office.

- Because the SJAFC/JAFC's actions were in furtherance of the ACNA's ministry and religious mission, the SJAFC/JAFC's books, records, intellectual property, accounts, and any other such documents are the property of the ACNA, the SJAFC/JAFC's ecclesiastical superior and ultimate authorizer.

- The ACNA has determined that its religious mission carried out by military and other chaplains and the ecclesiastical control of that ministry be vested in the office of the Bishop of the Armed Forces – an office now held by Bishop Jay Cayangyang.

  See Statement of the Anglican Church in North America, November 10, 2025. ***Exhibit A.***

- In the summer of 2025, the Office of the Archbishop of the ACNA received a report from its Safeguarding Office of credible complaints against Bishop Derek Jones alleging abuse of ecclesiastical power. The Safeguarding Office determined that the complaints were considered credible enough to require further investigation to determine if any rose to the level of a presentable offense. On September 12, 2025, Archbishop Steve Wood and Dean of the Province and Presiding Bishop of the REC, Bishop Ray Sutton, issued a Godly Admonition to Bishop Jones that included a directive for him and his subordinates within SJAFC to cooperate with an investigation. After refusing to comply with this directive, on September 21, 2025, Archbishop Wood temporarily inhibited Bishop Jones from ministry for 60 days. The next day, on September 22, 2025, the Executive Committee of the SJAFC announced its withdrawal from the Province.

- The ACNA has issued a demand to Bishop Derek Jones and the SJAFC / JAFC that all property, accounts, intellectual property, books and records, and other property of the armed forces chaplaincy be returned to the ACNA.[2]

In summary, the ACNA's hierarchical ecclesiastical organization always included the SJAFC as a subordinate ministry. While the Alabama nonprofit corporation may have assumed some business functions of ACNA's ministry, the corporate entity was never the religious and evangelical ministry of ACNA. It was merely an extra-hierarchical convenience apparently adopted to assist in the day-to-day workings of the ministry. Notwithstanding his public statements

[2] *See* DEMAND ISSUED TO THE RIGHT REVEREND DEREK JONES, November 12, 2025 attached as ***Exhibit C***.

and positions, Bishop Jones is, and remains, subject to the discipline of the ACNA's Archbishop, the College of Bishops, and the ACNA's ecclesiastical hierarchy.

Adjudication of Plaintiff's claims in this lawsuit would clearly require the Court to inquire into religious matters and ecclesiastical decision-making to a degree that is simply impermissible under the Constitution. Plaintiff's claims – trademark infringement, unfair trade practices, tortious interference, misappropriation of corporate identity, slander of title, and false or misleading advertising – are nothing more than an elliptical way of challenging the ACNA's attempt to discipline Bishop Jones and maintain the direction of its chaplaincy ministry. These matters are conclusively protected from judicial entanglement by the Religion Clauses of the First Amendment of the United States Constitution, and this Court lacks the authority or jurisdiction to make any determinations regarding these matters.

While the courts have recognized that a narrow class of disputes over church property may be resolved by applying neutral principles of law,[3] neutral principals can no more resolve JAFC's claims than they could resolve Officer McLure's Title VII sex discrimination claims in *McClure v. Salvation Army*[4], or the ADA claims brought by the Lutheran and Catholic schoolteachers in *Hosanna-Tabor*[5] and *Our Lady of Guadalupe*.[6] Of course, in the litany of religious liberty cases, there are always some issues – wages and work assignments, performance evaluations and bias, the work environment and harassment – that federal courts routinely adjudicate. But in each case the appellate courts and the Supreme Court have cautioned against leaping into the sea to follow

[3] *Presbyterian Church v. Mary Elizabeth Blue Hull Memorial Church*, 393 U.S. 440 (1969))
[4] *McClure v. Salvation Army*, 460 F.2d 553 (5th Cir. 1972).
[5] *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 565 U.S. 171, 182, 132 S.Ct. 694, 181 L.Ed.2d 650 (2012)
[6] *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 591 U.S. 732, 746, 140 S.Ct. 2049, 207 L.Ed.2d 870 (2020).

the siren's song of neutral principals of law as applied to religious leadership and ecclesiastical disputes. As the Supreme Court held in *Serbian E. Orthodox Diocese*[7], the First and Fourteenth Amendments forbid applying "neutral principles" in a way that results in a secular court reviewing and ruling on the propriety of internal and ecclesiastical decisions of churches.

Even inquiring into the propriety of any decisions made by ACNA or any announcements from the ACNA regarding Derek Jones, violates the First Amendment and the church autonomy doctrine. The unconstitutional violation of church autonomy should end before it begins. It is well-settled that when claims that delve into matters covered by religious autonomy collide with the Constitution's "special solicitude to the rights of religious organizations"[8] the plaintiff's claims, however they might be pleaded, must yield to the constitutionally-protected autonomy of religious organizations. For that reason, and as set forth more fully below, Plaintiff's claims must be dismissed in their entirety.

THE LAW OF CHURCH AUTONOMY

The First Amendment's Religion Clause[9] enshrines the principle within the church autonomy doctrine, that religious institutions must be shielded from interference by state and

[7] *Serbian E. Orthodox Diocese for U.S. & Can. v. Milivojevich*, 426 U.S. 696, 721 (1976).
[8] *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 565 U.S. 171, 182, 132 S.Ct. 694, 181 L.Ed.2d 650 (2012)
[9] The First Amendment provides: "[1] Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; [2] or abridging the freedom of speech, or of the press; [3] or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." U.S. CONST. amend. I. Thus, the First Amendment has three clauses separated by semicolons. The Religion Clause (singular) is the first of them, and it has two halves separated by commas. See Rodney J. Blackman, Showing the Fly the Way Out of the Fly-Bottle: Making Sense of the First Amendment's Religion Clauses, 42 U. KAN. L. REV. 285, 296 (1994). Understanding the Religion Clause as a unitary provision of the First Amendment has important doctrinal implications because it ensures that courts interpret its two halves to "have complementary purposes, not warring ones." *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 510, 142 S.Ct. 2407, 213 L.Ed.2d 755 (2022) (quotation omitted).

federal courts.[10] Ecclesiastical matters are entirely beyond the ken of civil courts, which have neither the competence, nor the jurisdiction to decide matters of faith and doctrine, organization and polity, church governance and discipline, and disputes between a church and its ministers. Churches have broad constitutional protection from judicial meddling in their "autonomy with respect to internal management decisions that are essential to the institution's central mission."[11] As Justice Thomas recently noted: "matters of religious faith and doctrine are closely linked to ... matters of church government" and the background "understanding that church and state are ... each supreme in its own sphere"[12] Even the "very process of inquiry" into a church's internal affairs can "impinge on rights guaranteed by the [First Amendment]."[13]

The church autonomy doctrine prohibits far more than civil judges telling religious institutions what to believe or how to worship. The autonomy enjoyed by churches, as promoted under the doctrine, is "not only a personal [right]; it is a structural one that categorically prohibits federal and state governments from becoming involved in religious leadership disputes. . ."[14] and "the constitution forbids [courts] to tread . . . in the internal management of the church."[15] Church autonomy has barred judicial interference and entanglement in such matters as "(a) the selection and dismissal of clergy and faith leaders (the so-called "ministerial exception"); (b) the meaning of religious beliefs and doctrines; (c) the determination of religious polity, such as membership,

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[10] *See* Our Lady of Guadalupe Sch. v. Morrissey-Berru, 591 U.S. 732, 746, 140 S.Ct. 2049, 207 L.Ed.2d 870 (2020).
[11] *Id. see also* Hosanna-Tabor, 565 U.S. at 182.
[12] Cath. Charities Bureau, Inc. v. Wisc. Lab. & Indus. Rev. Comm'n, 605 U.S. 238, 257, 145 S.Ct. 1583, 221 L.Ed. 881 (2025)(Thomas, J. concurring).
[13] NLRB v. Cath. Bishop of Chi., 440 U.S. 490, 502, 99 S.Ct. 1313, 59 L.Ed.2d 533 (1979).
[14] Conlon v. InterVarsity Christian Fellowship, 777F.3d 829, 836 (6th Cir. 2015); Lee v. Sixth Mount Zion Baptist Church, 903 F.3d 113, 118, n.4 (3rd Cir. 2018); Tomic v. Catholic Diocese of Peoria, 442 F.3d 1036, 1042 (7th Cir. 2006)
[15] Combs v. Central Tex. Ann. Conf., 173 F.3d 343, 350 (5th Cir. 1999).

matters of discipline and good standing, and the identification of the "true church" amidst internecine disputes; and (d) internal church communications regarding any of the aforementioned activities.[16] As the *McRaney* Court noted, this list is not exhaustive, and cases will very often cross pollinate over many areas of constitutional protections.

The Ministerial Exception

The well-established and broadly construed "ministerial exception" bars the application of even neutral, generally applicable laws—such as the Americans with Disabilities Act of 1990, the Age Discrimination in Employment Act of 1967 ("ADEA"), and Title VII of the Civil Rights Act of 1964.[17] The ministerial exception also bars common law claims that "litigate the employment relationship between the religious organization and the employee."[18] Courts have rejected a wide variety of torts that attack ministry staffing decisions, including wrongful termination, breach of contract, tortious interference, intentional infliction of emotional distress, defamation, conspiracy to commit defamation, negligent supervision and detention, and retaliation—to name a few.[19] In *Puri v. Khalsa*, the Court of Appeals for the Ninth Circuit explained that the ministerial exception bars "any state law cause of action that would otherwise impinge on the church's prerogative to

[16] *McRaney v. N. Am. Mission Bd. of the S. Baptist Convention, Inc.*, 157 F.4th 627 (5th Cir. 2025)(internal citations omitted)(attached as ***Exhibit B***).
[17] See *Hosanna-Tabor*, 565 U.S. at 180, 132 S.Ct. 694; *see also Our Lady of Guadalupe*, 591 U.S. at 760, 140 S.Ct. 2049.
[18] *Starkey v. Roman Cath. Archdiocese of Indianapolis*, 41 F.4th 931, 945 (7th Cir. 2022).
[19] See *Id*. at 942 (tortious interference); *Cha v. Korean Presbyterian Church of Wash.*, 262 Va. 604, 553 S.E.2d 511, 512 (2001) (wrongful termination, tortious interference, and defamation); *Bell v. Presbyterian Church (U.S.A.)*, 126 F.3d 328, 330 (4th Cir. 1997) (wrongful termination, tortious interference, intentional infliction of emotional distress, and breach of contract); *Hutchison v. Thomas*, 789 F.2d 392, 393 (6th Cir. 1986) (defamation, intentional infliction of emotional distress, and breach of contract); *In re Diocese of Lubbock*, 624 S.W.3d 506, 511 (Tex. 2021) (same), *cert. denied sub nom. Guerrero v. Diocese of Lubbock*, —— U.S. ——, 142 S. Ct. 434, 211 L.Ed.2d 255 (2021).

choose its ministers" (quotation omitted)).[20] In short, churches are guaranteed complete autonomy in hiring and firing ministers, in assigning ministers to certain roles within the church, and in determining when a minister no longer fulfills the evangelical mission of the church and must be dismissed or reassigned.

This aspect of church autonomy and constitutional protection from the courts' becoming entangled in the affairs of religious organizations is not at all limited to employers and employees. In *Bell v. Presbyterian Church (U.S.A.)*[21] the Fourth Circuit dismissed a case brought by a United Church of Christ pastor against the Presbyterian, Methodist, and Baptist entities that provided financial support to the religious non-profit that employed him. The pastor was not a member of any of the religious entities who were defendants, and no defendant employed him directly. The pastor sued the churches claiming they interfered in his employment by cutting off financial support. In *Bell*, the pastor attempted to characterize the case as a secular dispute between the religious defendants and a third party. The Fourth Circuit had none of it – the court held that his claims failed under the ministerial exception because resolving the claims "would interpose the judiciary into the Presbyterian church's decisions, as well as the decisions of the other [defendant] churches, relating to how, and by whom they spread their message . . . through the granting or withholding of funds."[22]

The simple fact remains – this dispute stems from differences between ACNA and Derek Jones that are for the ecclesiastical hierarchy, and only the ecclesiastical hierarchy, to decide. Any entanglement by the judiciary in the resolution of the disputes violates the First Amendment. It is

[20] *Puri v. Khalsa*, 844 F.3d 1152, 1158 (9th Cir. 2017)
[21] *Bell v. Presbyterian Church (U.S.A.)*, 126 F.3d 328, 332-33 (4th Cir. 1997).
[22] *Id.* at 332.

not for the courts to decide who is right or wrong, or to determine whose rights have been violated or why. Bishop Jones must be left to ACNA's discipline under ecclesiastical law.

Church Governance

Church autonomy also forbids courts from resolving matters of church governance, including church discipline and the church's understanding of its own membership.[23] *Serbian E. Orthodox Diocese for the U.S. of Am. & Can. v. Milivojevich*[24] stands as the United States Supreme Court's seminal decision on religious liberties and the limits of state authority over the operations of religious entities. In that case, the Holy Assembly of Bishops and the Holy Synod of the Serbian Orthodox Church had defrocked a sitting bishop and appointed a replacement. The Holy Synod also determined to make a number of organizational and hierarchical changes: to divide the church into additional dioceses, and to appoint additional Bishops. Bishop Milivojevich and others challenged the Church's determinations in Illinois state court. The Illinois Supreme Court ruled in the Bishop's favor, and held that the Church proceedings were procedurally and substantively deficient under the Church's internal regulations. On *certiorari* review, the United States Supreme Court reversed, and held that "the inquiries made by the Illinois Supreme Court into matters of ecclesiastical cognizance and polity and the court's actions in ruling on the case contravened the First and Fourteenth Amendments."[25] Importantly, Justice Brennan wrote for the majority:

> Consistently with the First and Fourteenth Amendments, 'civil courts do not inquire whether the relevant hierarchical church governing body has power under religious law (to decide such disputes) . . . . Such a determination frequently necessitates the interpretation of ambiguous religious law and usage. To permit civil courts to probe deeply enough into the allocation of power within a hierarchical) church so as to

[23] *See Bouldin v. Alexander*, 82 U.S. (15 Wall.) 131, 139–40, 21 L.Ed. 69 (1872) ("It may be conceded that we have no power to revise or question ordinary acts of church discipline.... [W]e cannot decide who ought to be members of the church, nor whether the excommunicated have been regularly or irregularly cut off.").
[24] *Serb. E. Orthodox Diocese*, 426 U.S. 696 (1976).
[25] *Serb. E. Orthodox Diocese*, 426 U.S. at 698.

> decide . . . religious law (governing church polity) . . . would violate the First Amendment in much the same manner as civil determination of religious doctrine."[26]

The *Serbian Eastern Orthodox Diocese* Court repeatedly cautioned against the courts serving as a forum for challenges to ecclesiastical decisions, whether it be the disposition of property, appointment of clergy, or administration and organization of the hierarchical church. Those decisions are to be left solely in the hands of the ecclesiastical authorities and the "civil courts exercise no jurisdiction in any matter that concerns theological controversy, church discipline, *ecclesiastical government*, or the conformity of the members of the church to the standard of morals required of them."[27] Similarly, the Supreme Court held that the Illinois Supreme Court "engag[ed] in a searching and therefore impermissible inquiry into church polity" when it stopped the Mother Church from reorganizing the dioceses.[28] When "ecclesiastical tribunals are created to decide disputes over the government and direction of subordinate bodies, the constitution requires that civil courts accept their decisions as binding upon them."[29]

More recently *Roman Cath. Archdiocese of San Juan, Puerto Rico v. Acevedo Feliciano*, In Justices Alito and Thomas concluded their concurring opinion with this remark:

> Beyond this lurk more difficult questions, including (1) the degree to which the First Amendment permits civil authorities to question a religious body's own understanding of its structure and the relationship between associated entities and (2) whether, and if so to what degree, the First Amendment places limits on rules on civil liability that seriously threaten the right of Americans to the free exercise of religion as members of a religious body.

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[26] *Id.* at 708-09 *quoting* Md. & Va. Churches v. Sharpsburg Church, 396 U.S. 367, 369, (1970) (Brennan, J., concurring) (ellipsis in original).
[27] *Id.* at 713-714 *quoting* Watson v. Jones, 80 U.S. at 733-34 (emphasis added).
[28] *Id*. at 723, 96 S.Ct. 2372.
[29] *Id*. at 724–25, 96 S.Ct. 2372.

> The Court does not reach these issues because of our jurisdictional holding. But they are questions that may well merit our review.[30]

In that case, the Puerto Rico Supreme Court amalgamated virtually all Catholic entities – 5 separate dioceses, and the Archdiocese of San Juan – all of which are distinct and separate juridic entities under Canon Law – more than 300 parishes, and all other Catholic entities on the island into one, monolithic behemoth it called the "Roman Catholic and Apostolic Church in Puerto Rico" in order to marshal assets to satisfy the obligations of the Catholic School Employee Pension Plan, which could no longer pay the full pensions of beneficiaries. During the litigation, the Pension Plan sought bankruptcy protection. The United States Supreme Court vacated the decision of the Puerto Rico territorial courts because, with the bankruptcy filing, the territorial courts lost jurisdiction over the case and had no power to order the confiscation of the assets of the myriad Catholic entities on the island.

In this case, how the ACNA determined to organize its ministries is beyond the purview of civil courts. The courts are bound by the ACNA's decisions regarding its ministries, including that of the armed forces chaplaincy. Plaintiff cannot by order or decree force the ACNA to change the manner in which it chooses to organize itself, nor can Plaintiff command the ACNA to alter its canons in any way. By the same token, Plaintiff cannot by force and judicial decree cause recognition of the schismatic church Plaintiff and Bishop Jones now wish to create.

Internal Church Communications

The church autonomy doctrine additionally protects a church's internal communications relating to any of the matters – including governance, polity, selection and retention of ministers,

[30] *Roman Cath. Archdiocese of San Juan, Puerto Rico v. Acevedo Feliciano*,[30] 589 U.S. 57, 67, 140 S. Ct. 696, 702, 206 L. Ed. 2d 1 (2020)(Alito, J. and Thomas, J. concurring),

or other decisions of church organization.[31] In *Hosanna-Tabor*, Justice Alito explained that even the process involved in the "mere adjudication" of a church's sincerity "would pose grave problems for religious autonomy".[32] The extent of the church autonomy doctrine's protection against broad discovery and the privilege afforded to church communications is borne out in *Whole Woman's Health v. Smith*, in which abortion providers and pro-choice advocates challenged Texas's fetal remains regulations.[33] The Court of Appeals for the Fifth Circuit quashed a broad subpoena issued by the district court issued against the Texas Conference of Catholic Bishops ("TCCB"), a religious organization that "teaches that the dignity of all human life demands respect and that abortion is gravely sinful."[34] The Fifth Circuit ruled that compelling discovery would undermine "TCCB's ability to conduct frank internal dialogue and deliberations" and chill its advocacy by "forc[ing] TCCB to turn over to a public policy opponent its internal communications."[35]

Similarly, in *Bryce v. Episcopal Church in the Diocese of Colorado*, the Court of Appeals for the Tenth Circuit held the church autonomy doctrine barred a sexual harassment suit by a non-member spouse of a minister over "offensive" statements about homosexuality at church meetings that "facilitated religious communication and religious dialogue between a minister and his parishioners."[36] The Tenth Circuit emphasized that "church autonomy doctrine is rooted in protection of the First Amendment rights of the church to discuss church doctrine and policy freely."[37] It held that, "[t]he applicability to the doctrine does not focus upon the relationship

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[31] *See Cath. Bishop of Chi.*, 440 U.S. at 502, 99 S.Ct. 1313 (explaining that the "very process of inquiry" into a church's internal affairs can "impinge on rights guaranteed by the Religion Clauses").
[32] *Hosanna-Tabor*, 565 U.S. at 205–06, 132 S.Ct. 694 (Alito, J., concurring)
[33] *Whole Woman's Health v. Smith*, 896 F.3d 362 (5th Cir. 2018).
[34] *Id.* at 364.
[35] *Id.* at 373 (emphasis in original).
[36] *Bryce v. Episcopal Church in the Diocese of Colorado*, 289 F.3d 648 (10th Cir. 2002)
[37] *Id.* at 658

between the church and [the non-member spouse]" but "on the right of the church to engage freely in ecclesiastical discussions with members and non-members."[38] Because these meetings constituted "the church's internal ecclesiastical dialogue," the statements were "not actionable" and fell "squarely within the areas of church governance and doctrine protected by the First Amendment."[39]

Critically, in *Pfeil v. St. Matthews Evangelical Lutheran Church of Unaltered Augsburg Confession of Worthington*, the church autonomy doctrine protected "statements made in the context of a religious disciplinary proceeding when those statements are disseminated only to members of the church congregation or the organization's membership or hierarchy."[40] The Minnesota Supreme Court accepted the argument that "exposing these proceedings and their participants to civil litigation w[ould] lead to a chilling effect" if they "are not shielded from the scrutiny of civil courts."[41]

So too in *Diocese of Lubbock* in which the Texas Supreme Court dismissed claims brought by a Catholic priest against his former diocese over the diocese's publication of a list of those who had been credibly accused of sexual abuse. The Texas Supreme Court held that the diocese's public statements to non-members were still protected under the church autonomy doctrine "which allows a religious institution to engage freely in ecclesiastical discussions with more than just its members."[42]

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[38] *Id.*
[39] *Id.*
[40] *Pfeil v. St. Matthews Evangelical Lutheran Church of Unaltered Augsburg Confession of Worthington*, 877 N.W.2d 528 (Minn. 2016)
[41] Id. at 539.
[42] 624 S.W.2d at 518. *See also Bacharach v. Star K Certification*, 2022 WL 429957a at *3 (Md. St. Spec. App. Sept. 19 2022) (rejecting tortious interference with contract claim that required interpretation of disputed ecclesiastical issues).

Because ACNA's decision-making regarding its organization, polity, doctrine, and administration cannot be subject to court inquiry or entanglement, even discovery regarding ACNA's processes and procedures will violate the First Amendment rights of the Church. As above, neutral principles cannot justify intrusion into the constitutionally protected autonomy enjoyed by ACNA and all other religious organizations.

The Protections Afforded Under Church Autonomy are Structural and Constitute Complete Immunity to Suit

As the Fifth Circuit held in *McRaney:*

> Where the church autonomy doctrine applies, its protection is total. That is because the doctrine is a constitutional immunity from suit. Like other immunities from suit, church autonomy must be resolved at the threshold of litigation. Like other immunities, church autonomy can be raised at any stage of litigation. Abridgement of the church autonomy immunity imposes irreparable injury on the religious organization, so its denial is subject to an immediate interlocutory appeal.
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> It applies equally in state and federal courts. And in federal court, it generally produces a judgment on the merits with prejudice—entitled to res judicata in state courts, preventing repetitive litigation. The church autonomy defense is therefore more protective than a jurisdictional bar. That should not be surprising, "since 'the text of the First Amendment ... gives special solicitude to the rights of religious organizations.' " *Cath. Charities*, 605 U.S. at 257, 145 S.Ct. 1583 (Thomas, J., concurring) (quoting *Hosanna-Tabor*, 565 U.S. at 189, 132 S.Ct. 694).[43]

Church autonomy stands as a structural, threshold, immunity from suit. The First Amendment "*prohibits* government involvement in … ecclesiastical decisions."[44] The Court of Appeals for the Fourth Circuit held similarly to determine that church autonomy embraces a structural constitutional protection implicating the separation of powers and the competence of the

[43] *McRaney v. N. Am. Mission Bd. of the S. Baptist Convention, Inc.* 157 F.4th at 641.
[44] *Hosanna-Tabor*, 565 U.S. at 189, 185, 196, 132 S.Ct. 694 (emphases added); *see also Our Lady of Guadalupe*, 591 U.S. at 746, 140 S.Ct. 2049 (telling courts they are "bound to stay out of employment disputes" implicating the doctrine).

civil courts to adjudicate ecclesiastical matters.[45] Any breaches of the church autonomy doctrine are sure to impose irreparable injuries on religious organizations that require immediate appellate review. Churches constitutionally protected against all judicial intrusion into their ecclesiastical affairs—even brief and momentary ones – and courts cannot intrude on the church's autonomy even to "probe the mind of the church."[46] And, as with any other immunity from suit (including sovereign immunity and qualified immunity), such intrusions cannot be remedied after the district court renders final judgment. For example, if the district court orders discovery into a pastor's sermon notes to adjudicate a plaintiff's claim, the pastor cannot be made whole by a take-nothing judgment months or years later.[47] As the Fifth Circuit held in ***McRaney***, "if a district court denies the invocation of church autonomy, that denial is subject to immediate appellate review—under the collateral order doctrine (as with sovereign and qualified immunity), under 28 U.S.C. §1292(a) (if the church loses a motion for injunctive relief), under 28 U.S.C. §1292(b) (if the district court certifies the question), or other authorities."[48]

ACNA'S INTELLECTUAL PROPERTY AND CHURCH DETERMINATIONS OF OWNERSHIP

As set forth above, the ACNA has made determinations of church organization and polity regarding Bishop Jones' role as now-former titular head of the ACNA's ministry, Special Jurisdiction of the Armed Forces Chaplaincy and regarding the actions taken in furtherance of that ministry's evangelical mission. The ACNA has determined that its subordinate ministry SJAFC,

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[45] *See Billard v. Charlotte Cath. High Sch.*, 101 F.4th 316, 326 (4th Cir. 2024) (noting the doctrine's "structural nature"); *cited by McRaney* 157 F.4th at 644 . *See also Lee v. Sixth Mount Zion Baptist Church of Pittsburgh*, 903 F.3d 113, 118 n.4 (3d Cir. 2018) (noting the doctrine "is rooted in constitutional limits on judicial authority"); *Conlon v. InterVarsity Christian Fellowship/USA*, 777 F.3d 829, 836 (6th Cir. 2015) (calling the doctrine "structural").

[46] *Rayburn v. Gen. Conf. of Seventh-Day Adventists*, 772 F.2d 1164, 1171 (4th Cir. 1985).

[47] See *Whole Woman's Health*, 896 F.3d at 373–74.5

[48] *McRaney*, 157 F.4th at 645.

was acting for the ACNA's benefit and on the ACNA's behalf in all things – including the opening of bank accounts and the acquisition of intellectual property rights and registration of marks – until Bishop Jones abandoned his post as Bishop of the Armed Forces and notified the ACNA that the corporate entity that is the Plaintiff in this action was terminating its affiliation with the ACNA. The hierarchical decisions regarding the organization and operation of the ACNA must be accepted by courts of law. *See e.g. vonRosenberg v. Lawrence*, 412 F.Supp.3d 612, 633 (D.S.C. 2019)(Gergel, J.).

Bishop Jones' schism is directly comparable to the schism that roiled the Episcopal Church in South Carolina occasioned by the disassociation of Episcopal Diocese of South Carolina (referred to in *vonRosenberg* as the "Disassociated Diocese") and the Disassociated Diocese's (and Dissassociated Parishes) attempt to take control of both real property and to continue using trademarks held by the Episcopal Church from before the schism. The ownership of the real property was ruled on by a divided South Carolina Supreme Court in *Protestant Episcopal Church in the Diocese of S.C. v. The Episcopal Church.*[49] It was left to Judge Gergel to determine the ongoing ownership of the intellectual property and trademarks between the Historic Diocese and the Disassociated Diocese in *vonRosenberg*.

In *vonRosenberg*, the original or "parent" Episcopal Church, which Judge Gergel calls "the Historic Church" and the schismatic church fought over control of both federal and state-registered marks whose registrations predated the schism. Some of the marks were registered by The Episcopal Church, some were registered by the Diocese of South Carolina (the diocese that would disassociate later). In short, the questions before Judge Gergel were: "Which church owns the

[49] *Protestant Episcopal Church in the Diocese of S.C. v. The Episcopal Church*, 421 S.C. 211, 265, 806 S.E.2d 82, 111 (2017).

registered marks? Does the intellectual property survive the schism and remain with the original ecclesiastical entity? Or, can the schismatic church take the registered marks with it?"

In short – the answer was NO, the schismatic church is not permitted to abscond with the preexisting intellectual property rights, which must remain the property of the hierarchical church that existed before the schism and continues on afterward.[50] As Judge Gergel noted, the non-schismatic church was the continuation of the Historic Church and therefore maintained control of the intellectual property that was claimed by the disassociated, schismatic church. Critically, Judge Gergel found that the Episcopal church was hierarchical he was required to defer to the church's own determinations. As Judge Gergel wrote: "civil courts lack any authority to resolve disputes arising under religious law and polity and they must defer to the highest ecclesiastical tribunal within a hierarchical church applying its religious law."[51]

As was the case in *vonRosenberg*, the highest ecclesiastical tribunal within the ACNA has made determinations regarding its ministry to the armed forces. Derek Jones vacated the position of Bishop of the Armed Forces, but the ministry continues on. The ACNA has determined that Bishop Jones' actions fell within the ecclesiastical and hierarchical authority of the ACNA and, as such, the ACNA's ministry must continue to own and control the trademarks and service marks registered on behalf of the ministry.

For that reason, JAFC – the Alabama nonprofit corporation – has no right, title, or interest in the trademarks upon which it bases its suit and its claims must be dismissed with prejudice.

[50] *See vonRosenberg*, 412 F.Supp.2d at 630-31.
[51] *Id.* at 631 *quoting Dixon v. Edwards*, 172 F.Supp.2d 702, 714 (D.Md. 2001).

CONCLUSION

The result of Derek Jones' purported schism – though he remains subject to discipline by ACNA and cannot avoid the decisions of the ACNA's ecclesiastical tribunal – is that the new church may only start afresh and with nothing. If Jones desires to establish a new "Anglican" church and call himself Bishop, Potentate, or Archpoobah, he is free to do so. But, as with the schismatic Episcopalians, he leaves all property behind. That must include all intellectual property, accounts, ledgers, and property – that must remain with the ACNA and its continuing ministry the Special Jurisdiction of the Armed Forces Chaplaincy.

Because the civil courts are constitutionally prohibited from interceding in the internal ecclesiastical affairs of a hierarchical church, Plaintiff's claims must be dismissed with prejudice.

TURNER PADGET GRAHAM AND LANEY P.A.

s/ Richard S. Dukes, Jr.

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