THE STATE OF SOUTH CAROLINA
In The Supreme Court

IN THE ORIGINAL JURISDICTION
OF THE SUPREME COURT

RECEIVED

Apr 14 2025

S.C. SUPREME COURT

The Methodist Church of Simpsonville, Jackson Grove Methodist Church, Calhoun Falls Methodist Church, Good Shepherd Methodist Church, Trinity Methodist Church of Lancaster, Aldersgate Methodist Church, Boiling Springs Methodist Church, Fort Lawn Methodist Church, Panola Methodist Church, Dickson Methodist Church, Heidi Meek Medlin, and Michael Smith..... Petitioners,

v.

The South Carolina Conference of the United Methodist Church, Bishop Leonard E. Fairley, Rev. Cathy Mitchell, Rev. Fran Elrod, Rev. Steve Brown, Rev. Terry Fleming, Rev. Telley Gadson, Rev. Anthony Hodge, Rev. Chris Lollis, Rev. Ken Nelson, Rev. Steve Patterson, Jr., and Rev. Jeffrey Salley ..... Respondents.

PETITION FOR ORIGINAL JURISDICTION

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Petitioners respectfully request the South Carolina Supreme Court authorize the bringing of the attached suit within the Court's original jurisdiction under Rule 245, SCACR, S.C. Code Ann. § 14-3-310, S.C. Const. art. V, § 5, and the Declaratory Judgment Act, S.C. Code Ann. § 15-53-10 et seq. A proposed Complaint is attached as Exhibit A.

INTRODUCTION

Petitioners seek declaratory rulings from this Court on a matter of great public interest and importance, namely whether, consistent with the South Carolina Nonprofit Corporation Act, and the rights to the free exercise of religion and association enshrined in the First Amendment to the U.S. Constitution and Article I, Section 2 of the South Carolina Constitution, numerous local congregations have the right to disaffiliate from the United Methodist Church, and in so doing retain and control their church property. Original jurisdiction in this Court is especially appropriate here because, as acknowledged by Respondent in recent filings with this Court, "[i]n the very near future, it is likely that *up to 42 individual lawsuits* will be pending around the state that all center on the key legal issues of church corporate identity and ownership of the local church property at issue." *See* Motion for Assignment to a Single Trial Judge, filed on March 11, 2025 in *South Carolina Conference of The United Methodist Church v. Simpsonville United Methodist Church, The Methodist Church of Simpsonville, and Michael Smith* (emphasis added), attached as Exhibit B.

This Court is best suited to resolve key legal issues in these cases at the outset, thereby promoting the efficient resolution of these lawsuits and, if history is any guide, avoiding years of recurring litigation, appeals, and remands. This Petition presents issues of significant statewide importance that affect tens of thousands of South Carolinians, scores of South Carolina communities, hundreds of charitable nonprofit corporations, and tens of millions of dollars of

real estate. The exercise of this Court's original jurisdiction would promote efficiency, uniformity, and judicial economy and would serve the public interest. At the heart of this case lies fundamental questions about the free exercise of religion, rights of conscience, and the freedom to associate (and disassociate), all vital to South Carolina citizens. Given the statewide scope of the imminent lawsuits, all involving novel, disputed, and overlapping questions of constitutional, statutory, and common law, this Court should accept this case in its original jurisdiction and grant declaratory judgments consistent with the relief requested in the attached Complaint. *See* Complaint, attached hereto as Exhibit A.

BACKGROUND

A. The structure of the UMC and local churches.

The United Methodist Church ("UMC") is a worldwide Christian denomination formed in 1968 by the union of two churches, The Evangelical United Brethren Church and The Methodist Church. The UMC itself is not incorporated. It does not have a central headquarters or single executive leader; it does not (and cannot) own property; and it cannot act corporately. Instead, it acts through affiliated subunits called conferences that are organized geographically. The highest-level conference, the General Conference, is a global assembly of the UMC that meets regularly every four years. Additionally, there are 54 annual conferences in the United States that, as the name suggests, meet annually. The UMC is not hierarchical and never claims to be one in its organic documents or self-descriptions. Instead, it operates as a "connectional" organization. Indeed, the UMC's Book of Discipline—a 903-page tome (discussed more fully below) describing the doctrines, beliefs, and ecclesiastical structure of the UMC—never once

mentions the word "hierarchy" or any derivative thereof.[1] Instead, it states that "[t]he United Methodist Church is a connectional structure" and that "connectionalism" is a "distinctive mark[]" of the UMC, using the word "connectional" to describe the UMC 238 times. See UMC Book of Discipline (2024/2020 ed.) at pp. vi, 375, and *passim*.

Defendant The South Carolina Conference of the United Methodist Church (the "South Carolina Conference") is the annual conference of the UMC that represents UMC churches in South Carolina. These annual conferences are presided over by a bishop and cabinet (each of whom are named herein as Defendants) who meet annually. The annual conferences are themselves, in turn, split into geographic districts, each run by a district superintendent (each of whom in South Carolina is named herein as Defendants) who serve in a "connectional" capacity the local churches within that district. For example, Defendant Conference divides the state into smaller geographical regions, known as "districts," each of which is headed by an official known as the "district superintendent" who operates as the go-between for individual churches and Defendant Conference.

The UMC also has a Judicial Council—an internal, ecclesiastical administrative court of United Methodism—that issues rulings regarding ecclesiastical conflicts within the UMC.

Petitioners are ten local Methodist congregations located throughout South Carolina and two individuals who are residents of South Carolina and who serve, respectively, as the Pastor and the Chair of the Church Council of The Methodist Church of Simpsonville. These ten

[1] *See generally* UNITED METHODIST CHURCH, THE BOOK OF DISCIPLINE OF THE UNITED METHODIST CHURCH 2020/2024 (2024) [hereinafter "UMC Book of Discipline"] A digital edition of the UMC Book of Discipline is available at https://issuu.com/cokesbury/docs/the_book_of_discipline_of_the_united_methodist_chu?fr=xKAE9_zU1NQ.

churches have disaffiliated from the UMC, taken steps to retain their property, and have been either sued or threatened to be sued by the South Carolina Conference.

B. The schism and the dispute over disaffiliation and church property.

This case involves a schism in the UMC and subsequent disputes between local congregations and the South Carolina Conference over the process and legality of disaffiliation from the UMC and subsequent ownership of real estate deeded to the local congregations. The UMC is governed by the Book of Discipline of the United Methodist Church (the "Book of Discipline"), which operates as the constitution and governing document of the UMC. The Book of Discipline is the connectional covenant that sets forth the terms of the relationships between the individuals and entities associated with the UMC. It is published and generally revised and updated every four years by the General Conference of the UMC. The current version of the Book of Discipline is the 2024/2020 edition.

The UMC, through its conferences, claims to be the beneficiary of a trust purportedly created by the Book of Discipline and allegedly applicable to all the properties owned by the UMC's churches nationwide. But the UMC is unincorporated and incapable of holding property; therefore, it does not and cannot own any of Plaintiffs' property per the 2024/2020 Book of Discipline ¶ 2501.

The UMC and the South Carolina Conference also claim that, if a congregation of the UMC withdraws from the UMC, other than in limited circumstances not applicable here, its property is forfeited and becomes the property of the incorporated annual conference or board of trustees of the geographical conference in which it is located. In this case, this would be Defendant South Carolina Conference.

Since the UMC's formation in 1968, the denomination has lost nearly half its members in the United States. Since June 2023 alone, more than 7,000 congregations have disaffiliated. Although there are still over 24,000 UMC congregations in the United States owning real property valued at over $60 billion dollars, members are fleeing the denomination in droves, and its local conferences can no longer financially support themselves.

In 2019, amid increasing strife between local churches and the UMC over issues of sexuality, especially homosexuality and the ordination of homosexual clergy, the UMC enacted ¶ 2553 of the Book of Discipline, a special disaffiliation provision. Under that provision, the UMC gave local churches a "limited right" to vote to disaffiliate from the UMC and retain their property if they were disaffiliating "for reasons of conscience" related to "the practice of homosexuality or the ordination or marriage of self-avowed practicing homosexuals." Paragraph 2553 specified that its unique disaffiliation process would expire on December 31, 2023. It also provided that each conference "may develop additional standard terms that are not inconsistent with" the other provisions of the paragraph.

Paragraph 2553 provided an off-ramp for approximately 7,000 Methodist churches that disaffiliated from the UMC across the country.[2] However, the disaffiliation process did not go smoothly. Instead, it resulted in hundreds of lawsuits being filed across the country involving claims of, among other things, breach of contract, fraud, quiet title, and modification of trust. Disaffiliation litigation has unfolded in at least 15 states, including Maryland, New Jersey, Pennsylvania, California, Alabama, Florida, Georgia, Illinois, Hawaii, Kentucky, Tennessee,

[2] *See Why Have Thousands of United Methodist Churches in the US Quit the Denomination,* ASSOCIATED PRESS (Dec. 15, 2023, 8:02 AM), https://apnews.com/article/united-methodist-congregations-leaving-lgbtq-bans-dbd315f329e4cfec4ba78916668ab50b.

Texas, New York, North Carolina, and South Carolina. It has also made its way to appellate courts in at least eight states.[3]

C. Petitioners sought to disaffiliate from the UMC and retain their church properties, and the Conference brought suit.

1. The Methodist Church of Simpsonville.

The Methodist Church of Simpsonville was founded in 1916. Originally known as the Simpsonville Methodist Episcopal Church, the church is located on Southeast Main Street in Simpsonville, South Carolina. For over a century, the church's members have gathered, worshiped, and served there. For over a century, their sacrificial giving—and theirs alone—has funded the work and ministry of the church. And for over a century, they alone have bought, paid for, owned, improved, and maintained their gathering place.

When the church was founded, neither the UMC nor its affiliated State Conference existed. Indeed, not even the *predecessors* to the UMC existed at that time.[4] Not until 52 years later was the UMC formed in April of 1968 by the merger of The Evangelical United Brethren

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[3] *See*, *e.g.*, *Oklahoma Ann. Conf. of the United Methodist Church, Inc. v. Timmons*, 538 P.3d 170 (Okla. 2023); *Aldersgate United Methodist Church of Montgomery v. Alabama-W. Fla. Conf. of United Methodist Church, Inc.*, -- So.3d --, No. SC-2023-0830, 2024 WL 2790269, at *1 (Ala. May 31, 2024); *Fifth Ave. United Methodist Church of Wilmington v. N. Carolina Conf., Se. Jurisdiction, of United Methodist Church, Inc.*, 911 S.E.2d 106 (N.C. Ct. App. 2024); *S. Dist. Union of United Methodist Church v. First United Methodist Church of Huntington Beach*, No. G062996, 2024 WL 4230555 (Cal. Ct. App. Sept. 18, 2024), rev. denied (Dec. 31, 2024); *S. Cent. Jurisdictional Conf. of United Methodist Church v. S. Methodist Univ.*, 674 S.W.3d 334, 348 (Tex. App. 2023), rev. granted (Oct. 18, 2024); *New York Ann. Conf. of United Methodist Church v. Bethel Bible Ministries*, 226 A.D.3d 1127, 209 N.Y.S.3d 200 (NY 3d App. Div. 2024); *First United Methodist Church of Hobe Sound, Florida, Inc., et al. v. The Board of Trustees of the Florida Annual Conference of the United Methodist Church, Inc., et al*, Case No. 1D23-1043 (Fla. 1st DCA 2024); *The Methodist Church of Cape St. Claire, et al, v. The Baltimore Washington Conference of the United Methodist Church, Inc., et al.*, Case Number 1812-2024 (Md. App. Ct. 2024).

[4] UMC Book of Discipline at pp. 21–22 (stating the UMC's predecessors—The Methodist Church and The Evangelical United Brethren Church—were formed in 1939 and 1946, respectively).

Church and The Methodist Church (the latter of which the Local Church was then affiliated with).

The new denomination's Book of Discipline contained a provision stating that, as a general matter, property owned by a local church affiliated with the UMC should be held in trust for the denomination. This requirement, however, included a significant carveout, namely that for churches that already existed at the time of the UMC's formation and were part of the predecessor denominations, their ownership of their real property was not altered by the creation of the UMC or the churches' nascent affiliation with the new denomination:

> **Section IX. Protection of Rights of Congregations**
>
> ¶ 261. Nothing in the Plan and Basis of Union at any time after the union is to be construed so as to require any local church of . . . the former The Methodist Church to alienate or in any way to change the title to property contained in its deed or deeds at the time of union; and lapse of time or usage shall not affect said title or control.

UMC Book of Discipline, ¶ 261 (2024/2020).

In its 109-year history, the local church has acquired and owned a number of parcels in Simpsonville, South Carolina. Most are contiguous and together form the main church campus on Southeast Main Street. Another parcel is a parsonage located a few miles away. Some of the parcels do not have (and have never had) a trust clause in the deed. *See* Exhibit C (The Methodist Church of Simpsonville's Memorandum in Support of its Motion to Dismiss) at pp. 2–3 and exhibits thereto (compiling various deeds and corporate documents). One of them—a 1954 deed for the parcel on which most of the sanctuary sits—has trust language that refers only to The Methodist Church, which has been defunct for the past 58 years. *See id.* As noted above, because that deed predates the formation of the UMC denomination in 1968, the dissolution of the old denomination and the creation of the UMC did not "alienate or in any way [] change the title to

property" or alter its "title or control," which always has been (and still is) fee simple ownership by the local church. *See* UMC Book of Discipline, p. 210 at ¶ 261.

Several other parcels owned by the church did not include any reversionary interest in their deeds until early 2016, when purported trust clauses were added to the deeds secretly and without the knowledge or authorization of the church's directors. *See* Exhibit C at 2–3 and exhibits thereto. The church's Church Council—the directors of the South Carolina nonprofit corporation—were unaware of these transactions and did not authorize them. *Id*.

Throughout the 2010s, growing fractures began to appear within the UMC, with one faction adhering to theological positions or doctrinal interpretations consistent with the traditional theological positions and interpretations that have characterized Methodism for hundreds of years, while another faction veered into theological positions and interpretations that, in application, tended to align with then-trending socially and politically progressive views. As a result of these fissures, in 2019, at a special session of the UMC General Conference, a process was added to the Book of Discipline to facilitate the disaffiliation of churches desiring to leave the denomination. *See id.* at 3–4 and exhibits thereto. That addendum, inserted as ¶ 2553 of the Book of Discipline, set out a disaffiliation process that was to be available until December 31, 2023. In South Carolina and elsewhere, that process proceeded in fits and starts. The Methodist Church of Simpsonville explored the process but, like many other churches, did not complete the process before it expired, and in any event, had hoped theological disputes between local congregations and the UMC could be resolved in a favorable way. *Id*. Ultimately, the South Carolina conference determined that it would permit churches to disaffiliate from the United Methodist Denomination by a process that involved a legal closure and transfer of assets.

This closure was accomplished through ¶ 2549 of the Book of Discipline. The advantage to using ¶ 2549 was that this section had **no expiration date**.

At the quadrennial UMC General Conference in late April 2024, the denomination did not renew the off-ramp process for departing congregations and, instead, adopted several formal changes to the Book of Discipline that formalized the denomination's liberal theological drift. After disaffiliation under ¶ 2553 ended on December 31, 2023, the South Carolina Conference approved a process designed to continue allowing local congregations to disaffiliate under ¶ 2549 of the Book of Discipline, typically reserved for closure of churches no longer serving their original purpose. Disaffiliation under ¶ 2549 allowed a local congregation to retain its property in exchange for making a supposedly "discounted" payment of a 10% tithe of the appraised value of all church property (assessed not using fair market value but using the property's value as a church) and liquid assets to the UMC. Approximately 215 local South Carolina congregations disaffiliated from the UMC under ¶ 2549 in 2023 through 2024. The Conference and its representatives made specific, individual representations to scores of Methodist churches in South Carolina regarding the availability, timing, and terms of that process. Those representations varied from church to church, both because each church is factually distinct and uniquely situated and because the representations were individually made to them. Many churches, including many of the 40+ churches the Conference has filed *lis pendens* actions against, materially relied on those representations. The facts and evidence of their reliance, of course, varies from church to church. Some congregations, including the Methodist Church of Simpsonville, were wary of that process because of the Conference's control and influence over it and, therefore, they did not participate in it.

Following the 2024 UMC General Conference and its formal and final adoption of theologically liberal positions, the Methodist Church of Simpsonville (then known as Simpsonville United Methodist Church) concluded it had no choice but to disaffiliate from the denomination. *See id*. Pastor Mike Smith submitted his resignation to the denomination in early June 2024. After his resignation, the local church's unanimous church council undertook a series of actions and resolutions taken in compliance with South Carolina law to disaffiliate from the UMC denomination, amend the church's Articles of Incorporation, change the church's registered name, change its registered agent, adopt and file Restated Articles of Incorporation, adopt Bylaws, adopt a resolution revoking the alleged (but unauthorized) reversionary clauses in the 2016 quitclaim deeds, and informed the Greenville County Register of Deeds of the name change and revocations. *See id*. at 4 and exhibits thereto. At the conclusion of these actions, counsel for the local church informed the UMC State Conference in writing that the church had discontinued its affiliation with the denomination. *Id*.

In the following months, the wisdom of the local church's approach became apparent. The churches that had relied on the representations of the Conference and the UMC and had sought to use the denomination's disaffiliation process had the rug ripped out from under them in late October 2024, when the UMC and the Conference reneged on their promises, and the denomination's national Judicial Counsel abruptly declared that disaffiliation was no longer possible or permissible *at all*. This declaration included the process under ¶ 2549 that had continued in use in the South Carolina Conference up until this October 2024 pronouncement.

Shortly thereafter, the Conference filed suit against the local church on November 5, 2024 (which was five months after the church left the denomination), seeking, *inter alia*, a declaration that the Methodist Church of Simpsonville had not validly disaffiliated from the

Conference and that any church property belonged to the original, affiliated church entity. *See* Exhibit D (Complaint). A month later, the church and Pastor Smith moved to dismiss the suit, arguing that (i) the South Carolina Conference lacks standing to sue, (ii) the suit is barred by the ecclesiastical abstention doctrine and, relatedly, the doctrine of judicial estoppel, (iii) the claims are precluded by the First Amendment and the Equal Protection Clause and their state constitutional analogs, and (iv) the South Carolina Conference failed to state a claim upon which relief could be granted. *See* Exhibit E (Motion to Dismiss).

On March 5, 2025, the South Carolina Conference moved for assignment to a single trial judge, arguing that "[i]n the very near future, it is likely that up to 42 individual lawsuits will be pending around the state *that all center on the key legal issues of church corporate identity and ownership of the local church property* at issue," and that the "legal issues are likely to be ***identical or substantially similar*** across all actions." *See* Exhibit B (Motion for Assignment to a Single Trial Judge) at 5 (emphasis added). The churches opposed that motion, explaining that although the Conference's motion correctly identified some of the challenges of this litigation, the Conference had proposed the wrong solution. The better solution, the churches explained, was to seek this Court's guidance in the first instance to declare the parties' rights, decide the legal framework that would govern the litigation, and answer some preliminary questions that could significantly streamline and shorten any subsequent proceedings trial court proceedings seeking to apply the law to the facts.

2. Other churches and their disaffiliation stories

The 40 other local churches that are either sued or being threatened with suit within the South Carolina Conference all initiated disaffiliation proceedings in reliance upon express and repeated representations made by officials of the Conference. These representations, made both

in writing and through official communications and meetings, clearly stated that the local churches would be permitted to disaffiliate and retain their real and personal property, provided they complied with the requirements set forth by the denominational leaders using ¶ 2549 of the United Methodist Book of Discipline.

Relying on these representations, these churches undertook extensive and costly efforts to comply with all procedural and financial obligations. These actions were taken in good faith, based on the understanding that the churches would be permitted to retain their property and continue ministry outside the denomination without interference or reversal of the agreed-upon terms.

Despite these efforts and the churches' compliance, officials of the South Carolina Conference stopped the promised disaffiliation process. Now, the Conference is engaging in legal actions or asserting claims to church property—contrary to the initial representations upon which these churches reasonably and foreseeably relied. The Conference has not paid for any of these properties and now wants to use South Carolina's courts to order the local churches to turn their properties and assets over to the South Carolina Conference. Having induced reliance through its affirmative representations, the South Carolina Conference now act to the detriment of those who relied upon them in good faith and in a way that would unjustly enrich the Conference and the denomination.

LEGAL STANDARD

Under Rule 245(a), SCACR, the Court may assume jurisdiction when "the public interest is involved, or if special grounds of emergency or other good reasons exist why the original jurisdiction of the Supreme Court should be exercised[.]" Rule 245(a), SCACR; *see also* S.C. Const. art. V, § 5; *Amisub of S.C. v. S.C. Dep't of Health & Envtl. Control,* 407 S.C. 583, 757 S.E.2d 408 (2014). The Court's exercise of original jurisdiction is warranted when a matter

affects the public interest and cannot be adjudicated in the lower courts without material prejudice. Rule 245(a), SCACR.

ARGUMENT

I. This Petition presents issues of significant statewide importance.

The issues raised in this Petition and Complaint affect tens of thousands of South Carolinians, scores of South Carolina communities, hundreds of charitable nonprofit corporations, and tens of millions of dollars of South Carolina real estate. More than 40 churches are in active or impending litigation. Many more are watching and waiting to determine their next moves. Dozens of communities across the state that benefit from these churches' charitable and religious missions are already seeing those benefits and services disrupted and diminished by the uncertainty and interminability of litigation or even the anticipation of litigation.

As just one example, consider The Methodist Church of Simpsonville. The church has been a fixture on the Main Street of Simpsonville since 1916—long before the UMC existed. For over a century, its members, and they alone, have worshiped, served, and sacrificially given to the church's operations, maintenance, and outreach. Today, hundreds of families organize their social, spiritual, and communal lives around their church. Many in the community do as well, even if to a lesser extent. That's because one of the services the church provides to the community is a well-respected, highly sought-after preschool and kindergarten. This ministry serves not only the church's congregants but its neighbors. The preschool could and should be expanded by constructing additional classroom space. Those plans, however, seem unlikely to proceed during the pendency of a lawsuit that, if history is any guide, could take a decade to resolve in the normal course of litigation. That's just one aspect of the ministry of one church

affected by this dispute. Now, multiply it forty times over. The public scope and impact of the issues are significant.

So, too, are the legal questions to be answered. Start with the constitutional ones. Under the ecclesiastical abstention doctrine, what role, if any, may civil courts play in these disputes? Perhaps none, as the lower courts' jurisdiction over the Conference's complaint(s) is arguably barred by the First Amendment to the United States Constitution and by Article I § 2 of South Carolina's Constitution. Even when the disputes are framed in secular terms, what jurisprudential boundaries prevent the court from veering into entanglement and establishment by deferring to one faction of an internecine dispute? Is the Conference barred by the doctrine of judicial estoppel from filing these lawsuits, since the Conference has itself asserted the ecclesiastical abstention doctrine (sometimes successfully) as a defense in every known instance when the Conference has been sued in South Carolina's courts? What rules of judicial engagement apply when (as here) a denomination attempts to use the court's coercive power to deprive a nonprofit corporation entirely of its right to associate and disassociate? These are critical questions, and their answers will determine the course of scores of lawsuits. This Court need not resolve the suits at this juncture, but answering these questions at the outset of litigation will contribute enormously to the lower courts' subsequent ability to consider and rule on the suits in an efficient, consistent, and just manner.

Or consider the questions of corporate governance. Does the Church Council of a local Methodist church—periodically elected by the local church's members to direct the church's ministries, operations, and corporate affairs—constitute the church's Board of Directors for purposes of corporate governance and the South Carolina Nonprofit Corporation Act? Astonishingly, the denomination says "no." And what of the members of the local church? Are

the congregants of a Methodist church whose names appear on the church's membership rolls and who are in good standing and who historically have had the right at least annually to vote in the selection or approval of the church's Council members, Trustees, clergy, or budget constitute the church's Members as that term is used in the South Carolina Nonprofit Corporation Act? Again, if these questions are answered definitively by this Court as a *preliminary* matter, it will serve the public interest not to mention judicial economy and uniformity.

The issues of property ownership are likewise of great public importance. Though the churches each present different fact patterns (and, therefore, are not susceptible to resolution *en masse*), several common patterns—and questions—emerge. When a Methodist church predates the formation of the UMC and the church's deeds lack any reversionary interest or purported trust language, will a trust be imposed on that property solely based on the denomination's doctrine? What if the deed contains a reversionary interest in a denomination that no longer exists? May the courts, at the denomination's behest, take a blue pencil to those deeds and rewrite them to the denomination's liking? Or what if a deed contains purported trust language that was surreptitiously added to the deed without the knowledge or authorization of the church's council or trustees? Can the church council, consistent with black-letter South Carolina law, declare that unauthorized property transaction void and revoke the purported trust?

These questions have enormous significance to many churches, their members, and their neighbors. A declaration by the Court at the outset of these cases would serve the public interest by plainly articulating the applicable law and the parties' rights and responsibilities, thereby streamlining the subsequent litigation and helping ensure the just and speedy resolution of the parties' disputes.

II. The exercise of this Court's original jurisdiction would promote efficiency, uniformity, and judicial economy.

The Conference plans to file approximately 40 lawsuits, all involving the same or similar issue(s): what are the circumstances under which a Local Church can disaffiliate from the UMC, and, even if a Local Church can disaffiliate from the UMC, is the UMC entitled to an interest in Local Church property purportedly held in trust for the benefit of the UMC. The Conference appears to agree that at least these two central issues are common to the approximately 40 lawsuits soon to be pending in South Carolina circuit courts. Given the commonality and importance of these issues, the exercise of this Court's jurisdiction would promote efficiency, uniformity, and judicial economy.

Further, there are several other preliminary issues common to all the litigation that this Court should answer in the first instance. Several of them were noted briefly above to demonstrate the public's interest and the significance of the issues. These threshold issues, described more substantively in the following subsections, can and should be resolved by this Court uniformly and with finality now, thus sparing the parties, the courts, and the public from protracted, expensive, and unwarranted litigation.

A. The Conference lacks standing to claim that the Trust Clause is applicable.

The Conference faces a Catch-22 that impedes their claims against the Local Churches. The Conference relies on the Book of Discipline's Trust Clause, ¶ 2501, which provides that property held by a local church affiliated with the UMC is held in trust for the denomination. But even if the Trust Clause applies here—and, to be clear, it does not—the Conference lacks standing to claim any benefit under it. This is so because, under the express terms of the UMC Trust Clause, property held by local congregations is to be held in trust "for the benefit of the *entire denomination*." Book of Discipline, ¶ 2501 (2024/2020 ed.) (emphasis added). In other

words, the property of a local church is not held in trust for the state conference, or a sub-unit of the conference, but for the benefit of the UMC as a whole.

The UMC emphasizes that it is *not* a hierarchical church, but instead a "connectional structure" whereby "titles to all real and personal, tangible and intangible property held … by a local church … shall be held in trust for the United Methodist Church." Book of Discipline, ¶ 2501 (2024/2020 ed.). Although church property is purportedly held in trust for the benefit of the UMC, the UMC itself cannot hold title to property, is not incorporated, and cannot sue or be sued. *Id.* Hence, the Catch-22. Simply put, neither the Conference nor the UMC can enforce the Trust Clause in South Carolina courts. The UMC lacks legal standing to sue because it is not incorporated. And the Conference lacks standing because it has suffered no injury-in-fact. *Opternative, Inc. v. S.C. Bd. of Med. Examiners*, 433 S.C. 405, 412, 859 S.E.2d 263, 267 (Ct. App. 2021) (stating that to satisfy constitutional standing, the "plaintiff must have suffered an 'injury in fact'"), *aff'd*, 437 S.C. 258, 878 S.E.2d 861 (2022). If this Court agrees that the Conference lacks standing, then cases against approximately 40 local churches could be properly and timely shut down early in the case, which fosters efficiency, uniformity, and the conservation of judicial resources.

B. Plaintiffs lack standing to challenge a nonprofit corporation's actions taken pursuant to and in compliance with the South Carolina Nonprofit Corporation Act.

The Local Churches are South Carolina nonprofit corporation. They are, therefore, subject to the South Carolina Nonprofit Corporation Act. Under that Act, the authority to manage, govern, and control a nonprofit corporation is vested in its directors. *See* S.C. Code Ann. § 33-31-801. The corporation has the legal right to operate, buy, sell, govern itself, and associate with (and disassociate from) other entities. *Id.* § 33-31-302. A nonprofit's directors may

amend and restate the corporation's Articles of Incorporation. *Id.* §§ 33-31-1005 and -1006. Decisions made by a corporation's board of directors (here, the local church's church council) in the exercise of their business are not subject to judicial challenge by third parties. *See* S.C. Code Ann. § 33-31-304 (stating that a suit challenging a nonprofit corporation's authority to act may be brought only by a director, member, the corporation itself, or the Attorney General).

Because the local churches' actions were consistent with and authorized by South Carolina law, and because there is 'not (nor could there be) any allegation that the actions were undertaken with malice, they are insulated from judicial review. Indeed, the Book of Discipline expressly states that when its requirements regarding real property differ from state law, the ecclesiastical requirements will defer to and yield to state law:

> ¶ 2506. *Conformity With Local Law—Church Corporations*—1. All provisions of the Discipline relating to property, both real and personal, and relating to the formation and operation of any corporation, and relating to mergers are conditioned upon their being in conformity with the local laws, and ***in the event of conflict therewith the local laws shall prevail***[.]

Book of Discipline ¶ 2506; *see also id*. ¶¶ 2546.1, 2547.5 (giving similar deference to local law when determining ownership of real property following an ecclesiastical merger). Furthermore, "'[u]nder the business judgment rule, a court will not review the business judgment of a corporate governing board when it acts within its authority and it acts without corrupt motives and in good faith.'" *Kuznik v. Bees Ferry Assocs.*, 342 S.C. 579, 599, 538 S.E.2d 15, 25 (Ct. App. 2000) (quoting *Dockside Ass'n v. Detyens*, 291 S.C. 214, 217, 352 S.E.2d 714, 716 (Ct. App. 1987)); *see also Dockside Ass'n*, 294 S.C. at 87, 362 S.E.2d at 874 ("We now uphold the Court of Appeals' determination that the business judgment rule precludes judicial review of actions taken by a corporate governing board absent a showing of a lack of good faith, fraud, self-

dealing or unconscionable conduct."). This threshold standing issue should be addressed by this Court in its original jurisdiction.

C. The Conference's suits are barred by the ecclesiastical abstention doctrine.

Even if the Conference had standing, the Court lacks jurisdiction to consider its claims. Binding precedent is clear: civil courts cannot entertain disputes involving "theological controversy, church discipline, ecclesiastical government, or the conformity of the members of a church to the standard of morals required of them." *Serbian E. Orthodox Diocese for U.S. & Can. v. Milivojevich*, 426 U.S. 696, 714 (1976) (quoting *Watson v. Jones*, 80 U.S. 679, 733 (1871)); *see also All Saints Parish, Waccamaw v. Protestant Episcopal Church in the Diocese of South Carolina*, 385 S.C. 428, 445, 685 S.E.2d 163, 172 (2009) ("Courts may not engage in resolving disputes as to religious law, principle, doctrine, discipline, custom, or administration."). This jurisdictional principle is commonly called the doctrine of ecclesiastical abstention.

Under this doctrine, courts confronting cases like this one have dismissed lawsuits for lack of subject matter jurisdiction. *See, e.g.*, *Beachy v. Mississippi District Council for Assemblies of God*, 371 So. 3d 1237 (Miss. 2023) (holding that the ecclesiastical abstention doctrine barred state's courts from considering and resolving claims brought by denomination against pastor and elders of church relating to the church's decision to disaffiliate from the denomination); *Oklahoma Annual Conference of the United Methodist Church v. Timmons*, 538 P.3d 163 (Okla. 2023) (concluding that the district court lacked subject matter jurisdiction over a lawsuit arising from a local Methodist church desire to disaffiliate from the UMC, holding that the court lacked jurisdiction because the merits of claims required interpretation of governing church document, internal church procedures, and the UMC Book of Discipline). As explained in the following sections, the Conference has asked state courts to resolve disputes about religious

law, principle, doctrine, discipline, custom, or administration. This the courts cannot do, *All Saints Parish*, 385 S.C. at 445, 685 S.E.2d at 172, and they should dismiss the cases instead.

1. Plaintiff's Complaints, which expressly seek a judicial ruling on matters of church doctrine and polity, are a textbook example of an ecclesiastical dispute over which the Court lacks subject matter jurisdiction.

It's hard to imagine lawsuits that present a more straightforward example of an impermissible ecclesiastical dispute than this one. Take, for example, the Conference's suit against the Methodist Church of Simpsonville. The first complete sentence of that Complaint clearly states what the Conference is after—a judicial ruling on matters of church doctrine, discipline, and governance:

> Plaintiff seeks a Declaratory Judgment and adjudication regarding the obligations of the Defendants *pursuant to The Book of Discipline* of the United Methodist Church and *the provisions adopted regarding church separation* by the South Carolina Conference of The United Methodist Church.

Exhibit D (Compl.) p.1 at Preliminary Statement (emphasis added). The remainder of the pleading is similarly frank about the Conference's aims in the litigation and the role it sees for the courts. The following non-exhaustive list of examples demonstrates the problem. The Conference asks a state court for the following:

- To decide and enforce denominational doctrine and rules regarding the rights and relationship of local churches and the denomination, including the ability, method, and timing of disaffiliation. *See* Ex. D, Compl. ¶¶ 28, 33(b), and Prayer for Relief.

- To decide whether the decision of the local church (a South Carolina nonprofit corporation) to change its corporate name with the Secretary of State was "a violation of the Book of Discipline." *Id*. ¶¶ 29, 33(c), and Prayer for Relief.

- To decide who should be the local church's pastor and what the contours of his job should be. *Id*. ¶¶ 31, 40(b), and Prayer for Relief.

- To decide whether certain portions of the UMC Book of Discipline are "valid and enforceable." *Id*. ¶¶ 33(a) and Prayer for Relief.

The Conference doesn't try to hide the ball. Its Complaint asks the court to interpret, decide, and enforce denominational doctrines, discipline, and polity. South Carolina's courts may not do this. *All Saints Parish*, 385 S.C. at 445, 685 S.E.2d at 172.

The ecclesiastical abstention doctrine is a threshold issue that this Court should address in its original jurisdiction. Notably, in other Methodist disaffiliation litigation around the country, the shoe has been on the other foot, and state conferences have routinely argued that the ecclesiastical abstention doctrine barred suits brought by local churches wishing to disaffiliate from the UMC. Now that the tables are turned—and a state conference is a plaintiff rather than a defendant—the Conference believes that the ecclesiastical abstention doctrine is inapplicable. The UMC, through its state conferences, wants to have its cake and eat it too. This Court should exercise of its original jurisdiction and put an end to that effort.

2. The Conference is judicially estopped from bringing suits against the Petitioners because the Conference has consistently and successfully asserted ecclesiastical abstention whenever it has been hailed into South Carolina's courts.

It is not just other state conferences that have argued for application of the ecclesiastical abstention doctrine. The South Carolina Conference has as well in recent litigation. A Methodist church in the Upstate—Lebanon Methodist Church (f/k/a Lebanon United Methodist Church of Honea Path)—was formerly associated with the UMC denomination. *See* Exhibit C at 8–9 and exhibits attached thereto (namely, Complaint, *Stillwell et at. v. S.C. Conference of the United Methodist Church*, No. 2024-CP-23-03486 (Greenville Cnty. Ct. of Common Pleas) (filed June 5, 2024)). Like The Methodist Church of Simpsonville, Lebanon Methodist decided to disaffiliate from the denomination because of the UMC's liberal theological drift. To that end, Lebanon Methodist filed suit against the State Conference, seeking a declaration that the

Conference has no interest in the church's property. *See id*. The local church (which, in that case, is the plaintiff) framed the issue in secular legal terms. The complaint has no discussion of the UMC Book of Discipline, no dispute about the ecclesiastical governance rights of the local church, and no request to interpret or enforce denominational polity. *See id*.

Nevertheless, even under the secular framing in that case, the State Conference (which, in that case, is the defendant) has taken a position diametrically opposed to its position in its litigation against the church in Simpsonville. Specifically, the State Conference expressly and affirmatively argued in its Answer in *Lebanon Methodist* that the lawsuit is completely barred by the ecclesiastical abstention doctrine:

> 26. This action is barred under the Doctrine of Separation of Church and State under the United States Constitution and the Constitution of the State of South Carolina. The issues in this case are governed by Church law set forth in the Discipline and the numerous decisions of the Judicial Council. This case cannot be decided using neutral principles.

See id. (quoting and attaching the Answer filed by the S.C. Conference of the United Methodist Church in *Stilwell et al. v. S.C. Conference of the United Methodist Church*, No. 2024-CP-23-03486 (Greenville Cnty. Ct. of Common Pleas) (filed August 6, 2024).

This inconsistency is astonishing—and telling. The doctrine of judicial estoppel "precludes a party from adopting a position in conflict with one previously taken in the same or related litigation." *Quinn v. Sharon Corp*., 343 S.C. 411, 414, 540 S.E.2d 474, 475 (Ct. App. 2000); *see also Hayne Federal Credit Union v. Bailey*, 327 S.C. 242, 251–52, 489 S.E.2d 472, 477 (1997). The purpose is to "protect the integrity of the judicial process and the courts." *Quinn*, 343 S.C. at 414, 540 S.E.2 at 475. "Under the doctrine of judicial estoppel, a party that has assumed a particular position in a judicial proceeding, via its pleadings, statements, or contentions made under oath, is prohibited from adopting an inconsistent posture in subsequent

proceedings." *Quinn*, 343 S.C. at 416, 540 S.E.2d at 476 (Anderson, J., concurring) (citing BLACK'S LAW DICTIONARY 848 (6th ed.1990) and 28 Am. Jur. 2d Estoppel and Waiver § 74)).

Judicial estoppel applies to bar the Conference's claims. The Conference is representing to the Court in one case that the Court is wholly and affirmatively barred from considering a church disaffiliation and property dispute. Meanwhile, the Conference has concurrently filed numerous Complaints, and invoked this Court's jurisdiction, requesting the Court's intervention in a church disaffiliation and property dispute. The Court should take the Conference at its word and dismiss its suits against local churches with prejudice, thereby sparing the parties, counsel, and the Court from expending the time, effort, and cost on suits barred by the doctrine of judicial estoppel and the ecclesiastical abstention doctrine.

D. Plaintiff's Complaint is barred by the First Amendment, the Equal Protection Clause, and their state law analogs.

The Conference's claims against the Local Churches are also barred by the First Amendment and Equal Protection Clause of the United States Constitution and by Article I § 2 of the South Carolina Constitution. Multiple aspects of the Conference's complaints and requested relief are forbidden by the Constitution. Take, for example, the State Conference's remarkable request for a court to issue a declaration and injunction that local churches *cannot* disaffiliate from the denomination *at all*. Such a ruling would be contrary to the Constitution and binding precedent. *See Protestant Episcopal Church in the Diocese of S. Carolina v. Episcopal Church*, 439 S.C. 284, 887 S.E.2d 508 (2022) (rejecting the denomination's argument that local congregations lacked the ability to disassociate from the denomination); *Disabato v. S. Carolina Ass'n of Sch. Adm'rs*, 404 S.C. 433, 445, 746 S.E.2d 329, 335 (2013) ("Among the protections afforded by the freedom of association are the rights to *not* associate.") (emphasis added).

So, too, the State Conference's attempt to use judicial courts to enforce its view of church law and church rules would—if entertained by South Carolina courts—result in problematic establishment and entanglement concerns. *See All Saints Parish*, 385 S.C. at 444, 685 S.E.2d at 172 (noting that this approach leads to problematic entanglement and preference). Likewise, the State Conference's request that the Court issue what amounts to a gag order against Petitioner Mike Smith (pastor of The Methodist Church of Simpsonville) by forbidding him from talking to congregants about a topic of important, intense, and widespread interest within Methodism would be an astonishing intrusion on his expressive freedoms.

Because the relief the Conference seeks in its lawsuits would be constitutionally problematic, no court can grant it. This Court should, therefore, accept this Petition, exercise its original jurisdiction, and address these important constitutional issues.

E. To the extent that any factual disputes remain after resolution of the key legal issues, circuit court judges would benefit from this Court's articulation of the relevant legal framework for assessing those disputed factual questions.

As shown, *supra*, there are multiple issues that, depending on their resolution by this Court, could entirely dispose of the litigation. But even if the Conference's claims can move forward, at least in part, the circuit courts presiding over the cases would benefit from this Court's exercise of its original jurisdiction to establish and declare the relevant rules and legal framework that apply. Clearly laying out the applicable law and standards for the litigation would aid circuit court judges, who would then not be required to address numerous novel, important, and sometimes unfamiliar legal topics and questions. Instead, they could focus on resolving any ongoing disputed factual questions and applying the law to the facts, which is what circuit courts do best.

III. The exercise of original jurisdiction would promote the public interest.

This Court frequently exercises original jurisdiction over actions that involve the public interest. *See, e.g.*, *Boone v. Quicken Loans, Inc.*, 420 S.C. 452, 455, 803 S.E.2d 707, 708 (2017) (deciding a case in the court's original jurisdiction to issue a declaration regarding alleged unauthorized practice of law); *Mitchell v. Spartanburg Cty. Legislative Delegation*, 385 S.C. 621, 622, 685 S.E.2d 812, 813 (2009) (specifically authorizing an action in the original jurisdiction of the court because the action presented an issue of public interest); *Sloan v. Hardee*, 371 S.C. 495, 497, 640 S.E.2d 457, 458 (2007) (same); *S.C. State Ports Auth. v. Jasper Cty.*, 368 S.C. 388, 392–93, 629 S.E.2d 624, 626 (2006) (deciding whether the Ports Authority's condemnation power is superior to that of Jasper County); *McCormick Cnty. Counsel v. Butler*, 361 S.C. 92, 603 S.E.2d 586 (2004) (determining who has the right to assign office space and possess the keys to the offices in the McCormick County Courthouse); *Charleston Cty. Parents for Pub. Sch., Inc. v. Moseley*, 343 S.C. 509, 511, 541 S.E.2d 533, 543 (2001) (deciding a school tax issue in the original jurisdiction of the court); *City of Hardeeville v. Jasper Cty.*, 340 S.C. 39, 41–42, 530 S.E.2d 374, 375 (2000) (determining the authority of a county to enact accommodations and hospitality taxes); *Hodges v. Rainey*, 341 S.C. 79, 533 S.E.2d 270 (2000) (determining the Governors authority to remove South Carolina Public Service Authority members); *Doe v. Condon*, 341 S.C. 22, 532 S.E.2d 879 (2000) (examining whether certain activities constitute the unauthorized practice of law); *City of Hardeeville v. Jasper County*, 340 S.C. 39, 530 S.E.2d 374 (2000) (determining the authority of a county to enact accommodations and hospitality taxes).

Cases involving constitutional or statutory interpretation issues, or both, often involve the public interest, and this Court has exercised its original jurisdiction many times to address such questions. *See, e.g.*, *Planned Parenthood S. Atl. v. State*, 440 S.C. 465, 892 S.E.2d 121 (2023)

(exercising original jurisdiction over a constitutional challenge to an abortion statute), *reh'g denied* (Aug. 29, 2023); *Creswick v. Univ. of S.C.*, 434 S.C. 77, 79–80, 862 S.E.2d 706, 707 (2021) (exercising original jurisdiction to determine if a proviso in an apportions act prohibits a universal mask mandate at a university); *Mercury Funding, LLC v. Chesney*, 433 S.C. 591, 592, 861 S.E.2d 35 (2021) (exercising original jurisdiction to determine if a statute violated the South Carolina state constitution); *Pascoe v. Wilson*, 416 S.C. 628, 788 S.E.2d 686 (2016) (exercising original jurisdiction to interpret State Grand Jury Act in light of dispute between solicitor and Attorney General); *McConnell v. Haley*, 393 S.C. 136, 137, 711 S.E.2d 886, 887 (2011) (exercising original jurisdiction to consider the constitutionality of an executive order); *Segars-Andrews v. Jud. Merit Selection Comm'n*, 387 S.C. 109, 691 S.E.2d 453 (2010) (exercising original jurisdiction over a challenge to the Judicial Merit Selection Commission and associated constitutional challenges); *Westside Quick Shop, Inc. v. Stewart*, 341 S.C. 297, 534 S.E.2d 270 (2000) (deciding a challenge to video gaming law in the original jurisdiction of the court).

At the heart of this case lies fundamental constitutional questions about the free exercise of religion, rights of conscience, and the freedom to associate (and disassociate), all of which are vital to South Carolina citizens. The local churches' decisions here to disaffiliate from the UMC was no knee-jerk reaction, but involved many years of discernment, prayer, and attempts at reconciliation. But when the UMC formally adopted provisions in the Book of Discipline—the UMC's official statement of doctrine and practice—that are antithetical both to decades of Methodist teaching and to the sincerely held beliefs of the local congregations and their members, these churches had no choice but to disaffiliate from the UMC to continue their mission. The South Carolina Conference now seeks to hold these congregations—or at least their

property—hostage. Original jurisdiction is warranted to address the important constitutional issues at stake.

This case also involves important questions about authority within nonprofit corporations, which exist for the common good. All of the plaintiff local churches are properly incorporated nonprofits under South Carolina law. In choosing to disaffiliate from the UMC, and in taking legal measures to that effect, the local churches complied with South Carolina nonprofit law. But again, the South Carolina Conference claims that South Carolina nonprofit law is trumped by the UMC's Book of Discipline (even though that position is itself contrary to the Discipline, *see* Book of Discipline ¶ 2506 (noting that in matters of corporate governance, if there is a conflict between local law and the Discipline, local law will prevail)). Review by this Court now is warranted to address important questions of nonprofit law and governance, including decision-making authority within nonprofit structures.

Finally, the dispute involves over 40 local churches across the state and millions of dollars' worth of real property owned by local churches (and so owned because of many decades' worth of sacrificial giving and service by local congregants). The scope and breadth of this litigation is enormous. The Methodist disaffiliation litigation is unique in that the denomination has gone through a schism, and there was a promise to let the churches out, which was broken for the sole fact that the Conference wanted to try to capture the properties to liquidate them to fuel conference leadership's perpetual salaries, *not* for the continual operation of the local church ministries. Destroying and liquidating churches across South Carolina fundamentally harms the communities and South Carolina culture. While the local churches continue in their ministries and try to live out their mission, the Conference is attempting to wrest away their property. This

Court should exercise its original jurisdiction to protect the public interest and prevent serious and permanent harm to dozens of local Methodist churches.

IV. The Episcopal Church litigation provides a cautionary tale and shows why this Court should exercise its original jurisdiction to resolve the parties' disputes here.

The Episcopal Church litigation is a cautionary tale. For over a decade, the Episcopal Church in the United States of America litigated against disaffiliated churches about the effectiveness of the churches' disaffiliation and the ownership of the churches' property. *See, e.g.*, *Protestant Episcopal Church in Diocese of S.C. v. Episcopal Church*, 439 S.C. 284, 295–97, 887 S.E.2d 508, 513–15 (2022). The years of litigation included three separate decisions by this Court, the last of which indicates how the Court is likely to think about similar issues, but which has facially minimal precedential value for future actions. *Id.* at 318, 887 S.E.2d at 526 ("However, our decision today is not precedential in any future church property dispute."). Indeed, the Episcopal litigation demonstrates the very point that the Local Churches are making in this Petition and in their simultaneous Return opposing the Conference's request to appoint a single judge to oversee the cases: the appointment of a single judge will not (and in the Episcopal litigation did not) result in the swift or efficient resolution of the disputes. In the Episcopal litigation, there were two instances in which a single judge was appointed to resolve disputes. *See id.* at 297, 887 S.E.2d at 515. Even so, this Court was repeatedly called upon in its appellate capacity to review, decide, and remand the proceedings. *Id.* It would be far better to declare the applicable rules of law at the *outset* of litigation, not periodically over the decade that follows.

Moreover, UMC disaffiliation litigation has already been addressed or is being addressed by at least eight different appellate courts across the country. *See supra*, n.2. It is almost certain that South Carolina appellate courts will be called on to resolve disputed questions of law central to South Carolina UMC disaffiliation litigation at some point. Judicial efficiency, uniformity, and

economy would best be served by this Court addressing these important questions at the outset of the litigation in this Court's original jurisdiction.

CONCLUSION

Petitioners respectfully request that this Court accept this case in its original jurisdiction and grant a declaratory judgment consistent with the relief requested in the attached Complaint.

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