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# Transcript of Hearing

**Date:** January 30, 2024

**Case:** Mount Pleasant Baptist Church Board, et al. -v- Donalson

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V I R G I N I A:

IN THE CIRCUIT COURT OF THE COUNTY OF FAIRFAX

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MOUNT PLEASANT BAPTIST CHURCH :

BOARD OF TRUSTEES, ET AL., :

Plaintiffs, : Case No.:

vs. : CL-2023-0016807

DR. KEVIN DONALSON, :

Defendant. :

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HEARING

THE HONORABLE RICHARD E. GARDINER

Fairfax, Virginia

Tuesday, January 30, 2024

10:07 a.m.

Job No.: 524092

Pages: 1 - 258

Transcribed by: Molly Bugher

1 Hearing before the HONORABLE RICHARD A. GARDINER,  
2 held at:

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4 4110 Chain Bridge Road

5 Fairfax, VA 22030

6 Phone: 703.691.7320

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11 Pursuant to agreement, before Marcellous  
12 Grant, Notary Public in and for the Commonwealth  
13 of Virginia.

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A P P E A R A N C E S

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1 P R O C E E D I N G S

2 THE COURT OFFICER: The Court of Fairfax  
3 County is now in session, the Honorable Richard E.  
4 Gardiner, presiding. Please be seated and come to  
5 order.

6 (Court reporter sworn in)

7 THE CLERK: Thank you.

8 THE COURT: All right. Good morning.  
9 This is Mount Pleasant Baptist Church Board of  
10 Trustees, et al, vs Kevin Donalson, CL2023-16807,  
11 Mr. Peterson for the Plaintiffs and Mr. Showers  
12 for the Defendant.

13 And I understand from reviewing the  
14 orders from calendar control that there are two  
15 matters on today, a demurrer -- Defendant's  
16 demurrer, as well as a request for a preliminary  
17 injunction. Are there any preliminary matters;  
18 and let me start with Mr. Peterson?

19 MR. PETERSON: Judge, I think you've  
20 stated it accurately and I've talked with Counsel  
21 and we're fine with doing the demurrer first and  
22 then getting into the TRO issue.

1 THE COURT: All right.

2 MR. SHOWERS: That'd be great, Your  
3 Honor.

4 THE COURT: All right. Any -- no  
5 preliminary matters then from either party?

6 MR. SHOWERS: No, Your Honor.

7 THE COURT: All right.

8 MR. PETERSON: Judge, if and when we get  
9 to the preliminary injunction I may ask for a rule  
10 but we can argue the demurrer --

11 MR. SHOWERS: Sure.

12 MR. PETERSON: -- in open court.

13 THE COURT: All right. Very good. All  
14 right. Then since the parties have agreed and I  
15 think that's the sensible way to do it we'll start  
16 with the demurrer.

17 Mr. Showers that is your demurrer.

18 MR. SHOWERS: Thank you, Your Honor. My  
19 name is Robert Showers and I'm here with Associate  
20 Counsel Melissa Ruby, my client of course is  
21 Senior Pastor Kevin Donalson and we're going to  
22 address the Demurrer. You've obviously have read



1 our paper so I'm not going to go over it too much,  
2 but I do want to make some -- five points.

3 But first Your Honor, this case is about  
4 who controls the purpose, the vision, the affairs,  
5 the ministry activities of Mount Pleasant Baptist  
6 Church. Although the Plaintiffs may couch their  
7 claims in neutral principals of law, their case is  
8 little more than an attempt to have this court  
9 fundamentally alter the governing structure of  
10 Mount Pleasant Church which is an ecclesiastical  
11 structure.

12 So -- and they want to alter it, so  
13 instead of it being a pastor led, board advised,  
14 congregational empowered, kind of, ecclesiastical  
15 governing structure, they want it so that the  
16 trustees' would hold the key decision making power  
17 rather than the senior pastor.

18 THE COURT: Was I understanding what  
19 they're saying, they're basically asking for an  
20 interpretation of the bylaws to determine where  
21 the edges of power are between the trustees and  
22 your client. I don't think they're asking the

1 Court to amend the bylaws or --

2 MR. SHOWERS: Well, it --

3 THE COURT: -- amend the constitution,  
4 they simply want a construction of those  
5 documents?

6 MR. SHOWERS: Except that if you look at  
7 the end of the declaratory judgement or for the  
8 preliminary junction, you will see that it's  
9 actually that they want to be put in that power  
10 position rather than the pastor, and that the  
11 bylaws be amended essentially -- or interpreted as  
12 you said, to do that thing.

13 THE COURT: Well, I'm going to say right  
14 now I'm not going to be rewriting the bylaws or  
15 the constitution --

16 MR. SHOWERS: That's my hope --

17 THE COURT: -- the only thing I can do  
18 is interpret them.

19 MR. SHOWERS: That's my hope, Your  
20 Honor. All right. The five points I want to make  
21 in this demurrer is this case should be dismissed  
22 first for lack of subject matter jurisdiction. As

1 you know, the standard is first amendment of the  
2 constitution and Article 1 section 16 of the  
3 Virginia Constitution, which prohibits circuit  
4 courts from exercising jurisdiction over  
5 ecclesiastical disputes.

6 "Any attempt by government to restrict  
7 the church's free choice of leaders and  
8 how it governs itself, will constitute a  
9 burden on the church's free exercise."

10 Plaintiffs' claims require that the  
11 court involve itself, in our opinion, in  
12 ecclesiastical concerns and thus the court lacks  
13 subject matter for jurisdiction, we cited Shaw  
14 vs. Korean Presbyterian Church, which I was very  
15 involved in so I know that case well.

16 Also the other part is the issue of  
17 church leadership, this dispute fundamentally  
18 centers on who, as I mentioned, who makes  
19 decisions regarding the Church's priorities and  
20 ministries. The trustees wanted to direct the  
21 Church's purpose, affairs, visions, and activities  
22 and want you to interpret the bylaws to give them

1 that right and to render the pastor, in essence,  
2 impudent by asking the court to do, what you said  
3 you can't do and we agree you can't do it, and  
4 that's rewrite the bylaws.

5 So if you look at the complaint, you'll  
6 see a number of things, you'll see Radio One  
7 Ministry talked about, you'll see summer camp,  
8 you'll see interns, you'll see Howard University  
9 Choir, parochial school closing, all of those are  
10 ministry priorities. Issues in the complaint deal  
11 with the ministry priorities which we contend that  
12 the pastor primarily has the decision-making  
13 power --

14 THE COURT: Well where in the -- I'm  
15 looking at section 1.1 of the bylaws, where is  
16 that?

17 MR. SHOWERS: Right up front, as you  
18 said, section .1 -- the pastor's place as the  
19 shepherd of the Church by appointment of God and  
20 free involuntary act of the Church itself, has  
21 oversight and supervision of all the interests of  
22 the church, all departments of its work both

1 spiritual and temporal, has absolute charge of the  
2 pulpit and so on.

3 This -- and it goes on the pastor's  
4 activities that this gives the pastor, as  
5 rightfully so, the power to do determine the  
6 ministries and the priorities and how those  
7 decisions are to be made which is typical, again,  
8 in a pastor led, board advised, congregational  
9 empowered type ecclesiastical government. That  
10 is --

11 THE COURT: Was it your view that that  
12 gives him complete control over the assets of the  
13 church?

14 MR. SHOWERS: No, it does not, Your  
15 Honor. It simply -- certainly the trustees by  
16 Virginia law, as I'll mention later, and also case  
17 law they have -- you know, the way the trustees  
18 first came about, as Your Honor may know, is  
19 because an unincorporated association is not a  
20 legal entity. So somebody has to hold the land,  
21 the real property, the title to it, that's where  
22 the legal fiction of trustees was created that is

1 their duties and responsibilities, is over

2 primarily the real property of the church.

3 Because that's what they hold in trust for the

4 church, it's not to decide ministry priorities or

5 purposes or vision or those kinds of things.

6 THE COURT: Right. But they also have

7 authority to hold personalty don't they?

8 MR. SHOWERS: They can hold some

9 personalty, again, depending on how you want to

10 interpret, some courts have said they do, some

11 courts have said they don't, and in these bylaws I

12 believe it's rather vague as to whether they hold

13 that or not.

14 THE COURT: Well I'm looking at code

15 section 57-10 --

16 MR. SHOWERS: Right.

17 THE COURT: When personal property shall

18 be given or acquired for the benefit for an

19 unincorporated church or religious body to be used

20 for its religious purposes, the same shall stand

21 vested in the trustees having the legal title to

22 the land.

1 MR. SHOWERS: Right.

2 THE COURT: You say there are courts  
3 that say that that isn't the case?

4 MR. SHOWERS: No, that is the case, Your  
5 Honor. I'm sorry, depending on what you were  
6 defining, I was saying as personalties. But yes,  
7 personal property they -- just like real property,  
8 they have trust over.

9 THE COURT: Yeah.

10 MR. SHOWERS: I'm not disagreeing with  
11 that. As I mentioned though, in the bylaws the  
12 pastor has oversight of all the departments of the  
13 church work and absolute charge over its  
14 ministries as I just read in Article 1 section  
15 1.1. If the congregation is not happy with the  
16 pastor's ministry decisions, then the bylaws gives  
17 the congregation a number of ways to solve that,  
18 one is they can vote to override the decision or  
19 they could use the nuclear option obviously and  
20 vote to remove the pastor.

21 You have those ways in the bylaws, that  
22 was not done in this case. If the church wants

1 the pastor to leave, the church would have  
2 addressed the pastor's decision if that was the  
3 problem, as I said, by overturning those decisions  
4 such as Radio One and summer camp and interns,  
5 things like that, but they did not.

6 Also the church doctrine, to get to who  
7 has power over the ministries and the priorities  
8 and the vision and the structure, we believe the  
9 court's going to have to delve into questions of  
10 theological doctrine and ecclesiastical structure.  
11 They are so intertwined in this case, this is not  
12 like the Pure Presbyterian case where you have a  
13 merger contract that you can take a look at or  
14 even the Heritage Baptist Church where you have,  
15 you know --

16 THE COURT: Well, I have the bylaws.

17 MR. SHOWERS: Excuse me?

18 THE COURT: I have the bylaws --

19 MR. SHOWERS: Right, and --

20 THE COURT: -- are you saying I can't  
21 look at the bylaws, that's an --

22 MR. SHOWERS: You absolutely can look --



1 THE COURT: -- ecclesiastical decision?

2 MR. SHOWERS: You absolutely can  
3 interpret that -- the bylaws under neutral  
4 principles. But I'm saying that the way that the  
5 way the bylaws are set up are so intertwined with  
6 the ecclesiastical doctrine of the church. For  
7 example, many churches can set their governance  
8 very different ways depending on their theology  
9 and their ecclesiology.

10 In this case they chose to do a pastor  
11 led, board advised, congregational empowered, type  
12 of ecclesiastical structure and you'll see that  
13 throughout the bylaws. And that's my point, that  
14 as the court tries to interpret some of those  
15 doctrines, they're going to be running into  
16 theological and ecclesiastical concerns --

17 THE COURT: How am I running into a  
18 theological or ecclesiastical decision by  
19 interpreting the words, shall be the legal  
20 custodian of church property and its assets?

21 MR. SHOWERS: You would not.

22 THE COURT: I wouldn't think so.

1 MR. SHOWERS: No, you would not, I'm  
2 not -- that's not what I'm alleging, Your Honor.

3 The Plaintiffs also contend that the  
4 issue is one of civil --

5 THE COURT: Well tell me what is the  
6 ecclesiastical issue that you think that I have  
7 to -- the court is going to have to confront?

8 MR. SHOWERS: You're going to have to  
9 decide Your Honor, throughout this is who makes  
10 the ministry decisions.

11 THE COURT: But isn't that set by the  
12 bylaws?

13 MR. SHOWERS: Somewhat, somewhat, I --  
14 it's our opinion that the bylaws would, as you --  
15 as I just read would endow that to the pastor,  
16 that he sets the ministry priorities, he sets the  
17 departments, he's over all of that and not the  
18 trustees. The trustees simply have trust for the  
19 real property and personal property of the church.

20 THE COURT: But that's not an  
21 ecclesiastical questions that's a --

22 MR. SHOWERS: No.

1 THE COURT: -- question of interpreting  
2 the bylaws.

3 MR. SHOWERS: It is, but as you look at  
4 the bylaws again, depending on what structure the  
5 church has chosen is a theological and  
6 ecclesiastical decision in any church structure,  
7 Your Honor. That's what it's going to be --

8 THE COURT: Is there something -- is  
9 there some structural arrangement that's not in  
10 the bylaws that you're telling me I need to be  
11 aware of, is there something else besides the  
12 bylaws that deals with this structural question?

13 MR. SHOWERS: Well it's --

14 THE COURT: That has an ecclesiastical  
15 gloss to it?

16 MR. SHOWERS: Well certainly, as you  
17 know, any bylaws has ambiguity involved in it.  
18 And so as you look at bylaws, you will see  
19 throughout the bylaws the ecclesiastical and  
20 theological structure. Of course the constitution  
21 is going to have their statement of faith, but  
22 throughout that I'm trying to say the governing

1 principals that are in there, are the  
2 ecclesiastical components.

3 THE COURT: So are you saying merely  
4 because I have to interpret the -- I think I asked  
5 this before but, you're saying because I have to  
6 interpret the bylaws that I'm making an  
7 ecclesiastical decision?

8 MR. SHOWERS: No I'm not.

9 THE COURT: Okay. Well I don't  
10 understand what you're saying.

11 MR. SHOWERS: I'm saying as you  
12 interpret the bylaws, the problem in this case,  
13 it's not like Heritage where you have a very  
14 simple -- okay, how -- what's the bylaws say on  
15 how a senior pastor gets elected, that's not this  
16 case here. Or let me look at a merger contract  
17 and see, like in Pure Presbyterian, how that is  
18 going to be decided, that's not this case here.  
19 There's a -- they're talking about a number  
20 decisions that were made that they're questioning  
21 that were primarily ministry priorities.

22 THE COURT: But aren't I simply

1 looking -- comparing section 1.1 or analyzing  
2 section 1.1 in light of section 3.2 or the other  
3 way around? Analyzing those two sections together  
4 to figure out where the edges of power are between  
5 the board and the pastor?

6 MR. SHOWERS: In part. In part, Your  
7 Honor. But what we would also say is the rest of  
8 the bylaws, for example, when you're talking about  
9 financial decisions, who -- where do those  
10 financial decisions are made, the way the bylaws  
11 are setup and again the theological,  
12 ecclesiastical, is that the finance committee is  
13 going to do that and the finance committee will  
14 report to the director of administration and the  
15 director of administration reports to the pastor.  
16 So the pastor has control over the finances  
17 through that division and -- which of course makes  
18 sense because how could he advance the ministry  
19 structure --

20 THE COURT: That's a construction of the  
21 bylaws because you're -- but where there -- you're  
22 adding one more provision that I didn't mention,

1 that is the finance ministry.

2 MR. SHOWERS: Right.

3 THE COURT: You said that that by-law  
4 language plays into this as well --

5 MR. SHOWERS: It does, it does, Your  
6 Honor.

7 THE COURT: Okay. So so far all I've  
8 got is bylaws --

9 MR. SHOWERS: Okay.

10 THE COURT: -- where's the  
11 ecclesiastical decision that I have to make?

12 MR. SHOWERS: Well the ecclesiastical  
13 decision will become a part if -- when you look at  
14 actually what they're asking for, Your Honor, and  
15 what they're asking for is what you said you can't  
16 do, and we agree, and you can't rewrite the  
17 bylaws, you can't put them in charge -- or  
18 overseeing the ministries, you can't put them  
19 overseeing the finances, except as it relates to  
20 the real property and personal, which they have a  
21 trust over. That's what we're saying and that  
22 yes, it's by-law interpretation.

1                   THE COURT: Okay. Well, isn't spending  
2 money on Radio One, isn't that dealing with a  
3 property of the church?

4                   MR. SHOWERS: In part it's dealing with  
5 property but it's dealing with the finances end.  
6 For example, Radio One is a good example, they  
7 did -- he had to make a decision immediately, he  
8 made it within a month, he submitted it to the  
9 church and they approved it overwhelmingly to  
10 spend that money and in fact, not only did they  
11 approve to spend the money, each year thereafter  
12 2023, and now 2024, they've also approved to spend  
13 the money. The bylaws set that up. Now, the  
14 trustees don't like that, but the bylaws set that  
15 up to allow --

16                  THE COURT: So you're saying -- your  
17 position then is that if the entire church  
18 approves an expenditure that basically the  
19 trustees' role under the bylaws doesn't mean  
20 anything?

21                  MR. SHOWERS: If the congregation, if  
22 they approve an expenditure that overrides what

1 the pastor wants to do and what the trustees want  
2 to do.

3 THE COURT: Okay. Where is that in --

4 MR. SHOWERS: And that's the -- that's a  
5 congregational church, that's the ecclesiastical  
6 nature of the congregational church that I'm  
7 referring to.

8 THE COURT: Okay. Is that somewhere in  
9 the constitution or somewhere in the bylaws?

10 MR. SHOWERS: I might have to get to  
11 that, Your Honor, but I believe if that is how the  
12 church is run, that's how most congregational  
13 churches are run, for that matter. As long as  
14 that -- as long as nothing --

15 THE COURT: Well, when you say that's  
16 how the church is run, I'm assuming that it's --  
17 it must be in the bylaws somewhere, there must be  
18 some guidance somewhere or you're just saying we  
19 don't really care about the bylaws, we'll just do  
20 whatever we -- whatever the congregation votes.

21 MR. SHOWERS: The congregation is given  
22 those rights and my associate will find that as I



1 argue on some other topics, Your Honor.

2 THE COURT: Okay.

3 MR. SHOWERS: I will come back to that.

4 THE COURT: All right.

5 MR. SHOWERS: Is that -- a good  
6 question. So we believe though it should be  
7 dismissed based on the ecclesiastical nature of  
8 this, I mean, again they will say that the -- the  
9 Plaintiffs claim -- the trustees explicitly sued,  
10 for example, on their own behalf.

11 One of the other reasons that we would  
12 note that it should be dismissed is that the board  
13 of trustees lack standing to sue in this case, the  
14 board of trustees they're -- the Plaintiffs has  
15 standing to institute a declaratory judgement if  
16 it has a judicable interest in the subject matter  
17 of the proceeding.

18 The board of trustees cannot have  
19 judicable matter in action, which it has no right  
20 under law, to bring. Pursuant to Virginia law,  
21 the board of trustees of an unincorporated  
22 religious association are appointed for the sole

1 purpose of holding title to the church property  
2 and they have standing to sue and recover any real  
3 or personal estate held by them respectively.

4 And you were right, that code section  
5 57.8 and also code section 57.11, talks about  
6 that. The church bylaws do not give the board of  
7 trustees or the trustees authority in a  
8 representative capacity without the approval of  
9 the church, Article 3 section 3.2G, which is what  
10 the trustees' power is. They expressly state that  
11 the trustee ministry, board of trustees, does not  
12 have the authority to make decisions about legal  
13 matters which would include deciding unilaterally  
14 when to sue or who to sue.

15 THE COURT: Well what about the -- first  
16 of all you've got a statute that they have the  
17 authority, and there seems to be at least some  
18 conflict between that language and 57.11.

19 MR. SHOWERS: Only -- 57.11 talks about,  
20 only to recover any real or personal estate that's  
21 held by them respectively in trust.

22 THE COURT: Okay.

1 MR. SHOWERS: They're not asking to  
2 recover any money in this case, so --

3 THE COURT: Okay.

4 MR. SHOWERS: -- code 57-11 doesn't  
5 apply, they're asking for a declaratory judgement  
6 that's not -- has nothing to do with recovering  
7 any real or personal estate held by them  
8 respectfully in trust. And so we would believe  
9 and -- that both the bylaws as well as the  
10 Virginia state law does not give them that right,  
11 they do not have standing as the board of trustees  
12 or trustees individually, to bring this lawsuit.

13 In addition, the senior pastor's listed  
14 as a defendant, not individually but as its  
15 corporate capacity, and in fact all of the acts  
16 alleged, he's done within his corporate or  
17 employment duties. So also we would note that the  
18 Defendant really should be the church, not the  
19 senior pastor since, obviously, the ultimate  
20 liability is going to rest with the church.

21 Another point this Court should dismiss  
22 Count I, for failure to state facts upon which

1 relief can be granted. In the bylaws that were  
2 attached in the Plaintiff's complaint, which we've  
3 been talking about, there's a fiduciary duty, the  
4 bylaws do not provide the board of trustees the  
5 sole fiduciary duty to act on behalf of the  
6 membership and all of the employees at Mount  
7 Pleasant Baptist Church.

8 As you look at Article 1 section 3.2G,  
9 you will see that they certainly -- they are only  
10 a part of the decision making process as to the  
11 fiduciary duty. We mention again that the finance  
12 department, also the director of administration  
13 and ultimately the senior pastor, have decisions  
14 on those financial duties on the finances.

15 Again, while the board of trustees exist  
16 to care and maintain, and hold legal title to the  
17 church's real property, as section 3.2G, they do  
18 not have sole authority or sole fiduciary duty  
19 over the finances which is what, again, they are  
20 asking to have. They're asking this Court to  
21 interpret the bylaws to give them that. So -- but  
22 you look at the bylaws and you will see that

1 the -- as I mentioned, the finance ministry, the  
2 director of administration, and then ultimately  
3 the senior pastor, who has oversight and  
4 supervision over all departments of the church  
5 working, including the finance ministry, is the  
6 ultimate authority over the finance.

7 Thus -- except that the congregation  
8 annually passes an annual budget but as long as  
9 they're within the annual budget these individuals  
10 are the ones who actually carry out the  
11 expenditures of the church. The trustees  
12 certainly are not that unless somehow they decided  
13 to get rid of, you know, real property without  
14 congregational approval or something like that  
15 which they're in trust of. But that's not what's  
16 happening here at all and the congregation has  
17 approved that.

18 And it doesn't also have the authority  
19 to make decisions about legal matters but only  
20 sets the amount to meet legal requirements in  
21 carrying out church decisions that may involve the  
22 law, such as buying and selling of real estate,

1 they have that right but they don't have the  
2 right -- for example, they can't make legal  
3 decisions, that's not what the bylaws gives them.

4 Moreover, we believe that declaratory  
5 judgement is not a proper action to adjudicate the  
6 validity of Pastor Donalson's or the congregations  
7 past actions. Pure Presbyterian Church, as I  
8 mentioned, had to do with a merger contract that  
9 was present, not something that was in the past,  
10 the present and had to be interpreted; that's not  
11 what we have here.

12 Fourth, the court should dismiss Count  
13 II, we went through Count I, Count II for failure  
14 to state a claim, again, for similar reasons. The  
15 bylaws, again, attached talk about financial  
16 decisions, the bylaws do not give the board of  
17 trustees that unilaterally authority to approve or  
18 veto any financial decisions, that's what they're  
19 asking for in the declaratory judgement.

20 Employment, they don't have the right to  
21 approve or veto any employment decisions, again,  
22 they're wanting that right. Trustees, the pastor

1 is the fundamental part of the trustee selection  
2 process, he actually is a part of that process  
3 and, more importantly, he has the unilateral  
4 authority, under 3.2E, to reappoint trustees for  
5 additional terms.

6           Again this is the ecclesiastical  
7 structure that I was talking about they've made  
8 from a theological standpoint that the pastor is  
9 going to be the shepherd, the overseer of this  
10 church and all of the power flows down from the  
11 pastor. It is the way these bylaws are written  
12 and the way this church has been operated.

13           One of the things that I found  
14 fascinating and I'd like to cite this for the  
15 court, in the Pure Presbyterian case they cited  
16 Professor Michael McConnell, who happens to be a  
17 friend of mine by the way but, for the summary  
18 propositions about the U.S. and Virginia's supreme  
19 court decisions on church autonomy and religious  
20 liberty. Let me quote their quote -- I -- because  
21 I think it's important in this case --  
22 MR. PETERSON: I apologize, my colleague

1 has been speaking for 25 minutes, this is a three-  
2 hour hearing --

3 THE COURT: Right.

4 MR. PETERSON: -- and we're spending 25  
5 minutes on a motion that's likely to get denied  
6 and I'm happy to respond in five minutes, but  
7 we -- I'd like you to get to the end of course.

8 MR. SHOWERS: All right.

9 THE COURT: Well this -- I think the  
10 argument on the demurrer depending -- you know,  
11 obviously if it was overruled is going to flow  
12 well into the next issue which is why I want to  
13 spend a little more time on the demurrer getting  
14 to the legal issues. So I'll give you -- you can  
15 have as much as you want to respond.

16 Go ahead Mr. Showers.

17 MR. SHOWERS: Thank you, Your Honor.

18 THE COURT: Professor --

19 MR. SHOWERS: As Professor McConnell  
20 said, "These decisions constitutionalize two  
21 related principles, first, that civil court should  
22 not decide" --



1 THE COURT: I -- Mr. Showers, I'm sorry.  
2 With all due respect, I'm familiar with it --

3 MR. SHOWERS: Okay.

4 THE COURT: -- the overall -- what I'm  
5 trying to get through this on here --

6 MR. SHOWERS: The one thing that he  
7 said --

8 THE COURT: -- is the bylaws.

9 MR. SHOWERS: Yeah, the one thing he  
10 said is that it should be -- when you're talking  
11 about matters of church government as well as  
12 faith and doctrine, that's where the court  
13 shouldn't get involved. That was what Pure  
14 Presbyterian Church in its comments were talking  
15 about. Of course, obviously, Pure Presbyterian  
16 Church did not involve that, it involved a  
17 merger --

18 THE COURT: Well aren't the bylaws a  
19 reflection of what the ecclesiastical --

20 MR. SHOWERS: In part, yes, they should  
21 be. And you and I --

22 THE COURT: In part, so where's the

1 other part?

2 MR. SHOWERS: the other part is  
3 practicing --

4 THE COURT: What am I -- how am I  
5 supposed to --

6 MR. SHOWERS: Practice and procedure,  
7 the problem is that yes, the bylaws reflect how  
8 this church should be run but bylaws, as you know,  
9 are only as perfect as the people who write them.  
10 And in this case we do believe the bylaws reflect  
11 that theological ecclesiastical decision.

12 Well, I'll conclude Your Honor.

13 THE COURT: Okay. I just want to ask  
14 you one more question, in 3.2 -- well there's two  
15 Gs I just noticed.

16 MR. SHOWERS: Yes.

17 THE COURT: And in the second G it says  
18 they have to -- this includes ensuring the church  
19 is able to continue to operate by meeting its  
20 financial obligations. Doesn't that give the  
21 trustees some responsibilities in regard to  
22 financial obligations?

1           MR. SHOWERS: It does as long as it goes  
2 through the normal channels, through the finance  
3 ministry, overseen by the director of  
4 administration, overseen by the senior pastor. As  
5 long as they're operation within the budget and  
6 within what the congregation allows them to do  
7 since they approved the budget. But when they  
8 start to go outside of it I think that is where G  
9 would come into play.

10           THE COURT: Okay.

11           MR. SHOWERS: Also in the constitution  
12 and you asked the question, it is in Article 6,  
13 the church of an autonomous body that operates  
14 through democratic principles. In the  
15 constitution you were asking about the church vote  
16 and all of that, that's set out in the  
17 constitution as the democratic principles and  
18 their part is to generally approve the budget,  
19 they also approve the senior pastor and they  
20 approve some other leaders in the church. But  
21 it's -- again, it's a democratic and it's set out  
22 in the constitution in Article 6, it's the answer

1 to your question earlier.

2 THE COURT: Okay. And your colleague is  
3 going look where the --

4 MR. SHOWERS: Right.

5 THE COURT: Okay. And you'll tell me  
6 that in your rebuttal?

7 MR. SHOWERS: I will.

8 THE COURT: Okay.

9 MR. SHOWERS: The -- in conclusion, the  
10 Defendant requests this Court dismiss the case for  
11 lack of subject matter jurisdiction because the  
12 interpretation is so intertwined with the  
13 ecclesiastical doctrine in this case.

14 In the alternative the Defendant  
15 requests this court dismiss this case because the  
16 Plaintiff's complaint fails state facts upon which  
17 relief can be granted in Counts I and II.

18 Finally, the Defendant requests this court dismiss  
19 Mount Pleasant Board of Trustees or any trustees  
20 as Plaintiff in this case for lack of standing to  
21 sue anyone but especially in this case the senior  
22 pastor in sufficient capacity, as the senior

1 pastor of Mount Pleasant Baptist Church. Thank  
2 you.

3 THE COURT: All right. Thank you. Mr.  
4 Peterson?

5 MR. PETERSON: I object.

6 THE COURT: Let me start out with that  
7 question that -- a question about the last  
8 statement, is the board of trustees as an entity  
9 is that a potential plaintiff here or should it  
10 just be the individuals who you have also named  
11 individually?

12 MR. PETERSON: Well I named both, I  
13 mean, I covered both bases --

14 THE COURT: Right.

15 MR. PETERSON: You know, it's always  
16 interesting Judge when you have a board you need  
17 to name the board as a party and I've had that  
18 with HOA cases. I typically name both, at the end  
19 of the day it's six or one half-dozen or another.  
20 And let me allow that, I have Michael Davis and  
21 Lewis Wertz who are the trustees that are with me  
22 today at counsel today along with my associate

1 Federico Zablah.

2           So the short answer is -- and I'm going  
3 to get to the bylaws because I think they're  
4 exactly on point, I do believe the board is a  
5 body, they operate as a body so it's appropriate  
6 that they filed the suit as a body, they did so  
7 together and they're happy to talk to that, but  
8 then again if you want -- if we want to name one  
9 of them as a party I think they would have  
10 standing both under title 57 and under the  
11 language of the bylaws in 3.2 sub part G.

12           So Your Honor, what I'd like to do is  
13 I'm not going to take 30 minutes I'm going to  
14 about 6 minutes, maybe 8 minutes, but I do want to  
15 address three major points that my colleague made.  
16 And he's an excellent attorney and I've been sort  
17 of trailing him for good part of my career on  
18 these issues but, I've had a few cases of my own.

19           And one, I can tell you that we're not  
20 here to alter the governance structure. We are  
21 here to enforce the governance structure. Let me  
22 say that twice, we are not here to alter the

1 governing structure we're here to enforce the  
2 governance structure. The constitution and bylaws  
3 were attached to our complaint, they're going to  
4 be in evidence, they're going to be in front of  
5 Your Honor. You will make the decision as to  
6 who's right who's wrong. I can't make that  
7 decision, my colleagues can't make that decision,  
8 my clients can't make that decision. Mr. Showers  
9 can't make that decision, only you can make that  
10 decision so that's number one.

11           Number two my colleague talked about  
12 liability. There's no liability. No one here is  
13 trying to make money. No one here is trying to  
14 seek damages against the church. No one's trying  
15 to seek damages against Reverend Donalson, this a  
16 question of making sure that the bylaws and  
17 constitution of this religious body are enforced.  
18 So there's no liability and there's nothing for  
19 the church to have to indemnify.

20           THE COURT: Well 57.11 says that such  
21 trustees may, in their own names, sue for and  
22 recover any real or personal state held by them

1       respectively in trust or damages for injury  
2       thereto.

3                   MR. PETERSON: Right. So theoretically  
4       if we felt like there was some illegal or  
5       fraudulent transaction we could sue to recover  
6       that on behalf of the church, I don't think that's  
7       what this is doing, we're seeking strictly to  
8       declaratory relief at this point.

9                   THE COURT: Well do you have -- in light  
10      of 57.11, do you have standing to do that, I mean,  
11      is 57.11 a limitation on the authority of trustees  
12      to bring suit?

13                  MR. PETERSON: We have standing right  
14      under the bylaws. The bylaws 3.2G says that  
15      trustees, "shall be the," not a, not one of the,  
16      "the legal custodian of church property and its  
17      assets." That's pretty all encompassing, they  
18      didn't say the real property, they didn't say the  
19      organ, they didn't say the church stand.

20                  THE COURT: Right.

21                  MR. PETERSON: It's all assets, we're  
22      the custodian.



1 THE COURT: Right. But my question is  
2 in light of the fact that the general assembly has  
3 created 57.11, which allows suits --

4 MR. PETERSON: Right --

5 THE COURT: -- to recover, does that  
6 mean --

7 MR. PETERSON: Judge if I was better at  
8 Latin I'd tell you how the enumeration of one  
9 right does not preclude others. And so the bottom  
10 line is that the general assembly has set that up  
11 as a cause of action, it doesn't mean where the  
12 bylaws make us the custodian of property.

13 I mean, if somebody took the church van  
14 and drove it off the lot we would sue to recover  
15 it. If someone entered a transaction with the  
16 church that was illegal, we would sue to void it.  
17 Right now we're seeking declaratory relief so we  
18 can sketch out those parameters because right now  
19 the situation is intolerable. But the bottom line  
20 is, we are the ones who are the custodians.

21 THE COURT: So your view is that 57.11,  
22 is not exclusive, it's just one --

1 MR. PETERSON: Yes, sir.

2 THE COURT: -- type of action that  
3 can -- that the trustees can --

4 MR. PETERSON: Yes, sir. And I think  
5 you have to look at title 57 writ large which  
6 talks about trustees being appointed, that they  
7 are the legal representatives of the church. And  
8 by the way there are plenty of churches in which  
9 the pastor is the trustee and can be that person,  
10 this is not that church.

11 And let me just walk through 3.2 and I'm  
12 going to read all of it into the record because  
13 we're not walking away from it on this standing  
14 issue.

15 "The trustee shall be the legal  
16 custodian of church property and its  
17 assets. This includes maintaining legal  
18 titles to all church properties,"  
19 plural,

20 "and assuring that the church is in  
21 compliance with federal state and local  
22 statutes."

1           And that's one of the things we're going  
2 to talk about in our testimony, this concern that  
3 if you have insider transactions or unapproved  
4 transactions that can threaten our 501(c)(3)  
5 status.

6           "The trustee ministry shall function on  
7 these matters where civil loss  
8 specifically requires them to act in  
9 behalf of the church."

10          Again, we feel like that's -- we're  
11 within our lane in there.

12          "This does not mean that the trustee  
13 ministry makes decisions about legal  
14 matters,"

15          And I think this is critical, Judge,  
16 because what that means is we can't come in and  
17 unilaterally say this is illegal, this is legal.  
18 What we can do is come before a court, come before  
19 a judicial panel or whatever the venue is, and say  
20 we have concerns, we're raising this on behalf --  
21 in our role as the custodians of the property and  
22 I think that's exactly what that means and that's

1 what we're doing.

2 And then it says, it means that they  
3 meet the legal requirements for carrying out  
4 church decisions in matters involving law. So  
5 again they carry out church decisions in matters  
6 involving law, such as buying or selling real  
7 estate in accordance with the laws of the state of  
8 Virginia.

9 Judge, one of the things we're going to  
10 get into when we get into the testimony is that  
11 there's a process for determining a budget by this  
12 church, it's actually a very exact budget I wish  
13 our state budget was more like it, and to spend  
14 money outside that budget requires the approval  
15 the trustees. That's one of the ways that they're  
16 involved in this process, the minister cannot  
17 unilaterally spend money outside the budget.

18 Now, I've got to be honest, my colleague  
19 did a little bit of a U-turn in his opening  
20 statement. He started off saying that the  
21 minister has complete power, pastor led, then it  
22 became well complete power but if he wants to

1 spend money he's got to go to the congregation and  
2 get their approval. Well it's either one or the  
3 other and I'm not quite sure. We see it  
4 differently, we see ourselves as being the  
5 gatekeeper in this process and it is a  
6 collaborative process we're not saying it's not.

7 We're not saying the pastor and his team  
8 doesn't play a role. But the problem is we have a  
9 situation where it's been this unilateral acts of  
10 spending and, you know, the train's sort of  
11 careening out of control. And we're asking the  
12 court lay out parameters again, that the pastor  
13 cannot spend money without trustee approval as  
14 outlined in the bylaws.

15 Judge, just -- I wanted to respond on a  
16 couple legal points, and I think the Court knows  
17 these courts well. We've had two cases that have  
18 come out of Fairfax County in the last five years  
19 on these issues exactly and the first one my  
20 colleague referenced it was Pure Presbyterian,  
21 that was a case I had, I went to the Virginia  
22 Supreme Court.

1           And it had to do with the merger of  
2 property but it also had to do with the defendants  
3 who were fighting the merger saying that there was  
4 a theological issue that it was incompatible that  
5 they were being forced to worship against their  
6 rights. And the court basically said that where  
7 there are contractual rights at play, and bylaws  
8 themselves are contractual rights, the court will  
9 enforce those rights.

10           Then we had the Heritage case, which was  
11 also my case, and that was two decisions, one by  
12 Judge Wight, one by Judge Kassabian, which  
13 enforced bylaws in granular detail and we had an  
14 election in which the deacons had actually  
15 invalidated about 300 voters and the church looked  
16 at that and found out that they had not followed  
17 the bylaws when they did that. And because of  
18 that they were restored to their voting rights and  
19 as a result a pastoral election was overturned.

20           So we went in granular detail on the  
21 bylaws and we had all of the same arguments. And  
22 I think that the point that the court made and the

1 same point the Supreme Court has made is where we  
2 have a non-hierarchical church, and this is a  
3 Baptist church, there's no pope, there's no  
4 monsignor what -- I -- you know, bishop. So as a  
5 result the congregation -- well Jesus Christ is  
6 the head of the church but the church is  
7 controlled in secular ways by the bylaws, and the  
8 bylaws will control these disputes. And where  
9 there's an impasse, and we're at an impasse, that  
10 the court has a role to play and that's all that  
11 we're asking.

12 So Judge, that's all I have, again, I  
13 don't want to trespass too much on your time.

14 THE COURT: Oh that's -- can you respond  
15 to Mr. Showers' argument which he's going to  
16 address a little bit more in full if you know the  
17 answer with regard to the congregation being able  
18 to override --

19 MR. PETERSON: Judge, you know, I --

20 THE COURT: -- if you will, the  
21 decisions?

22 MR. PETERSON: It wasn't in the papers

1 and so it was kind of brought up on opening  
2 statement there and I'm not quite sure how that's  
3 going to play out. I realize that there've been  
4 congregational meetings and we've had ones where  
5 we've disputed whether they were properly noticed  
6 or the minutes were proper or the questions  
7 phrased were proper and we're going to kind of get  
8 into the mechanics of that a little bit.

9 I think at the end of the day you're  
10 left with what is the role of the trustees in that  
11 we have trustees, they're appointed by the circuit  
12 court under title 57. They clearly have some role  
13 to play in the church, and it would seem that  
14 their role is being custodian of the finances or  
15 custodians of the property exactly as it says in  
16 the bylaws. Whether there is sort of an override  
17 with the congregation, maybe there's -- that's in  
18 the bylaws I haven't seen that spelled out  
19 specifically, obviously the congregation that  
20 approved the budget but I think I really have to  
21 react to that once I hear from the witness stand.  
22 THE COURT: Okay. Well I may give you a



1 chance to react because I want to hear from Mr.  
2 Showers on that point.

3 MR. SHOWERS: Just even as to the  
4 question of what does the congregation have in way  
5 of the budget, you won't see that in the bylaws  
6 except in the constitution. That is the  
7 democratic rule and they have the oversight. And  
8 the constitution and the way this church works,  
9 again ecclesiastical and theologically, is it's a  
10 congregational run church.

11 Now, the congregation can overturn, as I  
12 said, trustees' decisions, the pastor's decisions,  
13 as long as they're not illegal, if they're  
14 overturning something that would, you know, be  
15 illegal. But --

16 THE COURT: And you're authority --

17 MR. SHOWERS: -- how you spend money is  
18 obviously in the discretion of the people who make  
19 the expenditure.

20 THE COURT: And their authority to do  
21 that is set out where?

22 MR. SHOWERS: In the constitution, in

1 the --

2 THE COURT: Okay. Where --

3 MR. SHOWERS: -- Article 6 in the  
4 constitution and I think it read..

5 THE COURT: That was just the provision  
6 that says it's a democratic organization --

7 MR. SHOWERS: That's correct and that's  
8 all -- that's really, other than that, that's all  
9 it really says except in the principals and  
10 traditions, and as my colleague said, they do they  
11 approve the budget. In some respects, as he said,  
12 in granular detail even though that's not  
13 specified, so they have the right. The one thing  
14 about this is -- and this sort of goes to the  
15 whole thought process of the courts and the church  
16 and the freedoms that the church -- the church, in  
17 the bylaws, has mechanisms to solve the problems  
18 with themselves.

19 The congregation can overrule the  
20 expenditures and say no you can't expend it or  
21 they can approve it, they did approve it in these  
22 cases, they can basically say to the trustees or

1 the pastor you can't do it. Which is  
2 ultimately --

3 THE COURT: Was that --

4 MR. SHOWERS: -- remove the pastor or  
5 the trustees.

6 THE COURT: I'm sorry. We're on  
7 demurrer, so.

8 MR. SHOWERS: Right.

9 THE COURT: Whether they did or didn't  
10 the question is that alleged in the complaints so  
11 that you can argue that point?

12 MR. SHOWERS: Well, it's alleged that  
13 those parts of Radio One, the ones I mentioned,  
14 that factually they did approve the expenditure  
15 and the -- but the -- I'm saying there's a  
16 mechanism within the bylaws that this court -- why  
17 this court doesn't have to be involved in it,  
18 there's a mechanism within the bylaws on where  
19 these disputes can be resolved and can be resolved  
20 by the congregation.

21 They have various ways to resolve them,  
22 they have chosen not to resolve them because they

1 agree with the pastor and the decisions that were  
2 made. They don't agree with the trustees. As you  
3 know, there's another way they could do it too,  
4 which the congregation has asked for in that they  
5 dismiss this case, the trustees, and submit it to  
6 Christian mediation. As you know, we have an  
7 Institute of Christian Conciliation and Conflict  
8 of Peace, that's where a lot of these church  
9 disputes go because the courts are not really the  
10 right place to resolve these disputes, it's within  
11 the congregation or it's in a Christian mediation  
12 arbitration, is the better way.

13 One of the things that I want to close  
14 on, Your Honor, and I mentioned this in my  
15 opening, they are asking you to enter a judgement  
16 in their favor that the trustees have the  
17 fiduciary duty to act on behalf of the membership  
18 and all employees of Mount Pleasant Baptist  
19 Church. That is contrary to the bylaws.

20 They're asking all financial actions  
21 taken by Mount Pleasant Baptist Church be approved  
22 by the trustees. That's contrary to the bylaws.

1           They're asking that Donalson, the senior  
2 pastor, be enjoined from making, approving, or  
3 authorizing any expenditure by the church without  
4 the approval of the board of trustees. They're  
5 asking that you -- that the court enjoin Dr.  
6 Donalson from hiring and firing any church  
7 employees without the approval from the board of  
8 trustees.

9           Again, the bylaws are very different  
10 than this as to how that works and they're asking  
11 that -- to enjoin him from taking any actions, to  
12 remove the board of trustees or otherwise elect.  
13 Again the bylaws have a mechanism for how the  
14 board of trustees get appointed, how they get  
15 removed, how the pastor gets appointed, how the  
16 pastor gets removed, how financial decisions are  
17 made.

18           They're asking for things that the  
19 bylaws do not permit by the very interpretation of  
20 the bylaws. And, by the way, I respectfully -- I  
21 don't believe I took a U-turn, when I said pastor  
22 led, there always are parameters under pastor led.

1 If I was to say pastor dictated that would mean a  
2 different thing and I have ran into churches that  
3 are pastor dictated, that's not this church, this  
4 is a pastor led church, Your Honor. Thank you.

5 THE COURT: Mr. Peterson, is there  
6 anything else you want to?

7 MR. PETERSON: No Your Honor, I just  
8 want to say that the reference to the constitution  
9 just says that the church is an autonomous body  
10 acting through democratic processes and I think --  
11 I would agree there are democratic processes. I  
12 don't see anything in the bylaws talking about  
13 budget, I agree with that that's kind of why we're  
14 here.

15 THE COURT: Yeah, all right. Well as  
16 far as the demurrer goes I'm going to actually  
17 take that under advisement at this point. I want  
18 to put the evidence on with regard to the hearing  
19 on the preliminary injunctions since we got  
20 everybody here, and since one of my colleagues  
21 decided to put both of these on the same docket.  
22 I'm not sure I would've done the same thing but in

1 any event that's where we are.

2 So I appreciate the argument, I would  
3 say one thing with regard to the demurrer, I don't  
4 think that what I'm being asked to do is to make  
5 an ecclesiastical decision to the extent that  
6 there is an ecclesiastical policy, it is -- it  
7 seems to be laid out in the bylaws and really what  
8 I'm being asked to do is to interpret the bylaws.  
9 the bylaws may well, and probably do, reflect the  
10 ecclesiastical structure of the church, but  
11 they've been reduced to bylaws which are  
12 manageable by a court.

13 So I will reject, at this point, the  
14 argument that I'm being asked to make an  
15 ecclesiastical decision, I don't believe that I  
16 am, I'm being asked to interpret the bylaws and I  
17 need -- and I do need some time to think them  
18 through a little bit more. So as I said I'm going  
19 to take the demurrer -- the remainder of the  
20 demurrer arguments under advisement and ask that  
21 the parties go forward with the evidentiary  
22 hearing.

1 MR. PETERSON: Judge, in that case, I  
2 would like to call Michael Davis.

3 THE COURT: All right.

4 MR. PETERSON: And is there a book or --  
5 And Your Honor, we've had a witness  
6 exhibit book that's been distributed.

7 THE COURT: Mr. Peterson --

8 MR. PETERSON: Good morning, Mr. Davis.  
9 Good morning, sir.

10 MR. DAVIS: Good morning.

11 MICHAEL DAVIS,  
12 a witness, having been duly sworn was examined and  
13 testified as follows:

14 DIRECT EXAMINATION BY COUNSEL FOR PLAINTIFFS,  
15 MOUNT PLEASANT BAPTIST CHURCH  
16 BOARD OF TRUSTEES, ET AL.

17 BY MR. PETERSON:

18 Q: Mr. Davis could you state your name and  
19 address for the record please?

20 A: Michael Davis, my address is 11616  
21 Havermill Road, Fairfax Station, Virginia.

22 Q: Okay. And just briefly, what is your



1 occupation?

2 A: Presidency of Davis Page and Management  
3 System.

4 THE COURT: Sir, I'm sorry, could you  
5 pull that microphone down kind of in front of you?

6 THE WITNESS: Okay.

7 THE COURT: Thank you, sir. You can  
8 pull it closer to you if you need to.

9 THE WITNESS: Yes, sir. Okay.

10 BY MR. PETERSON:

11 Q: And you previously had a term in  
12 military service?

13 A: Say again?

14 Q: Do you -- have previously served in the  
15 military?

16 A: Yes, served 28 years in the military.

17 Q: Okay. And what is your -- or first of  
18 all, are you familiar with Mount Pleasant Baptist  
19 Church?

20 A: Yes I am, I am a member of the Mount  
21 Pleasant Baptist Church.

22 Q: And when did you join Mount Pleasant

1 Baptist Church?

2 A: Joined the church in 2008.

3 Q: And are you an officer of the church?

4 A: Yes, I am a trustee of the church.

5 Q: And when did you become a trustee of the  
6 church?

7 A: 2018.

8 Q: Okay. And were you appointed by the  
9 circuit court?

10 A: Yes.

11 Q: Okay. And just briefly, can you  
12 describe Mount Pleasant Baptist Church? Just give  
13 us a couple sentences of its history.

14 A: It's a -- I guess I would call it a  
15 beautiful church. I joined it in 2008, I left the  
16 previous church. Provides outstanding ministry  
17 service to the community. It has the -- it always  
18 had one of the best children programs, that's what  
19 drew me to the church. I admired the leadership  
20 there, the congregation participation in the  
21 ministry and happy to be a part of it.

22 Q: Okay. And just -- I'm going to ask you

1 a couple of leading questions with the leave of  
2 counsel.

3 Was it established in 1866?

4 A: I have to go back and look at that --

5 Q: Okay. All right.

6 MR. SHOWERS: It just had its 157th  
7 anniversary, I believe --

8 Q: All right.

9 MR. SHOWERS: -- so it's old.

10 MR. PETERSON: All right. We got  
11 that --

12 MR. SHOWERS: Well established.

13 Q: And it currently resides in a home or a  
14 church that was built in 1999?

15 A: That is correct.

16 Q: All right. And that property is titled  
17 and in the name of the trustees?

18 A: Yes, it is.

19 Q: And the church itself is unincorporated,  
20 correct?

21 A: That is correct.

22 Q: And what faith does the church profess?

1 A: Baptist.

2 Q: Okay. And I take it that the church is  
3 non-hierarchical, in other words, there's no  
4 bishop or pope that is over the church?

5 A: There is not.

6 Q: Okay. All right. I want you to take a  
7 look at the first two Exhibits in front of you  
8 sir, which are Exhibits 1 and 2, if you could  
9 identify those exhibits.

10 A: It's the constitution of Mount Pleasant  
11 Baptist Church and the bylaws of the church.

12 Q: Okay. And those look like full and  
13 complete copies of both?

14 A: Yes, they are.

15 Q: And are you familiar with those  
16 documents?

17 A: Yes, I am.

18 Q: And do you keep copies with you?

19 A: Yes, I do.

20 Q: And do they guide your decisions as a  
21 trustee?

22 A: Yes, they do.

1 MR. PETERSON: Your Honor, I'd move Exhibits  
2 1 and 2 into evidence.

3 MR. SHOWERS: No objection.

4 THE COURT: 1 and 2 are admitted without  
5 objection.

6 (Exhibits 1 and 2 were admitted.)

7 Q: All right. Now I'm going to direct your  
8 attention to Exhibit 1 which is the constitution,  
9 and specifically direct your attention to -- I  
10 guess it would be Exhibit 1 paragraph 17, which  
11 talks about legal requirements, are you familiar  
12 with that?

13 A: Yes, I am.

14 Q: And returning to the -- it's on page 12  
15 of legal requirements, can you read that first  
16 paragraph?

17 MR. PETERSON: Well, actually, strike that  
18 you don't need to do that.

19 Q: Do you see where it references the  
20 making of distributions organizations that qualify  
21 as exempt under 501(c)(3) of the IRS code, do you  
22 see that?

1 A: Yes, I do.

2 Q: Are you familiar with that code?

3 A: Yes, I am.

4 Q: Okay. And are you familiar with what it  
5 means to be a 501(c)(3) organization?

6 A: Yes, I am.

7 Q: What do you understand that to mean?

8 A: I understand that that is a non-profit  
9 organization that adhere to the Internal Revenue  
10 code of conduct, it ensures that those officers  
11 and those are not in direct line of seemingly  
12 anything that may be improper.

13 Q: Okay. The next paragraph down talks  
14 about no part of the net earnings of the church  
15 shall inure to the benefit of or be distributable  
16 to its members, trustees, officers, or other  
17 persons, do you see that?

18 A: Yes, I do.

19 Q: Who ensures compliance with that  
20 section?

21 A: The trustees ensures that they're  
22 compliant with that section of the constitution.

1 Q: Okay. Now I'm going to direct your  
2 attention to the next exhibit which is the bylaws  
3 and are the trustees outlined in the bylaws or  
4 defined by the bylaws?

5 A: Yes, we are.

6 Q: And if I turn to section 3.2, do you see  
7 that where it says section 3.2 trustees?

8 A: Yes sir, I do.

9 Q: All right. And we'll go to section  
10 3.2G, do you see that?

11 A: Yes, I do.

12 Q: And are you familiar with this language  
13 in the bylaws?

14 THE COURT: I'm sorry, the first G or  
15 the second G?

16 Q: That's a great question, I'm going to  
17 call it G1 do you see that?

18 A: Yes, I do.

19 Q: And can you just read that language,  
20 it's about three sentences -- four sentence -- you  
21 just read that into the record please?

22 A: First G?

1 Q: First G.

2 A: Shall be the legal custodian of the  
3 church property and its assets, this includes  
4 maintaining legal titles to all church properties  
5 ensuring that the church is in compliance with  
6 federal state and local statutes. Trustees  
7 ministries shall function on these matters where  
8 civil law, specifically, requires them to act on  
9 behalf of the church.

10 This does not mean that the trustee  
11 ministry can make decisions on legal matters. It  
12 means that they meet the legal requirements for  
13 carrying out the churches decisions in a manner  
14 involving law such as buying or selling real  
15 estate in accordance with the laws of the State of  
16 Virginia.

17 Q: Okay. Thank you. Now let's go down to  
18 the next G, do you see where it talks about  
19 maintaining the operation and maintenance and  
20 improvements of the church physical property?

21 A: Yes, I do.

22 Q: Okay. And then it goes on to talk about



1 ensuring the church is able to operate by meeting  
2 its financial obligations, do you see that?

3 A: Yes, I do.

4 Q: Okay. Talk about how the trustees act  
5 in terms of making sure the congregation or the  
6 church can meet its financial obligations.

7 A: Well the way we -- the way that it's  
8 done is, that we as the trustees work with the  
9 director of administration and we look at all of  
10 the financial matters to include part of the  
11 budgeting processes just disbursement of funds and  
12 to ensure that things are done properly in  
13 accordance to the law. And we act as what we  
14 would normally call the quality control church in  
15 particular matters.

16 Q: Okay. Now I'm going to ask you to kind  
17 of sum up here, when it comes to spiritual  
18 matters, for example, what's preached from the  
19 pulpit every Sunday who decides that?

20 A: The pastor does.

21 Q: Okay. When it comes to financial and  
22 operational matters, who decides that?

1           A:    The trustees work with the director of  
2 admin -- administration in order to ensure that  
3 all of the assets that the director of  
4 administration has are properly working and are  
5 executed properly.

6           Q:    And who is the director of  
7 administration for the church?

8           A:    Reverend Ezekiel Pinkney.

9           Q:    Okay. All right. Now just following up  
10 on that, on terms of hiring new personnel how does  
11 that typically happen through the church?

12          A:    As typically happens, through the  
13 director of administration according to the way  
14 the bylaws are outlined, process and procedures.

15          Q:    Okay.

16          A:    We the trustees look at the financial  
17 aspect of the salaries and how that may have  
18 impact on the budget and then if it does we make  
19 sure that that is clearly laid out and brought to  
20 the appropriate leadership so that we can make  
21 sure that it's done properly.

22          Q:    All right. Let me --

1 I'm going to move on a little bit, Exhibit 3  
2 is a -- is that an example of a circuit court  
3 order that appointed the trustees?

4 A: Yes, it is.

5 Q: And it looks like Louis Wertz was one of  
6 the ones that was appointed, this is from 2013?

7 A: Yes, it is.

8 Q: And is that the same Louis Wertz who's  
9 here today?

10 A: Yes, it is.

11 MR. PETERSON: Your Honor, I move Exhibit 3  
12 into evidence, this is a copy of that order.

13 MR. SHOWERS: No objection except, I  
14 don't believe Louis Wertz is still a trustee and  
15 some of these others are not either, just note  
16 that.

17 THE COURT: Well I was --

18 MR. SHOWERS: Most of these others are  
19 not.

20 THE COURT: All right. Well, 3 is  
21 admitted without objection.

22 (Exhibit 3 was admitted.)

1           Q:    Okay.  What I next want to do Mr. Davis,  
2           is talk specifically about the budgeting process  
3           and if you can go to Exhibit -- I guess it'd be 26  
4           and with that in front of you, can you talk about  
5           how a budget is put together and adopted and what  
6           the trustees play in that?

7           A:    Around the middle of the summer, towards  
8           the end of the summer, the pastor going through  
9           the -- his process would normally outline the  
10          guidance and vision for the church's ministry.  
11          And then with that it is issued out through the  
12          church so the church congregation can hear the  
13          vison where it's going with the church ministry.  
14          That same information is provided to the ministry  
15          of records who work for him in the implementation  
16          and development of those different ministries and  
17          it's particular lanes.

18                 We -- the director of administration  
19          along with the trustees also have a role to play  
20          in that because we have to make sure, as outlined  
21          in the Article 3.2, that facilities and all of the  
22          accommodations are there to support that ministry,

1 to make sure that it can work in accordance the  
2 way the pastor's vision has laid it out.

3           Once the director of administration is  
4 supposed to put together a package and disseminate  
5 that package to each of the different ministry  
6 leads, they have responsibility to putting the  
7 program together working with the congregation  
8 members that fall within that ministry.

9           That information flows back up, they  
10 prepare the template, the package is then put  
11 together as a packages -- formal package by  
12 director of administration and then it's sent out  
13 to the ministry leads, the trustees, the board,  
14 the diaconate, and then we review it and make  
15 sure. And then it goes to the budget -- gets back  
16 in and goes to the budget committee and the budget  
17 committee will review it and make sure it meets  
18 the requirements. Comes back out for review of  
19 all of us again, and also included in that process  
20 is the pastor because it is the pastor's program  
21 and we're there to support that ministry and make  
22 sure that it's accurate.

1 Q: You used a word, you said diaconate?

2 A: That's the deacons.

3 Q: And that's the deacons, okay. All  
4 right. So once all of these various parties have  
5 collaborated and approved the budget, how is it  
6 then -- is it adopted by the congregation?

7 A: It goes through a review process with  
8 the church leadership on roundtable and then --  
9 from that roundtable then following it'd be a  
10 presentation given to the congregation where they  
11 will approve it.

12 Q: Okay. And when does that typically  
13 happen in terms of a calendar, is that at the end  
14 of the year?

15 A: It's normally at the end of the year  
16 when we have the round table discussion in the  
17 first week of December and then the annual  
18 business meeting is held in December.

19 Q: Okay. Now what you said -- and by the  
20 way, if -- looking at Exhibit 26, it starts with  
21 budget planning schedule for budget year 2024 and  
22 then there's what looks like an actual proposed

1 budget and I can't tell if this is the 2024  
2 budget, does that look correct?

3 A: Yes.

4 Q: Is that a true and accurate copy?

5 A: Yes.

6 MR. PETERSON: And Your Honor, I would like  
7 to submit this as an Exhibit, not for the numbers  
8 themselves, but just as an example of what a  
9 church annual budget would look like.

10 MR. SHOWERS: As an example -- and  
11 again, I haven't had the chance to look at it or  
12 the Pastor hadn't, but as an example, sure.

13 THE COURT: All right, then for that  
14 limited purpose 26 is admitted.

15 (Exhibit 26 was admitted.)

16 BY MR. PETERSON:

17 Q: All right. Now Mr. Davis, once the  
18 budget is approved what is the trustees' role  
19 going forward in making sure the budget is  
20 followed?

21 A: The trustees' role is to ensure that all  
22 of the churches leadership, which would include

1 the director of administration and finance  
2 committee and everyone working hand in hand to  
3 ensure that we execute the budget according to the  
4 approval of the congregation.

5 Q: All right. And if there is spending  
6 outside of the budget, how do you handle that?

7 A: Then it's the trustees responsibility to  
8 bring it to the church leadership and it's  
9 normally -- it has been done in a ministry  
10 director's meeting along with the pastor is the  
11 first step of that process. If it's not resolved  
12 at that point then we continue to move it forward  
13 so that we can get in front of the church  
14 congregation since it is unfunded item and the  
15 church approved -- needs to approve that unfunded  
16 item.

17 Q: Okay.

18 A: That wasn't in the budget.

19 Q: All right. Now have you had  
20 discrepancies over the past, let's say, three  
21 years or three and half years with the current  
22 pastor in regards to the budget?



1 A: Yes.

2 Q: And when did those begin?

3 A: Well it began with the initial closing  
4 of the Mount Pleasant Baptist Church Christian  
5 Academy, it was at that time a decision was  
6 rendered to close the academy and the congregation  
7 had not been -- they didn't -- did not approve it,  
8 it was a decision made by the pastor.

9 Q: All right. I'm going to direct your  
10 attention to Exhibit 5 and Exhibit 5 looks like  
11 two emails regarding the closing of the academy,  
12 do you see that?

13 A: Yes, I do.

14 Q: And it starts off with, it's an email  
15 from Kevin Donalson saying after much prayer and  
16 consideration, I have decided that we will not  
17 have an academy this following year, do you see  
18 that?

19 A: Yes.

20 Q: And was that a decision that was made  
21 with the input of the trustees?

22 A: No, it was not.

1 Q: Was it made with the input of any other  
2 people to your knowledge?

3 A: No, it was not.

4 Q: So it was basically, to the best of your  
5 knowledge, it was a unilateral decision?

6 A: That is correct.

7 Q: All right.

8 MR. PETERSON: Your Honor I would move  
9 Exhibit 5 into evidence, those two emails.

10 MR. SHOWERS: Objection, it's not a  
11 complete email chain at all, it doesn't give the  
12 rest of the story.

13 MR. PETERSON: Well Mr. Donalson is here  
14 to give the rest of the story. These are both two  
15 statements by a party.

16 THE COURT: Is that the only basis for  
17 your objection?

18 MR. SHOWERS: There's no foundation for  
19 this either.

20 I mean, is it accurate or is it not? Is  
21 this an email of Kevin Donalson or not?

22 THE COURT: That's what the testimony

1 was --

2 MR. SHOWERS: Who has the ability to do  
3 that foundation, he's not the writer, he's not the  
4 receiver.

5 MR. PETERSON: Your Honor, this is a  
6 statement by a party this is not -- I don't know  
7 what --

8 BY MR. PETERSON:

9 Q: Are you familiar with Kevin Donalson,  
10 Mr. Davis?

11 A: Yes, sir.

12 Q: And do you receive emails from him?

13 A: Yes sir, I do.

14 Q: And is that his picture in the email?

15 A: Yes, it is.

16 MR. PETERSON: Your Honor, I would renew  
17 my motion to have this admitted.

18 THE COURT: I'm going to overrule the  
19 objection, I'll admit 5, I think the issue that  
20 Mr. Showers is eluding is authentication and I  
21 think this has been adequately authenticated by  
22 this witness.

1 (Exhibit 5 was admitted.)

2 Q: Leaving aside the school closing issue,  
3 Mr. Davis, did you have a subsequent issue with  
4 the pastor with him again making unilateral  
5 decisions outside the budget process?

6 A: Yes, we did. We had a follow up to the  
7 Christian Academy, it was -- we were in the  
8 process of trying to find a pathway to reopening  
9 and reestablishing the Christian Academy. One  
10 initiative looked at the establishment of the  
11 Christian Academy off the Mt. Baptist Church  
12 campus and we the trustees wanted to participate  
13 in that process, and we participated in that  
14 process strongly.

15 We had determined -- the presentations  
16 given to us with numbers, we went back and did an  
17 economic analysis to determine whether or not it  
18 was feasible within the budget process, we  
19 determined that it was not, it was going to be too  
20 costly for the church to execute and therefore we  
21 strongly recommended disapproval in that process.  
22 THE COURT:What is a Christian Academy?

1           THE WITNESS: It is the -- Mount  
2 Pleasant Baptist Church had a Christian Academy,  
3 it was a curriculum that was provided to our  
4 children of the church, kindergarten through the  
5 first and second grade. It was a great -- it was  
6 a great institution, it -- it was a strong  
7 institution that was the foundation for a lot of  
8 our kids as they entered into the elementary  
9 school.

10           THE COURT: Was it a full time school or  
11 was it --

12           THE WITNESS: It was a full time school.  
13 Yes, it was, full time school with a cadre. They  
14 had a -- many -- they supported -- the attendees  
15 of that academy came from the church and maybe  
16 some outside the church.

17           As we were going into that year  
18 that's -- that was the issue that we were  
19 having --

20           THE COURT: And the children would then  
21 go on to another regular school --

22           THE WITNESS: They would go on to

1 another regular school, Your Honor --

2 THE COURT: -- for second grade?

3 THE WITNESS: -- and continue up  
4 through --

5 BY MR. PETERSON:

6 Q: All right. Just to bring this full  
7 circle, the school issue was eventually resolved,  
8 correct?

9 A: Yes, a decision was rendered --

10 Q: Right.

11 A: -- by the pastor, we tried to do our  
12 best to support that without incident. Now, the  
13 establishment of the off-site, that decision was  
14 pulled back and we did not execute that based on  
15 the economic analysis that we preformed.

16 Q: Okay. Let me move onto another issue.  
17 Did you have another issue with the pastor making  
18 a unilateral decision and I'm going to want to  
19 refer specifically to the Urban One contract.

20 A: Yes.

21 Q: Okay. Describe what happened there.

22 A: What happened was the pastor decided

1 that he wanted to execute and implement and then  
2 use Urban One as a part of his ministry.

3 Q: And what is Urban One?

4 A: Urban One is a radio -- Radio One is a  
5 radio station, a Christian radio station, and the  
6 problem that occurred during that particular time  
7 was that he actually committed or used the credit  
8 card to start a binding of the -- which binded the  
9 contract to the requirement. Which was, number  
10 one, improper because according to the credit card  
11 SOP you're not supposed to use credit card for the  
12 binding any contracts.

13 Q: Okay. So in other words he entered the  
14 contract without the trustees' approval?

15 A: He entered the contract without the  
16 trustees' approval and --

17 Q: What -- was the contract within the  
18 budget at that time?

19 A: The contract was not in the budget.

20 Q: Okay.

21 A: It was a new -- a new item on the  
22 budget and had not been voted on that year going

1 into December as part of -- if you look at the  
2 timing of that, we were still working on the new  
3 budget going in there, but it was not introduced  
4 into that budget.

5 Q: And do you remember approximately how  
6 much money was involved in the Urban One contract?

7 A: Well the initial payment of the credit  
8 card was \$500 and then next payment was an  
9 obligation which would have been an invoice from  
10 Urban -- or, Radio One. That invoice will call  
11 for 24,000 plus dollars at that point that  
12 obligated the church to pay for that year.

13 Q: So 24,000 in an annual contract?

14 A: That is correct.

15 Q: All right. And I'm looking at Exhibit's  
16 7 and 8, looks like Exhibit 7 is a receipt from  
17 Urban One, do you see that?

18 A: Yes, I do.

19 Q: And is that the \$500 you just spoke  
20 about?

21 A: That is correct.

22 Q: And that was the credit card payment



1 that was made by the church credit card?

2 A: That is correct.

3 Q: And then the next I see that we have --  
4 looks like an invoice, is this an internal  
5 document for Mount Pleasant Baptist Church?

6 A: No, this is a church check request form  
7 that was prepared and submitted to the director of  
8 administration and his team requesting the funds  
9 from the budget line and you will note in the far  
10 bottom left, the ministry main media where the  
11 fund would come from. And that was signed by the  
12 ministry of media director at that time, Mr.  
13 Marlon Sharp.

14 Q: Now you testified earlier that this  
15 money was outside of ordinary budgeted?

16 A: That is correct.

17 Q: So when it has a budget line, was there  
18 a budget line for it?

19 A: There was not.

20 Q: Okay. All right. So was this money  
21 actually spent, the 24,000?

22 A: It was not spent at the time, we had to

1 go through a formal process in order to get it  
2 approved.

3 Q: All right --

4 A: Since it's an unfunded item that had not  
5 been approved by the congregation, the trustees  
6 pushed very hard through the church leadership  
7 that we get this issue identified properly, that's  
8 number one. And that number two, we during that  
9 process then the church -- a special business  
10 meeting was held in and an explanation was given  
11 on the reasoning why we did that, why the pastor  
12 did -- his team explained that and then it was  
13 approved by the church.

14 Q: Okay. Now this -- it looks like it all  
15 took place in January of 2022?

16 A: That is correct.

17 Q: And are these true and accurate copies  
18 of the records that were generated at that time to  
19 reflect the cost?

20 A: That is correct.

21 MR. PETERSON: Your Honor, I move  
22 Exhibit8 into evidence, I think it's the

1 receipt's from the capital -- or excuse me, the  
2 Urban One transaction.

3 MR. SHOWERS: No objection to 8 or 9.

4 THE COURT: All right. 8 --

5 MR. SHOWERS: Exhibit 9 will be --

6 THE COURT: 8 is admitted.

7 (Exhibit 8 was admitted.)

8 MR. PETERSON: Yeah, 9 is something  
9 different.

10 THE COURT: 8's the only one that he's  
11 moved so if there is no objection then 8 is  
12 admitted.

13 MR. PETERSON: Okay.

14 BY MR. PETERSON:

15 Q: Let me ask you this, was there some type  
16 of discrepancy as to who had actually signed the  
17 Urban One contract and who was responsible for  
18 that?

19 A: That was correct -- or, that is correct.

20 Q: What happened?

21 A: Well what happened was, as you saw the  
22 invoice memo, it was dated 12/30, when it came and

1 the check request came to the director of  
2 administration, the question was asked who signed  
3 the time brokerage agreement. If you look at the  
4 time brokerage agreement -- if you look at the  
5 time brokerage agreement it says it should've  
6 been -- it was signed by. We thought the pastor  
7 had signed off on that agreement.

8 We later found out the pastor, when  
9 queried, there was a meeting between the director  
10 of admin, his secretary, and the director of  
11 admin's assistant and then at that point we were  
12 told -- the trustees were told that the pastor did  
13 not -- said he did not sign this particular  
14 agreement. When we said okay then that must be an  
15 issue, someone must have signed this document, who  
16 signed it, who obligated the church to these  
17 properties.

18 So two things occurred, the first thing  
19 that occurred was the director of administration  
20 called up the trustees, told them about the issue,  
21 and said if that's the case then someone signed  
22 this document we need to have an investigation.

1 So we conducted an internal investigation, the  
2 trustees did so, in particular I was the appointed  
3 person to conduct the audit and determine whether  
4 or not there was an issue.

5 So we began the next steps in the  
6 process, at the same time since it would have been  
7 a felony, we also contacted Fairfax County Police  
8 and asked them if they would go in and look into  
9 this issue as well.

10 Q: Did you find out who had actually signed  
11 the contract?

12 A: We found out that the pastor signed the  
13 contract.

14 Q: Okay. All right. So I assume the  
15 investigation was discontinued at that point?

16 A: The investigation was discontinued by  
17 both parties, both the trustees -- we wrote a  
18 detailed report about the process and what  
19 occurred in order to capture that. But Fairfax  
20 County had determined that they would have to  
21 close down the investigation because the church  
22 later approved of that requirement -- that funding

1 of that requirement.

2 Q: Okay. All right. Let me move on, I'm  
3 going to get to a couple of other issues. So  
4 we've talked about the Urban One, we've talked  
5 about the school closure. Did there come a time  
6 that the pastor asked you to sign a covenant that  
7 was binding?

8 A: Yes.

9 Q: What happened there?

10 A: A covenant -- the pastor asked the  
11 church leadership, the members of the church  
12 leadership to sign some -- we the trustees at that  
13 particular time read through the covenant and  
14 determined that the last line of that covenant  
15 would say we would fall, as I recall, -- I don't  
16 have a copy of the -- of the --

17 Q: Well let me direct your attention to  
18 Exhibit 9, the last page.

19 A: It says, as a leader I agree to be  
20 willing to submit to the authority and  
21 accountability structure of the church. We were  
22 at that particular point in time had a problem

1 with that last statement, we had signed previous  
2 covenants before, we had stated them, but they had  
3 never been signed and given to the pastor for us  
4 to continue to be a part of that membership, and  
5 we thought that was inappropriate. Now there was  
6 five, six of us, five of us did not sign and one  
7 did but he changed the wording in the covenant.

8 Q: All right. Let me ask you this, did you  
9 end up signing that covenant?

10 A: No, I did not.

11 Q: Did you feel uncomfortable signing that  
12 covenant?

13 A: Yes, I did.

14 Q: Why did you feel uncomfortable?

15 A: Because of the tenor of actions going on  
16 within the church, the issues of governance, and  
17 the roles of the trustees as well, we felt that  
18 this -- I felt, personally, that this was not a  
19 type of document that I would want to sign.

20 MR. PETERSON: Your Honor, I would like to  
21 move --

22 Q: Is that a true and accurate copy of the

1 leadership covenant you were asked to sign which  
2 is that last page of Exhibit 9?

3 A: Yes, it is.

4 MR. PETERSON: Your Honor, I move in that  
5 last page only.

6 MR. SHOWERS: No objection.

7 THE COURT: All right. The last page of  
8 Exhibit 9 is admitted.

9 (Exhibit 9 was admitted.)

10 Q: Okay. Very quickly, if you could turn  
11 to Exhibit 10, who is Missy Holt?

12 A: Missy Holt is the pastor's executive  
13 secretary.

14 Q: And did she send you all emails  
15 basically asking you all to sign?

16 A: Yes, she did.

17 Q: And is that a true and accurate copy of  
18 this, Exhibit 10, that email from Missy Holt?

19 A: Yes, it is.

20 Q: And that would have been dated November  
21 17th, 2022?

22 A: That is correct.



1 MR. PETERSON: All right. Your Honor, I  
2 move that into evidence, Exhibit 10.

3 MR. SHOWERS: No objection, Your Honor.

4 THE COURT: All right. 10 is admitted.  
5 (Exhibit 10 was admitted.)

6 Q: All right. Now we talked a few minutes  
7 ago about the credit card that Pastor Donalson had  
8 used for the Urban One contract, do you recollect  
9 that conversation?

10 A: Yes, I do.

11 Q: Did you all have a conflict, or did  
12 there come a time that the trustees took away the  
13 credit card that the pastor used?

14 A: Yes, we did.

15 Q: Okay. Can you talk about what happened  
16 there?

17 A: It was around the same time as the  
18 covenant issue, we had a problem with the pastor  
19 using the credit card for personal -- personal --  
20 not problems, or personal issues, or personal  
21 services.

22 Q: And did you all suspend the credit card?

1 A: Yes, we did.

2 Q: All right.

3 A: November, around November 22nd.

4 Q: And how long was it suspended?

5 A: For six months.

6 Q: Okay. And did there come a time that it  
7 was reinstated?

8 A: It was reinstated in May 2023.

9 Q: Okay. And if I turn to Exhibit 11, it  
10 looks like there's an agreement that was signed by  
11 the pastor regarding personal use of the credit  
12 card?

13 A: That is correct.

14 Q: And is Exhibit 11, a true and accurate  
15 copy of that agreement?

16 A: Yes, it is.

17 MR. PETERSON: Your Honor, I move that  
18 in as Exhibit 11, it's the cover email dated May  
19 25th, 2023, and then there's a -- looks like a  
20 four page agreement on personal use of the credit  
21 card, and it's got the pastors signature.

22 Q: Well, if you turn to page 5, is that the

1 pastors signature, of the agreement?

2 A: Yes, it is.

3 MR. PETERSON: Yeah, Your Honor, I would  
4 move that into evidence.

5 THE COURT: I'm sorry, do you mean --  
6 which page is that?

7 MR. PETERSON: Oh, it's page -- it's  
8 Exhibit 11 --

9 THE COURT: Right.

10 MR. PETERSON: And then it says Reverend  
11 Kevin Donalson return of credit card signature,  
12 that's the front page email --

13 THE COURT: Right.

14 MR. PETERSON: And then there's another  
15 next page signed by Mr. Donalson -- Reverend  
16 Donalson.

17 THE COURT: Right.

18 MR. PETERSON: And then there's a four  
19 page -- or actually five page, what I would call a  
20 user agreement, signed by Reverend Donalson.

21 THE COURT: All right. So those pages  
22 only?

1 MR. PETERSON: Right.

2 THE COURT: Not the billing date -- what  
3 look like billing statements they over --

4 MR. PETERSON: Leave that out.

5 THE COURT: All right. Those -- any  
6 objection to those pages?

7 MR. SHOWERS: No.

8 THE COURT: All right. Without  
9 objection those pages are admitted.

10 (Exhibit 11 was admitted.)

11 BY MR. PETERSON:

12 Q: Okay. Now Mr. Davis, let me move  
13 forward to the summer of 2023, and I take it all  
14 of these past incidents have been resolved,  
15 correct?

16 A: With the credit card or --

17 Q: We'll get back to the credit card but  
18 we've talked about some past incidents but  
19 obviously there was no court action and everything  
20 was resolved, correct?

21 A: Yes.

22 Q: Okay. Now let me move forward to the

1 summer of 2023, did there come another with the  
2 pastor acting unilaterally in the summer of 2023?

3 A: Yes, there was.

4 Q: And can you describe what happened  
5 there?

6 A: Going back to the summer, we agreed, we  
7 had a summer camp full of students and people of  
8 the community and we've normally -- it's an annual  
9 event, it is one that has been well participated  
10 in by the community and members of the church.  
11 That particular year it did not fare well.

12 And our understanding -- we didn't get  
13 it directly, our understanding was that the --  
14 since it was not well supported, participated  
15 in -- they didn't -- were not able to draw a lot  
16 of people to the summer camp then, it would not  
17 occur that summer. We had word, as trustees,  
18 that -- we got word that the money was going to be  
19 moved to an intern program.

20 Q: Okay. Don't tell me about we got word,  
21 I want to --

22 A: Just the trustees --

1 Q: -- just specifically what you know  
2 happened.

3 A: The trustees were told that the money  
4 would be moved to an intern program.

5 Q: Okay. Let me ask you this, was the  
6 summer camp part of the budget?

7 A: The summer camp was part of the budget.

8 Q: Okay. What --

9 A: There was \$12,000 at the funding line --  
10 budget line in the -- budgeted for the summer  
11 camp.

12 Q: Okay. And did the trustees approve the  
13 redirection of that money or was there any formal  
14 request made to redirect that money?

15 A: There was discussion to redirect that  
16 money as part of the ministry director's and  
17 pastor's meeting -- in the meetings, the trustees  
18 thought strongly that that was an unbudgeted item  
19 and the movement of funds to an intern program  
20 which had not even been approved as part of the  
21 bylaws and therefore did not have a funding line.  
22 And that funding line would call for the church to

1 come together in a special business meeting and be  
2 able to address that issue.

3 Q: Okay. Was there an attempt at a special  
4 business meeting that summer?

5 A: Yes, there was.

6 Q: Okay. What was wrong -- or let me ask  
7 you this, was that a proper business meeting?

8 A: With many of the --

9 Q: Just start with a yes or no and then --  
10 was that a proper business meeting?

11 A: No.

12 Q: All right. What was wrong with it?

13 A: The problem with the business meeting  
14 was that once the business meeting started that  
15 Sunday after -- after the church service, then the  
16 first thing formally getting done is to identify  
17 if there were active Mount Pleasant Baptist  
18 members participating in that business meeting.

19 To do that -- to execute a formal  
20 process would then help us determine whether we  
21 met our quorum. The establishment of quorum  
22 according to Roberts Rules of Order Parliamentary

1 Rules would state that based on the active members  
2 of the entire church they need to -- dependent on  
3 the quorum, which is outlined in the bylaws in  
4 Article 14, 5 percent of quorum must be  
5 established, we need to know that and that needs  
6 to be stated properly so that we know that that is  
7 a formal meeting.

8 Q: Okay. So the bottom line was there was  
9 no quorum established?

10 A: It was not formally -- the process was  
11 not the formally executed to identify that we had  
12 a quorum present.

13 Q: Okay. So there was no quorum  
14 established?

15 A: No, there was not, no.

16 Q: Okay. What else was wrong with that  
17 meeting?

18 A: The other thing that was not properly  
19 done was the establishment of motion to move, one,  
20 to first establish an intern program as according  
21 to the bylaws in the budget procedure because you  
22 have to move the funds from one account to the



1 next account, the motion was not done to execute  
2 that, that's number one.

3 Once -- the second thing that had not  
4 been done was also we did not formally make a  
5 motion in accordance with Roberts Rules of Order  
6 and Parliamentary Rules to move that from --  
7 properly from the summer camp to an approved  
8 intern program, so we should have done those two  
9 steps first.

10 And then the third part of that would  
11 have been the execution of movement, again, that  
12 motion to move -- to pay the kids from that intern  
13 program, so that's where we ran into a conflict.

14 Q: Okay. Were there minutes taken of that  
15 meeting?

16 A: No, there was not.

17 Q: And is that against the church bylaws?

18 A: The church bylaws call for minutes to be  
19 produced three days after every meeting.

20 Q: Okay. So I take it that the trustees  
21 objected to this meeting that moved the money,  
22 correct?

1           A:    Yes, we did.  We submitted a memorandum,  
2           sent it out to the trustees for review, we had a  
3           formal meeting about it because the motion called  
4           for the director of administration to go ahead and  
5           pay the interns.  We were concerned that the  
6           church could be held liable if we were -- if  
7           this -- the motions were not properly rendered.

8           Q:    All right.  Let me direct your attention  
9           to Exhibit 14.

10          A:    Yes, sir.

11          Q:    Do you see Exhibit 14?

12          A:    Yes, sir.

13          Q:    Is this -- what is this?

14          A:    That's the information paper that I  
15          formally prepared immediately that evening, that  
16          night, referenced the summer camp -- I mean the  
17          special business meeting.

18          Q:    And is this basically -- was this put  
19          together on behalf of the trustees?

20          A:    Yes, it was.

21          Q:    And who was this sent to?

22          A:    It was sent to the head of the trustees,

1 sent it to the head of that -- and the director of  
2 administration.

3 Q: Okay. And was there also a copy served  
4 on the pastor?

5 A: Yes, it was sent to the pastor as well.

6 Q: And this is a true and accurate copy of  
7 the objection that you all raised?

8 A: Yes, it is.

9 MR. PETERSON: Your Honor, I would move  
10 Exhibit 14 into evidence.

11 MR. SHOWERS: I mean, a lot of these are  
12 just opinions, they're not facts, I mean I guess  
13 for the purpose of what he wrote this and this  
14 opinion, I guess no objection to that, Your Honor.

15 THE COURT: All right. 14 is admitted.

16 (Exhibit 14 was admitted.)

17 Q: All right. So once you all had objected  
18 to the meeting and the redirecting of funds, what  
19 happened next?

20 A: We requested a meeting with the pastor  
21 to discuss the issue before Reverend Pinkney,  
22 Director of Administration pay the interns just to

1 make sure we were doing everything in compliance  
2 with the law.

3 Q: And were you -- did you attend those  
4 meetings?

5 A: We didn't get to have -- there was no  
6 meeting.

7 Q: There was no meeting?

8 A: There was no meeting.

9 Q: Okay. Did the pastor respond on this  
10 issue?

11 A: Yes, the pastor stated that the trustees  
12 cannot change the ruling or the vote of the  
13 church.

14 Q: Okay. All right. Did you have a follow  
15 up meeting on August 6th?

16 A: We had a follow up meeting actually on  
17 the 18th of July.

18 Q: Okay.

19 A: 18th of July.

20 Q: Okay. And what happened on the 18th of  
21 July?

22 A: On the 18th of July and then we met --

1 we called for an the head of the deacons, called  
2 for a special business meet -- board meeting,  
3 which he can only call and that board meeting  
4 would normally consist of the trustees, the  
5 ministry directors, and the diaconate.

6 Q: Okay. Was the pastor there at that  
7 meeting?

8 A: He's not actually a member of the board  
9 of directors but he was invited to participate.

10 Q: Okay. Was he there?

11 A: He was there.

12 Q: Okay. And did he make a response to  
13 your objections?

14 A: Yes, he did.

15 Q: And what did he say?

16 A: And again he said that the trustees  
17 cannot do such things -- cannot change rulings on  
18 the motion.

19 Q: Okay. Did you have one more meeting on  
20 August 6, 2023?

21 A: Yes, we did.

22 Q: And what happened on that meeting?

1           A:    In that meeting the participants  
2 included the pastor, the assistant pastor, the  
3 trustee leads, Mr. Lewis Wertz, myself, the head  
4 diaconate and his deputy, and the director of  
5 administration. And we went back through the same  
6 issue again outlining why we felt that this was an  
7 issue that needs to be corrected formally.

8           Q:    And what was the pastor's response?

9           A:    Two things, he did not agree, he stated  
10 no we're not changing it number one, number two  
11 stated that if I, Mike Davis, did not agree with  
12 that I could find a lawyer.

13          Q:    What was that again he said?

14          A:    I could find a lawyer.

15          Q:    And what was the first part that you  
16 said?

17          A:    If that -- if I didn't agree -- he said  
18 to me that I could find a lawyer if -- his comment  
19 was that if I didn't agree -- if we didn't agree I  
20 can find a lawyer.

21          Q:    Okay. All right. At that time did you  
22 have a lawyer?

1 A: No.

2 Q: All right. Going back to the interns  
3 issue -- and I take it the summer camp did not  
4 happen this -- last summer?

5 A: Summer camp did not occur.

6 Q: And were the interns eventually paid?

7 A: Yes, they were.

8 Q: Now obviously you all took issue with  
9 the church meeting that was called to approve  
10 that, do you see that?

11 A: That is correct.

12 Q: Did the trustees ever actually approve  
13 that action?

14 A: No, the trustees did not approve the  
15 action.

16 Q: Okay. All right. Now let's move  
17 forward with another issue. And did there come a  
18 time in the fall that you had an issue with a  
19 Howard University Choir being invited to speak --  
20 or being brought in to sing?

21 A: Yes, we did.

22 Q: And what happened there?

1           A:    We found -- we were told through the  
2 director of administration's assistant around the  
3 15th, 16th of November -- I mean September that  
4 the pastor had reached out to Howard University  
5 committee that -- to participate in our church  
6 services without approval.  Because it was a  
7 unfunded choir.

8           Q:    So this one again was outside the  
9 budget?

10          A:    That is correct.

11          Q:    Okay.  And did you ask the pastor about  
12 that?

13          A:    We did not ask the pastor that, the  
14 assistant to the director of administration did  
15 ask the pastor of administration initially.  He  
16 had been working on that and submitted a budget  
17 request -- a check request on the 15th --

18               MR. SHOWERS:  Objection, this is  
19 hearsay.

20               MR. PETERSON:  Okay.  Let me --

21               MR. SHOWERS:  I mean I've let a lot of  
22 hearsay go on but this is --



1 THE COURT: Well that's all right we  
2 don't -- just focus on conversations that you were  
3 involved in.

4 Q: Well, let me ask you this, was the  
5 Howard Gospel Choir, was that part of the budget?

6 A: No, it was not.

7 Q: Had the trustees approved to put that  
8 money in the budget?

9 A: No, we had not.

10 Q: Okay. Was the money -- did the pastor  
11 attempt to -- he entered the contract anyway?

12 A: He enter a contract anyway, based upon  
13 that email information that he had gathered, I  
14 received copies of that email.

15 Q: All right. Okay. All right. Let me  
16 direct your attention to Exhibit 16.

17 A: Yes, sir.

18 Q: And it looks like 16 is a series of  
19 emails between Falicia Hawkins and Reverend  
20 Donalson; do you see that?

21 A: Yes, I do.

22 Q: And are these emails you're referring to

1 about the Howard Gospel Choir?

2 A: That is correct.

3 Q: And it talks about -- it looks like it  
4 was -- I think it was a \$6,000 total expense or,  
5 2,800, I'm sorry.

6 A: \$2,800.

7 Q: Okay. And are these -- are you familiar  
8 with these email addresses?

9 A: Yes, I am.

10 Q: Okay. And that's from Kevin Donalson  
11 who's the pastor of the church?

12 A: That is correct.

13 MR. PETERSON: Your Honor, I move Exhibit 16  
14 into evidence.

15 MR. SHOWERS: I've got an objection for  
16 a lack of authentication and that he's not a  
17 leader or part of these emails.

18 MR. PETERSON: Well I think you can see  
19 an email and identify the address without having  
20 to have been the recipient.

21 MR. SHOWERS: But he didn't know if  
22 he -- they actually received them, he doesn't know

1 if it was sent, he doesn't know any of that.

2 THE COURT: I'm going to sustain the  
3 objection to the foundation and authenticity.

4 MR. PETERSON: Okay.

5 THE COURT: If you want to try to lay a  
6 foundation of course you may.

7 BY MR. PETERSON:

8 Q: All right. Let me ask you this, you  
9 became aware of the Howard Gospel Choir issue,  
10 correct?

11 A: That is correct.

12 Q: And did you make an investigation as to  
13 how that contract was entered?

14 A: That is correct, yes.

15 Q: And pursuant to that were you provided  
16 materials?

17 A: We were provided materials from the  
18 assistant --

19 Q: Just, yes.

20 A: Yes.

21 Q: Okay. And are these some of the  
22 materials that you were provided pursuant to that

1 investigation?

2 A: That is correct.

3 Q: And in fact these emails from Howard  
4 Gospel Choir, this is what you were provided when  
5 you looked into that?

6 A: That is correct.

7 Q: And was it -- who gave these emails to  
8 you?

9 A: The assistant to the director of  
10 administration.

11 Q: So would that be Ms. Hawkins?

12 A: Ms. Hawkins.

13 Q: Okay. Are these true and accurate  
14 copies of material she gave you when you  
15 investigated this?

16 A: That is correct.

17 MR. PETERSON: Your Honor, I renew my request  
18 for it to be admitted as an Exhibit.

19 MR. SHOWERS: Objection, the same Your  
20 Honor, and I still don't see a contract here, they  
21 keep talking about contracts.

22 MR. PETERSON: Well these are statements

1 by a party, these are statements by Mr. Donalson,  
2 we already said these were emails that were --

3 MR. SHOWERS: And authentication.

4 MR. PETERSON: He just said this is what  
5 he got from Ms. Hawkins, she's one of the  
6 recipients.

7 THE COURT: All right. Are you admit --  
8 are you wanting to admit Ms. Hawkins' statements  
9 or just Mr. Donalson's?

10 MR. PETERSON: I would start off with  
11 just Mr. Donalson's, I mean they are in the  
12 context of responding to Ms. Hawkins but -- this  
13 is obviously what Mr. Donalson submitted to  
14 explain the expense. In other words, he forwarded  
15 the emails.

16 THE COURT: Yeah. I'm going to admit  
17 the Mr. Donalson's statements in Exhibit 16 only  
18 as a statement of party opponent, I'm satisfied  
19 that the authentication has been satisfied, the  
20 witness testified that he received these from Ms.  
21 Hawkins as a part of his investigation so. But I  
22 think Ms. Hawkins' statements are certainly

1 hearsay and so I'll admit the statements but only  
2 Mr. Donalson's statements.

3 (Exhibit 16 was partially admitted.)

4 MR. PETERSON: Thank you, Judge.

5 BY MR. PETERSON:

6 Q: All right. So moving forward, once the  
7 Howard University incident happened at this point  
8 you've had about -- how many incidents had you had  
9 where the pastor was spending money outside the  
10 budget?

11 A: If we would say if we include -- not if  
12 we include the credit cards it would be eight.

13 Q: Okay.

14 A: If we're just -- not including credit  
15 cards.

16 Q: And did you feel that the church was at  
17 risk at this point based on these incidents?

18 A: Yes.

19 Q: And what was the risk?

20 A: We were concerned that there would be a  
21 continuing number of expenditures outside the --  
22 unauthorized -- not approved by the congregation.

1 The congregation needs to know that these things  
2 were being done and we wanted to ensure that there  
3 was open level of transparency to the  
4 congregation, so.

5 Q: All right. Let me move forward, I'm  
6 going to move forward to Exhibit 18, and did you  
7 seek out the advice of counsel after the Howard  
8 University issue?

9 A: Actually we sought out the counsel of  
10 the -- sought out counsel based upon the bylaws in  
11 the August meeting.

12 Q: Okay.

13 A: It was an August 9th, meeting. During  
14 that session the director of admin, because we  
15 could not resolve the issue of the roles and  
16 responsibilities of the trustees, then the  
17 director of administration reached out to both the  
18 trustees and the head of the deacons, and the  
19 pastor, and said we need to get a legal opinion to  
20 help line the role and responsibilities of the  
21 trustees according to the bylaws.

22 Q: Okay. And so was it the -- Reverend

1 Pinkney then that sought that legal opinion?

2 A: That is correct.

3 Q: Okay. Let me direct your attention to  
4 Exhibit 18, and is Exhibit 18 a copy of a letter  
5 that you all obtained -- that the trustees  
6 obtained?

7 A: That is correct.

8 Q: All right. And I see it's addressed to  
9 Ezekiel Pinkney?

10 A: That is correct.

11 Q: And what were you all seeking?

12 A: We're seeking to ensure we have clarity  
13 and clear definition on the roles and  
14 responsibilities of the trustees in accordance  
15 with the bylaws.

16 Q: Okay. And you said you sought out legal  
17 counsel; I was the person you talked to?

18 A: That is correct.

19 Q: Okay. And is Exhibit 18 a letter that  
20 was generated by my office and signed by me?

21 A: That is correct.

22 Q: And you all sought this letter --



1 Reverend Pinkney sought this letter pursuant to  
2 his role in the church?

3 A: That's correct.

4 Q: All right.

5 MR. PETERSON: Your Honor I move Exhibit  
6 18 into evidence.

7 MR. SHOWERS: Objection on two accounts,  
8 it looks like it's expert testimony, in this case  
9 Mr. Peterson. And the other one is that it's  
10 addressed Pinkney, not to the trustees. So on  
11 both of those bases I think it's improper.

12 MR. PETERSON: Well judge I'm no expert,  
13 I think they sought a legal opinion, they got a  
14 legal opinion, it is what it is. They can say  
15 what -- however much expertise went into it, it  
16 just simply quotes the bylaws. So I think the  
17 point is that they went and got a legal opinion  
18 about what their role was. Again that's not going  
19 to determine how Your Honor rules. I could put  
20 Reverend Pinkney on as a witness but obviously the  
21 trustees were involved in obtaining this letter so  
22 he can authenticate it this is a true and accurate

1 copy of the letter.

2 MR. SHOWERS: I don't have an objection  
3 to him saying they sought legal opinion it's just  
4 the substance.

5 THE COURT: The substance of the  
6 opinion?

7 MR. SHOWERS: Yeah.

8 MR. PETERSON: Well, Your Honor, I don't  
9 proffer it as a determination of anything other  
10 than they went and got a legal opinion prior to  
11 filing a lawsuit or doing anything else.

12 THE COURT: All right. For that limited  
13 purpose, but not for the substance of opinion,  
14 I'll admit it.

15 (Exhibit 18 was admitted.)

16 BY MR. PETERSON:

17 Q: All right. The next issue, we're now in  
18 the Fall of 2023 so this is within the past three  
19 or four months. Did there come an issue with the  
20 Reverend wanting to hire a church accountant?

21 A: Yes.

22 Q: And just describe what was the -- what's

1 behind that issue?

2 A: The church leadership felt that we need  
3 an accountant, a church accountant. It was  
4 discussed in the church ministry directors  
5 meeting, the trustees participated in that meeting  
6 as well, to take over the finances of the church,  
7 they wanted a full time accountant.

8 Q: Okay. And who should hire that person?

9 A: Normally and in accordance to the by-law  
10 in the process and procedures outline that would  
11 have been the director of administration.

12 Q: Were you comfortable with the pastor  
13 being able to hire the accountant?

14 A: No, we were not.

15 Q: Why not?

16 A: We felt that was the -- would be a  
17 direct conflict, it would threaten our federal  
18 codes, 501(3)(c). And we felt that it probably  
19 would've been better if it'd be the director of  
20 administration being responsible for the HR  
21 process.

22 Q: Okay. Let me just go back I'm going to

1 take a look at the director of administration,  
2 that's Reverend Pinkney, correct?

3 A: That is correct.

4 Q: And is he defined in the bylaws?

5 A: Yes, he is.

6 MR. PETERSON: And let me flip backwards,  
7 Your Honor, to the bylaws which is Exhibit 2 and  
8 specifically section 3.1.

9 Q: And if I move down to subpart E, do you  
10 see where it says provides spiritual direction and  
11 approves resources of the administrative agencies  
12 including trustees, finance ministry, and multi-  
13 media ministry, do you see that?

14 A: That is -- yes, I do.

15 Q: Okay. And what does that practically  
16 mean in terms of hierarchy?

17 A: He has responsibility for administrative  
18 practices including HR for the church.

19 Q: And did there come a time that Reverend  
20 Pinkney and Reverend Donalson had an, for lack of  
21 a better term, a confrontation on this issue?

22 A: Yes, they did.

1 MR. PETERSON: I think rather than risk  
2 an objection, I'll just save that for Reverend  
3 Pinkney's testimony.

4 Q: Do you know whether or not Reverend  
5 Pinkney ever approved the hiring of this person by  
6 Reverend Donalson?

7 A: No.

8 Q: He did not? All right. Did there come  
9 a time that you all offered to meet with Reverend  
10 Pinkney to try to, for lack of better word, settle  
11 these differences?

12 A: The first one would have been in the  
13 August 9th, meeting, and then the second would  
14 have been after the legal opinion once we got a  
15 copy of that.

16 Q: Okay. And did he agree to sit down with  
17 you all and work that out?

18 A: Reverend Pinkney?

19 Q: No, Donalson.

20 A: Oh, I thought you said --

21 Q: I apologize. I apologize.

22 Did there come a time that you all sat

1 down with Reverend Donalson to settle these  
2 issues?

3 A: We tried to do that with the letter that  
4 was received so we would get clarity on that, get  
5 a decision. He didn't meet with us, we had  
6 several other meetings prior to that time period  
7 where we put together presentation -- a PowerPoint  
8 presentations, we gave it to him, those were  
9 dismissed. Then since we could not get this issue  
10 resolved with the trustees, we decided that we  
11 needed to take it to the next level.

12 Q: All right. Did there come a time that  
13 my office wrote a letter to Reverend Donalson  
14 about having a meeting between the trustees and  
15 Reverend Donalson?

16 A: That is correct.

17 Q: Okay. Let me direct your attention to  
18 Exhibit 20. Do you see Exhibit 20?

19 A: Yes, I do.

20 Q: And was this a letter that was sent by  
21 my office to Reverend Donalson -- or excuse me,  
22 to -- yeah, Reverend Donalson?

1 A: Yes, it was.

2 Q: All right. And can you read the last  
3 paragraph of that letter?

4 A: "This matter is a formal request for a  
5 meeting with you and the trustees at a date and  
6 time of your convenience."

7 Q: And did Reverend Donalson ever respond  
8 by setting up a meeting?

9 A: No.

10 Q: Let me turn again to the next letter  
11 which is dated -- Exhibit 21, do you see that?

12 A: Yes.

13 Q: And was this another letter from my  
14 office to Reverend Donalson?

15 A: Yes, it was.

16 Q: And was this, once again, written on  
17 behalf and with approval of the trustees?

18 A: Yes, it was.

19 Q: And once again, can you read the last  
20 paragraph -- or excuse me, the sentence in the  
21 last paragraph?

22 A: "Notwithstanding the above

1 circumstances, the trustees wish to resolve these  
2 issues with you and the church leadership."

3 Q: Okay. Above that, do you see the  
4 paragraph above that in the letter that was sent  
5 October 30?

6 A: Yes, I do.

7 Q: Can you read that also into the record?

8 MR. SHOWERS: Objection, these are  
9 hearsay. I mean, this is just reading letters  
10 and --

11 MR. PETERSON: All right. Fair enough,  
12 that's fair enough.

13 MR. SHOWERS: This is --

14 THE COURT: I don't need the lecture,  
15 I'll just -- hearsay's fine.

16 MR. SHOWERS: Thank you.

17 THE COURT: Objection sustained.

18 Q: Did you -- in these letters did you put  
19 Reverend Donalson on notice that you were  
20 concerned about the 501(c)(3) status?

21 A: Yes, we did.

22 Q: And specifically what did you tell him



1 about that, what was most concerning to you about  
2 the director of finances issue?

3 A: That it'd be a conflict of interest.

4 Q: And how would it be a --

5 A: In violation of -- by lining up certain  
6 people in positions where he would actually have  
7 them potentially working for him and he was the  
8 person who had authority over them. That's a line  
9 of -- or management or decision making would be  
10 impaired.

11 Q: Okay.

12 A: It'd be improper.

13 Q: All right. These letters that we've  
14 looked at were sent in late October of 2023, do  
15 you see that?

16 A: Yes -- yes I do.

17 Q: Did Mr. Donalson respond to you all in  
18 anyway? Reverend Donalson?

19 A: Yes, we were told that Reverend Donalson  
20 said I would not meet with the trustee and the  
21 lawyers -- and the lawyer.

22 Q: So you all have not met with him since

1 that time?

2 A: No, we have not.

3 Q: When was the last actual meeting you had  
4 with Reverend Donalson?

5 A: It was within the last 20 days, 30 days.  
6 I'm trying to make sure in context.

7 Q: Well I'm just asking, we've talked about  
8 letters where we're trying to set up a meeting to  
9 resolve these issues --

10 A: We have not had a one on one meeting  
11 with him as trustees.

12 Q: Is it fair to say this issue is not  
13 resolved regarding who's in charge of church  
14 spending?

15 A: That is correct.

16 Q: Has that director of finance been hired?

17 A: No it has not.

18 Q: Okay.

19 A: They have not.

20 Q: Has there been an issue with Reverend  
21 Donalson threatening or saying he's not going to  
22 reappoint trustees or seek to dismiss trustees?

1 A: Yes.

2 Q: What specifically has been said that  
3 you've heard?

4 A: Oh that prior to the last business  
5 meeting they -- the trustees were not being  
6 recommended to go forward into the new business  
7 year 2024. Their names were not on the list  
8 initially and that -- preliminary presentation --  
9 presentation to go forward and approved by the  
10 congregation.

11 Q: Okay. And that list is put together by  
12 whom?

13 A: Reverend Donalson.

14 Q: All right. Now this lawsuit was filed  
15 late last year, correct?

16 A: Yes.

17 Q: And it was after all of these letters  
18 had been exchanged, correct?

19 A: That is correct.

20 Q: And it was after you had been unable to  
21 secure a meeting with Reverend Donalson, correct?

22 A: That is correct.

1 Q: And I assume you still had outstanding  
2 issues such as who could, for example, hire the  
3 accountant for the church, correct?

4 A: That is correct.

5 Q: All right. What are you seeking in this  
6 lawsuit or what are you seeking today in this  
7 injunction?

8 A: What we're seeking is an injunction to  
9 prevent the pastor from executing any expenditures  
10 that have not been approved by the congregation in  
11 the budget process. So the end of 2024 budget,  
12 we're requesting that that not be done. We're  
13 also requesting that all actions hiring, HR  
14 actions, firings, and the removal of the trustees  
15 and director of administration, will cease at this  
16 particular point until we hit resolution as  
17 outlined in accordance with the bylaws.

18 Q: Okay. Now, Mr. Davis, you have been a  
19 long time member of this church, correct?

20 A: Yes.

21 Q: And obviously you've been an officer of  
22 this church for quite some time?

1 A: Yes.

2 Q: What is the harm to the church if the  
3 court does not resolve this situation?

4 A: The harm that -- from my -- from my  
5 perspective, it is one where we have a divided  
6 church at this particular point. It's divided in  
7 so many different ways, one of them -- from why --  
8 governance ensuring that we do things in  
9 accordance to the constitution -- the church  
10 constitution and bylaws but also the federal,  
11 state, and local laws. These continued repetitive  
12 actions that he has taken without notifying the  
13 appropriate people, agencies like the trustees, or  
14 more importantly ensuring that the congregation  
15 have clear information on the decisions that they  
16 are to make, reference these issues, jeopardizes  
17 the church credibility, jeopardizes church  
18 501(3)(c), and it just prevents us from executing  
19 as God's ministry calls us to do as a church.

20 MR. PETERSON: Judge I think that's what  
21 I have from this witness.

22 THE COURT: Well I -- we're going to

1 take a very brief -- we'll take a five minute  
2 recess, we'll reconvene at noon and start the  
3 cross examination by Mr. Showers. Court is in  
4 recess.

5 THE COURT OFFICER: All rise.

6 (Off the record at 11:55 a.m., resuming  
7 at 12:01 p.m.)

8 CROSS-EXAMINATION BY COUNSEL FOR DEFENDANT,  
9 DR. KEVIN DONALSON

10 BY MR. SHOWERS:

11 Q: Mr. Davis.

12 A: Yes, sir?

13 Q: You had stated that the church is a  
14 501(c)(3) organization, does it have a formal  
15 determination from the IRS that is a 501(c)(3)?

16 A: Yes, it does.

17 Q: And there's a letter to that effect?

18 A: Yes, there is.

19 Q: Because it's not listed on publication  
20 78 --

21 A: Okay.

22 Q: -- which means it would be --

1 A: Okay.

2 Q: --a 501(c)(3).

3 A: I've seen it, now --

4 Q: Okay.

5 A: -- I'm not sure from that perspective,  
6 that's all I've seen.

7 Q: Okay. Well, let's go in the order of  
8 the -- the closing of the school, you said it was  
9 a unilateral decision of the pastor. Isn't it  
10 true that there were many meetings and many  
11 communications between the pastor and the parents  
12 about the closing, and the pastor and the  
13 director, the pastor and many other people in the  
14 church about the closing of the school; isn't that  
15 true?

16 A: No, the decision was rendered -- we were  
17 told about it after -- after he made the decision  
18 then he notified --

19 Q: I'm saying other people.

20 A: Other people.

21 Q: Yeah.

22 A: I'm saying other people were notified

1 after that, I participated also in the process of  
2 reopening the school so I captured a lot of it.

3 Q: And the closing of the Mount Pleasant  
4 Baptist Christian Academy came at the beginning of  
5 COVID; is that correct? 2020, is that what you  
6 said?

7 A: That is correct, it would have been  
8 August.

9 Q: Okay. And the -- to your understanding  
10 the decision to close had to do with the lack of  
11 students therefore the lack of financial ability  
12 to run that school --

13 A: That is correct.

14 Q: -- because of COVID?

15 A: No, not -- it didn't say because of  
16 COVID, it said because of lack of students.

17 Q: Right.

18 A: It would not have been because of COVID  
19 because COVID -- it was actually prepared to  
20 accept those students and run. Now, what  
21 decisions parents make is -- I don't understand I  
22 don't have a handle on it.



1 Q: Okay. Now is Mount Pleasant Baptist  
2 school -- or, Baptist Church Christian Academy a  
3 department of the church?

4 A: It's a -- yes.

5 Q: Okay. And isn't it true that Pastor  
6 Donalson created a transition team of members of  
7 the congregation to assist in assessing the Mount  
8 Pleasant Baptist Church Christian school closing,  
9 particularly due to the COVID issues, the safety  
10 issues, as well as the financial issues and the  
11 other issues?

12 A: Probably would have been better restated  
13 that the transition team was established to look  
14 at the opening and reestablishing the Mount  
15 Pleasant Baptist Church Academy, but it wasn't  
16 because of COVID.

17 Q: Well is COVID not a part of the safety  
18 issues --

19 A: COVID was not a part of that discussion  
20 I, as co-chair of the trustees, placed a member on  
21 that transition team to participate as part of  
22 that process.

1           And then I ran the COVID program for the  
2           entire church -- church.

3           THE COURT: You said that the decision  
4           was made in August of 2020, was there -- had the  
5           school or the academy budgeted when the budget was  
6           decided earlier that year or late the prior year?

7           THE WITNESS: Yes. Yes, it was.

8           THE COURT: And how much was the -- do  
9           you remember how much it was budgeted for?

10          THE WITNESS: No, Your Honor.

11          THE COURT: Okay. But there was a line  
12          item in the budget for the cost of the school?

13          THE WITNESS: That is correct.

14          THE COURT: And was there also a line  
15          item in the budget for the income from the school  
16          or from students?

17          THE WITNESS: It would have been part of  
18          the -- that process yes.

19          THE COURT: Okay.

20          THE WITNESS: The financial process --

21          THE COURT: Thank you.

22          THE WITNESS: -- for operating the

1 Christian academy.

2 BY MR. SHOWERS:

3 Q: And did you say that the pastor did not  
4 meet with the director regarding closing the  
5 Christian Academy before announcing it to the  
6 closure of the congregation? Because he did, or  
7 did I miss your testimony?

8 MR. PETERSON: Objection. Your Honor,  
9 that's a statement not a question.

10 THE COURT: Sustained.

11 Q: Did you say that he did not meet with  
12 the directors before he announced to the  
13 congregation?

14 A: He stated that he prayed on it, he made  
15 a decision and then he informed us of that  
16 decision.

17 Q: Did he meet with the directors before he  
18 met with the congregation concerning the --

19 A: Directors being? Which directors,  
20 there's a board of directors and then there are  
21 the ministry directors. The ministry directors do  
22 not have any accountability -- authority under the

1 constitution and the bylaws of the church.

2 Q: And who do you call the board of  
3 directors?

4 A: The board of directors consists of the  
5 trustees, the diaconate, and the ministry  
6 directors as a whole.

7 Q: And who's on that?

8 A: The diaconate -- the deacons, the  
9 trustees and the ministry directors.

10 Q: Okay. So --

11 A: And --

12 Q: -- the joint board would be those, in  
13 your mind, those three entities, where does it say  
14 that in the bylaws?

15 A: It is outlined in Article number --  
16 Article number 15 section -- official board,  
17 section 15.1 --

18 THE COURT: Is this in the bylaws or the  
19 constitution?

20 THE WITNESS: It's in the bylaws --

21 THE COURT: By-laws.

22 THE WITNESS: -- Your Honor.

1 THE COURT: 15?

2 THE WITNESS: Yes, Your Honor, it's on  
3 page 44.

4 THE COURT: Thank you.

5 BY MR. SHOWERS:

6 Q: Okay. In this it's referred to as the  
7 joint-board, you're calling it just the board?

8 A: It's the board, it's not --

9 Q: Okay.

10 A: -- it's not called a joint board it's  
11 called a board.

12 Q: And its purpose is principal advisor to  
13 the pastor, is that correct?

14 A: Yes, principal advisor to the pastor.

15 Q: Okay. Is there any policy and procedure  
16 manual?

17 A: For?

18 Q: For this church, there's no policy and  
19 procedure manual for the church, correct?

20 A: Yes, there would be -- yes there are  
21 policies and procedures. Each of the ministry  
22 have policies and procedures, standard operating

1 procedures.

2 Q: Is there a written policies and  
3 procedures manual for the church?

4 A: For the church, it would be the bylaws  
5 from what I understand.

6 Q: Okay. Did you raise any objection to  
7 the closing of the school --

8 A: Yes, in fact --

9 Q: -- at the time?

10 A: Yes, I did because I'd heard mention  
11 that it was -- it might have been due to COVID and  
12 I wrote a very detailed analysis, sent it in an  
13 email to the pastor stating that it was not due to  
14 COVID, we had taken two and half months from my  
15 company operations, we specialize in NBC  
16 operations, Nuclear Biological Chemical  
17 operations, for the Department of Defense. And so  
18 we knew that the church was prepared to operate  
19 the -- the Christian Academy was prepared to  
20 operate in a COVID environment.

21 Q: But there were many others who disagreed  
22 with you that were on there, on this transition

1 team and on -- and in the ministry of directors;  
2 isn't that correct?

3 A: No, at that time when a decision was  
4 rendered, there was no transition team. The  
5 decision -- the transition team for the  
6 reestablishment of COVID academy -- I mean, for  
7 the Christian Academy was then after that effect.

8 Q: Right.

9 A: But the decision rendered at that  
10 particular time there was no transition team.

11 Q: But, you believe there is a transition  
12 team for reopening and in fact 260,000 has been  
13 earmarked for reopening, correct?

14 A: Absolutely.

15 Q: Yeah.

16 A: You're correct.

17 Q: Okay. All right let's move on to the --  
18 let me go back. So, you believe that the pastor  
19 as -- who's over the ministries and over the  
20 departments does not have the power to make  
21 decisions concerning all departments, which is  
22 what is in section 1.1B?

1           A: I do not agree that the pastor has  
2 authority over all departments, no.

3           Q: Section 1.1B says, the senior pastor has  
4 oversight and supervision on all interests of the  
5 church and all departments of its work, both  
6 spiritual and temporal.

7           A: And again, I do not agree that the  
8 pastor has --

9           Q: So your interpretation that --

10           MR. PETERSON: Your Honor, you're not  
11 letting him respond.

12           Q: Okay. I'm sorry, go ahead.

13           A: So I do not agree with that  
14 interpretation of the bylaws.

15           Q: Okay. So you do not believe the pastor  
16 had that authority to close the school at that --  
17 in 2020?

18           A: Did not have authority to close the  
19 school without informing the church leadership and  
20 informing the congregation, or the members of the  
21 church first.

22           Q: Does the church congregation have to



1 vote on that?

2 A: It should have been voted on since it  
3 was funds that were allocated for the operation  
4 and running of the Christian Academy.

5 Q: Okay. Well the -- again, I didn't hear  
6 whether the Christian Academy even made money, so  
7 I mean there's an expenditure and there's revenues  
8 on both sides. So in this case, as you talked  
9 about, it looked like it was going to be a loss  
10 which is why the Christian Academy was closed, not  
11 a loss of revenue but a loss of finances. Isn't  
12 that what you testified?

13 A: No, I didn't testify to that.

14 Q: Did you -- okay. Did they close school  
15 for a lack of students and therefore obviously a  
16 lack of finances?

17 A: That's what we were told, yes.

18 Q: Right. Okay. All right. Let's move on  
19 to Radio One, we talked about -- now, is it true  
20 that Mount Pleasant had been trying to get onto  
21 the Radio One program for many years?

22 A: I understand that was, true.

1 Q: Okay. And that there was not a spot for  
2 Mount Pleasant Baptist Church to get on the radio?

3 A: That may be true.

4 Q: Okay. And the pastor -- is it true the  
5 pastor was contacted by Radio One and said that a  
6 spot was open but that he had to make an immediate  
7 decision?

8 A: I understand that through a second  
9 person I did not get that directly.

10 Q: Okay. Do you have any reason to doubt  
11 that?

12 A: No.

13 Q: Okay. And the pastor as soon thereafter  
14 did submit that expenditure to the congregation  
15 did he not for Radio One?

16 A: No, the initial --

17 Q: February 2022, meeting?

18 A: There were several steps missing before  
19 that occurred, he improperly used a credit card --

20 Q: I understand.

21 A: -- to establish that- that -- get that  
22 slot, that was done on -- in December. With a

1 following use of the credit card on the 7th of  
2 January. Both of those transactions were not in  
3 accordance to the standard operating procedures  
4 that he asked us to prepare as part of the credit  
5 card policy that he asked us to -- as trustees to  
6 enforce as well.

7 Q: I understand. But was that not  
8 corrected by submitting to the congregation the  
9 vote to whether the Radio One program should be  
10 continued and whether it should be paid for? And  
11 the congregation approved that.

12 Q: The congregation approved that without  
13 having all of the information that they would have  
14 needed to make sure that we're doing in accordance  
15 to the constitution and bylaws and the laws of the  
16 land.

17 Q: And the congregation has approved and  
18 put in the budget for 2023 continuing on Radio  
19 One, correct?

20 A: Yes.

21 Q: And they put it in the budget for 2024  
22 continuing on Radio One, correct?

1 A: Yes.

2 Q: Now if for any reason there wasn't money  
3 in the budget -- I'm sorry. If there wasn't money  
4 for Radio One, isn't it true you could cancel on  
5 literally a weeks notice?

6 A: I would have to go back and look at the  
7 contract for Radio One, I can't make that  
8 statement or determination.

9 Q: We also talked about a leadership  
10 covenant and I believe it's -- I think you --  
11 there it is. Your Exhibit 10 -- let me see.

12 MR. PETERSON: Exhibit 9?

13 MR. SHOWERS: Oh, Excuse me.

14 MR. PETERSON: Exhibit 9.

15 Q: And you disagreed with number 10 on that  
16 leadership covenant?

17 A: Line number 10, that is correct.

18 Q: Line number 10?

19 A: Mm-hmm.

20 Q: If that line had said that you would  
21 agree to submit to the authority and  
22 accountabilities structures as set up in the

1 bylaws of the church, is that your -- would that  
2 be okay?

3 A: That would have been okay.

4 Q: Okay. And so you interpreted it  
5 differently perhaps than what it was meant,  
6 because obviously it's got to be under the  
7 bylaws -- constitution and bylaws, any kind of  
8 authority and accountability structure; isn't that  
9 correct?

10 A: Could have been.

11 Q: Okay. Now you mentioned there were  
12 eight instances that the pastor spent outside the  
13 budget. Were six of these the alleged credit card  
14 expenditures?

15 A: Yes.

16 Q: Okay. And only two of them were  
17 personal, the other four were ministry related,  
18 correct?

19 A: Not according to the history of the data  
20 that I've seen, that is not correct.

21 Q: Okay. Of the six incidents --

22 A: Or it wouldn't have been -- it wouldn't

1 have been infractions. Now the last two were --  
2 that he was suspended for were those that I  
3 personally saw, the previous infractions occurred  
4 after I came on as a trustee -- I mean before I  
5 came on as a trustee.

6 Q: Would you disagree if the testimony is  
7 that the -- of the six, only two of them were  
8 personal and actually he paid those personal  
9 expenditures back?

10 A: If they were not personal, than I would  
11 agree I mean -- but from the -- from the history  
12 and the data I read that led us to make the  
13 decision about the two additional ones that  
14 occurred. Those in accordance with the standard  
15 operating procedures, he should not have executed  
16 whether you pay it afterwards or not you don't use  
17 that.

18 Q: I understand. Many other people have  
19 used -- in the church have used their credit cards  
20 for personal expenditures and then had to pay them  
21 back, isn't that correct?

22 A: They should have and if there's a

1 violation on the credit card policy then they  
2 should not have only paid it back but they should  
3 have been reprimanded in the sense of some type  
4 of --

5 Q: Right.

6 A: -- letter. A reprimand.

7 Q: You were talking about the summer  
8 camp --

9 A: Yes, sir.

10 Q: -- in summer 2023, and it was cancelled  
11 I think you said because there wasn't sufficient  
12 attendance or people signing up for the summer  
13 camp?

14 A: That is correct as outlined in the  
15 exhibit first.

16 Q: Okay. And that the recommendation in  
17 that meeting was to reallocate that money from the  
18 summer camp to the -- to have some summer interns  
19 that were to be used by the church, is that your  
20 understanding?

21 A: According to the information paper and  
22 the minutes that we have it stated that the --

1 that the -- in lieu of a summer camp Reverend  
2 Vital (phonetic) that she would do an internship  
3 program for the young people.

4 Q: For the young people, okay. And there  
5 was a meeting of the congregation to approve that  
6 you simply have concerns about quorum and  
7 procedure?

8 A: You're correct, in accordance of Roberts  
9 Rules of Order and Parliamentary Rules, it should  
10 have been done properly to recognize the  
11 transactions of moving funds from one -- the  
12 establishment first of the program that we'll --  
13 that the church would authorize us to do. Then to  
14 move the funds from the summer camp to this new  
15 program. And then the third motion would be to  
16 pay those interns which we should do.

17 Q: Okay. Those funds though were not --  
18 were voted on to reallocate from the summer camp  
19 to the interns by the congregation and it  
20 overwhelmingly passed, I think it was unanimous?

21 A: That is correct but if it's done  
22 properly than there would have been the formal



1 establishment of the internship program.

2 Q: Okay.

3 A: That would have made it legal.

4 Q: So there wasn't any misappropriation of  
5 funds?

6 A: No.

7 Q: You just didn't like the procedure that  
8 was used. And where do you see that procedure  
9 outlined in the bylaws?

10 A: That's just parliamentary rules, Roberts  
11 Rules of Order and Parliamentary Rules.

12 Q: Where do you see it in the bylaws?

13 A: It's not in this bylaws.

14 Q: Right. And would you be surprised to  
15 know that the quorum was actually established?

16 A: I was told that a quorum was  
17 established, but the formal process for  
18 identifying a quorum would have been to identify  
19 if they -- the people participating in the meeting  
20 were actual members of Mount Pleasant Baptist  
21 Church.

22 Q: Would you know who the actual members

1 would be if you looked around the room?

2 A: No. Not all because there are rules and  
3 criteria that had been established for that, so  
4 the best way to have been -- to have done that was  
5 to have some type of document to capture the names  
6 of those individuals and confirming that after the  
7 meeting so that there would not have been an issue  
8 of quorum.

9 Q: And are you familiar with any meeting  
10 where that's been done --

11 A: Yes.

12 Q: -- in the last five -- three or four  
13 years --

14 A: Yes.

15 Q: -- where they have actually had people  
16 check in and --

17 A: Yes.

18 Q: -- decide they're a member? What  
19 meeting?

20 A: Several meetings to include the last  
21 three business meetings that we had, meetings with  
22 the board of directors they were actual --

1 Q: No, I'm talking about congregational  
2 meetings.

3 A: Congregational meetings as well, yes.

4 Q: And so did they --

5 A: The last one --

6 Q: -- actually sign in?

7 A: They had a sign up document at the  
8 table.

9 Q: Okay.

10 A: Yes.

11 Q: Now if there was -- if the chairman of  
12 the deacons which was in charge of determining  
13 whether there was sufficient quorum, if he  
14 determined that there was a sufficient quorum, in  
15 fact, more than a sufficient quorum your reason  
16 for disagreeing is that somehow there should have  
17 been a signature?

18 A: No, the reason for disagreement is first  
19 you must identify based upon Mount Pleasant  
20 members, what is -- what is the number of members  
21 that are at the church.

22 Q: Right.

1 A: Active members of the church.

2 Q: Okay.

3 A: Accordingly from 2015, it started out  
4 with 1,100 and I think 25 -- or 1,115 paying  
5 members of the church. At this present moment,  
6 2024, we're down to something like 450.

7 Q: Right.

8 A: More than 470. During each of the  
9 business meetings we had it was asked what is the  
10 number of members that we have in the church, then  
11 from there we can define what a quorum is. In  
12 each of those business meetings and the minutes  
13 that captured them, they were changing numbers in  
14 the amount of what was active members.

15 Q: Sure.

16 A: We went from 11,000 to 800 in business  
17 meetings --

18 Q: Right.

19 A: -- the previous year, just in 2023.

20 Q: Right.

21 A: So we need to make sure it's clear to  
22 the congregation that we understand what is the

1 number of real or active members --

2 Q: So --

3 A: -- to -- in Mount Pleasant.

4 Q: Are you disagreeing if the chairman of  
5 the deacons determined, knowing the actual  
6 members, determined that a quorum was easily met,  
7 5 percent quorum I think is what you said, you  
8 would disagree with his opinion?

9 A: I would disagree with his opinion  
10 because he didn't establish the formal process --  
11 the formal process for capturing that --

12 Q: How do you know --

13 A: -- data.

14 Q: How do you know what process he  
15 established?

16 A: Easy because I was sitting at the door  
17 along with another trustee and I was watching.

18 Q: How do you know what he did in his mind  
19 as to establishing whether a quorum was met?

20 A: That's a difference between what we  
21 would call formal and informal. A formal process  
22 would've captured the names and that's what we're

1 looking for.

2 Q: Okay. Well again the expenditures of  
3 funds from the -- reallocating from the summer  
4 program to summer interns, there was no  
5 misappropriation it was just simply you have a  
6 problem with the dotting the Is crossing the Ts of  
7 the procedure, is that your -- what you're saying?

8 A: In accordance to laws, yes.

9 Q: Okay. Let's go on to the Howard -- by  
10 the way, on whether Radio One or closing of the  
11 school or the summer program, could you not bring  
12 that in front of the congregation again?

13 A: The -- when you say --

14 Q: If you have a problem?

15 A: -- when you say we, we being the  
16 trustees?

17 Q: Yeah.

18 A: No, we cannot.

19 Q: Okay. Who can --

20 A: If you read -- in accordance with the  
21 constitution and the bylaws there's only two  
22 personnel within the constitution that allow to

1 hold a business meeting or general meeting. That  
2 is the senior pastor or the head of the diaconate  
3 or the senior deacon.

4 Q: Did you ask the -- either of those to  
5 have a -- you did not ask either of those to have  
6 a meeting to revote any of those matters, did you  
7 not?

8 A: About the Radio One --

9 Q: Closing the school, yes. Radio One, the  
10 reallocation of the summer program?

11 A: That's -- that's not totally correct.  
12 What we did as trustees is we -- through the  
13 meeting with the ministry directors and the pastor  
14 we raised that as an issue, it became an issue  
15 that we and the head of the trustee voiced to all  
16 of the church leadership. And then with a strong  
17 push we were able to convince the leadership that  
18 it should be brought in front of a special  
19 business meeting for the congregation to hear all  
20 of the facts if we could do that.

21 Q: Right. And they heard all of the facts  
22 on the -- you're talking about the reallocation?

1           A:    They -- they -- they were provided  
2 information on it, they were not provided the  
3 background information that was necessary for why  
4 the situation was created.

5           Q:    Okay.

6           A:    It was just stated that it was -- we had  
7 to do that.

8           Q:    You had to reallocate --

9           A:    We had to reallocate it but it wasn't  
10 explained to the congregation that we had a breach  
11 in the budget process and the budgeting of funds  
12 and the programming of funds that must be  
13 corrected and then we make the appropriate  
14 decisions. It was not briefed that there was an  
15 improper use of the credit card to sign and commit  
16 the church to obligate funds for something that  
17 was not approved of.

18          Q:    Okay. But the church voted to  
19 reallocate the funds from the summer camp to the  
20 summer interns, correct?

21          A:    Yes, they did.

22          Q:    The 12,000? Okay. Howard University



1 Gospel Choir, you had mentioned -- do you -- those  
2 funds came from the pastor's budget, correct?

3 A: Yes.

4 Q: He has discretion over his budget which  
5 was approved by the congregation?

6 A: Yes.

7 Q: Now --

8 A: It was a contract --

9 Q: -- let me go to -- sorry.

10 THE COURT: Wait a minute, what do you  
11 mean when you say the pastor's budget?

12 THE WITNESS: The pastor has a budget  
13 line. And in that budget line he has funds in it.  
14 What he did not do was he did not put in a  
15 requirement that he was going to use Howard  
16 University to participate in this particular  
17 service. Okay. If it extends -- if it exceeded  
18 that particular amount which we would have to go  
19 back and look at the review of all of his  
20 expenditures and would have been able to determine  
21 whether or not that was the case, that's number  
22 one.

1           But number two, he established a  
2 contractual agreement with Howard University to  
3 preform those services which is required by the  
4 trustees to review the contract to make sure that  
5 we are -- that we are getting the services that  
6 they're supposed to provide us and we make sure  
7 that we meet all of the requirements that they  
8 outline in hiring them to provide them support.

9           THE COURT: Well in spending those funds  
10 or authorizing those funds did he exceed his  
11 budget?

12           THE WITNESS: I don't think he did but  
13 I'd have to go back and look at it, Your Honor.

14 BY MR. PETERSON:

15           Q: You mentioned there's a contract,  
16 where's the contract with Howard? There is no  
17 contract.

18           A: Yes there is a formal contract --

19           Q: Where is it, where is it?

20           A: There is a formal contract with Howard  
21 University, I reviewed that, there's also a  
22 section of --

1 Q: Where is that contract?

2 A: It is in Mount Pleasant's records.

3 Q: We've never seen it and it's not here  
4 before the Court?

5 A: But there is a formal contract.

6 Q: What if it was simply an agreement to  
7 give a love offering to Howard University, that  
8 wouldn't be a contract?

9 A: No, it is a formal contract, Howard  
10 University requires for us to sign and approve.

11 Q: Has Howard University Choir sang at the  
12 church before?

13 A: I believe they have.

14 Q: Many times, right?

15 A: I can't say how many times.

16 Q: Okay. And this time they sang for the  
17 100 -- and that's the reason I knew it, the 157th  
18 anniversary of --

19 A: Okay.

20 Q: -- the church, correct?

21 A: Yes.

22 Q: Okay.

1 A: Mm-hmm.

2 Q: And if there's a contract, which we've  
3 never seen and it's not here before the Court, who  
4 signed that contract?

5 A: The contract was signed after we were  
6 able to sit down with the director of  
7 administration and the Howard University people on  
8 that 20 -- I believe it was the 22nd of September  
9 if I remember correctly, I was out of town.

10 Q: Who signed it?

11 A: It was -- been signed by the Mr. Lewis  
12 Wertz.

13 Q: And Mr. Lewis Wertz is a trustee?

14 A: Trustee, yes sir.

15 Q: Okay. But yet you don't have a copy of  
16 that contract?

17 A: I do not have a copy of that contract  
18 with me.

19 Q: All right. You brought -- you mentioned  
20 about the trustees not being put up for approval,  
21 trustees are approved for a term period, is that  
22 not true according to the bylaws, you have a

1 tenure of three years?

2 A: That is correct.

3 Q: So you don't have to be reappointed  
4 until the term is up?

5 A: That is correct.

6 Q: So why would you say the trustees had to  
7 be approved every year, it's not in the bylaws?

8 A: We -- the way the church has done it for  
9 the period that I've been an officer is that each  
10 year the nominees -- the nominees -- the trustees  
11 and the nominations have always been submitted  
12 forward for approval by the congregation  
13 regardless of whether the tenure is three years or  
14 not, they've been approved each year.

15 Now, there are some trustees who may not  
16 be standing forward, understandable, but that  
17 is -- those who meet the requirement or have been  
18 trusted to continue on with their service, that  
19 has been done each year.

20 THE COURT: Are the trustees on the  
21 staggered board, staggered time that you have  
22 maybe a third of them coming up for reelection

1 every year?

2 THE WITNESS: It ends up being that way,  
3 Your Honor, just by when they come into the tenure  
4 as a trustee, it can be staggered.

5 Q: So under the bylaws the only trustees  
6 that should be put would be those that have to be  
7 reappointed for the next three year term?

8 A: Correct, but --

9 Q: According to bylaws.

10 A: According to the bylaws that can be done  
11 that way, but the way the church has executed that  
12 has been nominate -- the nominations go forward  
13 every year regardless.

14 Q: But if the church didn't renominate, the  
15 trustees that are in their three year term they're  
16 going to continue their three year term because  
17 that's what the bylaws say.

18 A: They say -- could you repeat that,  
19 please?

20 Q: Yes. If the church did nominate a  
21 trustee who was in the middle of their three year  
22 term, the trustee would still continue because he

1 has a three year term?

2 A: He has a three year term, there are  
3 three ways the nominations are executed. The  
4 first --

5 Q: All right. First of all, answer my  
6 question.

7 A: Yes, sir.

8 Q: Would the trustee continue even if he's  
9 not put up for, whatever you call it, affirmation  
10 since he's in his three year term, doesn't have to  
11 be put up for nomination?

12 A: He does not have to be put up --

13 Q: Okay.

14 A: -- that is correct.

15 Q: So his term would still continue?

16 A: It still continues.

17 Q: Okay. And let me ask about this  
18 accountant, make sure I understand, who is the  
19 accountant going to be reporting to?

20 A: The accountant would be reporting to the  
21 director of administration in accordance to the  
22 bylaws.

1 Q: And where do you see that in the bylaws,  
2 I'm looking at the director of administration and  
3 all I saw was in E, 3.1E, it says provides  
4 spiritual direction and approves resources of  
5 administrative ministries including trustees,  
6 finance ministry, multi-media ministry, et  
7 cetera -- and there's no et cetera, multi-media  
8 ministry. So -- but there is no accountant in  
9 there --

10 A: That's incorrect --

11 Q: -- the accountant --

12 A: That's incorrect, sir. Page 6, section  
13 3.4 church accountant.

14 Q: I see that. Works closely with the  
15 director of administration, doesn't report --

16 A: That's false, no --

17 Q: -- to the director of administration.

18 A: That is -- sir, I disagree, on Article  
19 3, director administration the director of  
20 leadership defined it paragraph 3.1. Everything  
21 with the Article 3 point in each of those sections  
22 they fall under the director of administration.



1 Q: I understand. I just read the -- did I  
2 not read the director of administration defined  
3 3.1 and I think you had, in your direct, you said  
4 the accountant comes under E?

5 A: Comes under E --

6 Q: And I'm saying do you find the  
7 accountant under 3.1E?

8 A: Sir, no, I didn't say that. I said the  
9 director -- the accountant falls under section  
10 3.4 --

11 Q: Okay. And --

12 A: -- of paragraph -- of Article 3.

13 Q: Okay. And in 3.4 church accountant --

14 A: Mm-hmm.

15 Q: Where does the accountant report to,  
16 where does it say the accountant will report to?

17 A: They fall -- they work under the church  
18 director of administration.

19 Q: Where do you see that?

20 A: That's just the way the alignment is,  
21 but I see where you're looking at with the --

22 Q: It doesn't say that?

1 A: Mm-hmm.

2 Q: In fact, traditionally they work with  
3 the finance ministry, the accountant, and then the  
4 finance ministry works under the director of  
5 administration, and the director of administration  
6 works under the senior pastor; isn't that correct?  
7 Isn't that how it goes?

8 A: For?

9 Q: You've got a finance ministry who the  
10 accountant works with?

11 A: Yes.

12 Q: Then you've got the finance ministry in  
13 essence works under the director of  
14 administration. And the director of  
15 administration works under the senior pastor --

16 A: Works --

17 Q: -- is that not correct?

18 A: That's not correct but of course the way  
19 the bylaws live. Then the pastor would have  
20 authority over all of that and it does not --

21 Q: Who does the director of administration  
22 report to?

1           A:    He actually reports to the church.  And  
2 the board.

3           Q:    Who appoints the director of  
4 administration?

5           A:    The appointment of the director of  
6 administration is that the pastor would be the --  
7 the pastor and approved by the congregation.

8           Q:    Right.  He appoints -- he is appointed  
9 by the pastor.  I'm looking at article 3.1B.

10          A:    Mm-hmm.

11          Q:    He serves as principal advisor to the  
12 pastor.  D.  Who gives him reviews?  Is it the  
13 pastor?  Or somebody else?

14          A:    It should be, according to the way this  
15 is lined, it could be the pastor.

16          Q:    Yeah, it's the pastor who gives him the  
17 performance.  Again, let me restate my question.  
18 The accountant works with the finance ministry.  
19 The finance ministry reports to the director of  
20 administration and the director of administration  
21 reports to the senior pastor.

22                   Am I not correct?  That's how it reads.

1 A: That's how this reads, yes.

2 MR. SHOWERS: No further questions.

3 THE COURT: All right. Thank you, sir.

4 Mr. Peterson, any redirect?

5 MR. PETERSON: Very briefly, Judge.

6 REDIRECT EXAMINATION BY COUNSEL FOR,

7 MOUNT PLEASANT BAPTIST CHURCH

8 BOARD OF TRUSTEES, ET AL.

9 BY MR. PETERSON:

10 Q: Mr. Davis, you were asked about the role  
11 of Robert's Rules of Order; do you remember that  
12 question?

13 A: Yes, sir.

14 Q: And if I could direct your attention to  
15 page 43 of the bylaws.

16 A: Yes, sir.

17 Q: And do you see section 14.5,  
18 parliamentary rules?

19 A: Yes, I do.

20 Q: Does that refresh your recollection that  
21 that is part of the bylaws?

22 A: Yes, it is.

1 MR. PETERSON: No further questions.

2 THE COURT: All right. Mr. Davis, thank  
3 you, sir. You may step down and regain your seat.  
4 And you can just leave the book there.

5 Mr. Peterson, your next witness?

6 MR. PETERSON: Yeah, I would call  
7 Reverend Ezekial Pinkney, please.

8 THE COURT: All right.

9 EZEKIAL PINKNEY,  
10 a witness, having been duly sworn was examined and  
11 testified as follows:

12 DIRECT EXAMINATION BY COUNSEL FOR PLAINTIFFS,  
13 MOUNT PLEASANT BAPTIST CHURCH  
14 BOARD OF TRUSTEES, ET AL.

15 BY MR. PETERSON:

16 Q: Good afternoon, sir. Could you state  
17 your name for the record?

18 A: Ezekiel Pinkney.

19 Q: And what is your position at Mount  
20 Pleasant Baptist Church?

21 A: The director of operations and  
22 administration.

1 THE COURT: Sir, I'm sorry. Could you  
2 pull that microphone little closer to you, please?

3 Q: How long have you been in that position?

4 A: I believe just over four years.

5 Q: And who appointed you?

6 A: The pastor.

7 Q: And you are confirmed by the  
8 congregation?

9 A: For a couple of years.

10 Q: And you've been in that position ever  
11 since?

12 A: Yes.

13 Q: I just briefly, can you describe what  
14 your job duties are?

15 A: General oversight of the ministries and  
16 the resources that's outlined in the budget as an  
17 example. You can see all of the things that I am  
18 responsible for from a budget perspective and  
19 operations and administration.

20 Q: So in other words you are basically in  
21 charge of?

22 A: The business portion of the church.

1           Q:    The business portion of the church,  
2           basically making sure that the budget is carried  
3           out?

4           A:    Correct.

5           Q:    And who do you work -- let me started  
6           this way. Do you report to anyone?

7           A:    I report to the church. I report to the  
8           trustees. Anybody that has a fiduciary. I report  
9           to the pastor when it comes down to budgetary  
10          concerns, and ministry concerns. You know,  
11          troubleshooting of anything from a business  
12          perspective.

13          Q:    Okay let me focus on sort of leaving  
14          aside the ministry perspective are the Pastore  
15          perspective and just focus on the business  
16          operations. In terms of spending money, who do  
17          you report to?

18          A:    The trustees.

19          Q:    Now, did there come a time that you were  
20          involved -- well, I guess it didn't, time, it was  
21          fairly recently about hiring a new church  
22          accountant?

1 A: Yes.

2 Q: And did you have interactions with  
3 Reverend Donelson about that?

4 A: I did.

5 Q: And just briefly, what was your role in  
6 that?

7 A: Role as?

8 Q: Were you in charge of hiring that  
9 person? Did he want to hire that person? How did  
10 you all become involved?

11 A: No, I actually had no role in it. I  
12 didn't even know that an accountant was going to  
13 be hired.

14 Q: Let me direct your attention to what has  
15 been marked as Exhibit, I believe it is 19 in the  
16 book in front of you. Do you see that?

17 And exhibit -- is it 19 or 18?

18 A: Dated October 20th?

19 Q: Yes, it is a memo dated October 20th.

20 A: It's 19.

21 Q: Have you seen this memo before? And is  
22 it addressed to Ezekial Pinkney.



1 A: Yes.

2 Q: Okay. Have you seen this before?

3 A: I have.

4 Q: And is this a true and accurate copy of  
5 a memo you got from Reverend Donelson on or about  
6 October 20, 2023?

7 A: Correct.

8 MR. PETERSON: And Your Honor, first of  
9 all I would move this into evidence, Exhibit 19.

10 MR. SHOWERS: No objection.

11 THE COURT: 19 is admitted.

12 (Exhibit 19 was admitted.)

13 Q: And I take it that is his signature on  
14 the second page?

15 A: Correct.

16 Q: Okay. Now, I had asked you previously  
17 whether or not there came up an issue in regard to  
18 a church accountant to take over the finances of  
19 the church; do you remember that conversation?

20 A: Yes.

21 Q: And do you remember the Reverend  
22 basically asking for a meeting with you?

1 A: Yes.

2 Q: And what was the context of that  
3 meeting?

4 A: Well, I did not know the context of the  
5 meeting at the time. It was just can we meet.  
6 You know, we went back and forth on a couple of  
7 times to meet and we agreed with one. And that's  
8 how it started.

9 Q: Was it your understanding that the  
10 Reverend could just hire this director -- or a  
11 church accountant?

12 A: No.

13 Q: Okay. Who would hire that person?

14 A: Well, primarily the hiring and the  
15 onboarding of that person would be -- would be me.

16 Q: Okay.

17 A: In the position that I carry, along with  
18 the trustees looking at fiduciary responsibility  
19 of saying, what can we offer this person and then  
20 come together and see how we can make a, you know,  
21 a decision in the best interest of the church.

22 Q: So in other words you would make that

1 decision in conversation with the trustees about  
2 the financial implications?

3 A: Yes, and the pastor.

4 Q: Okay. And the pastor. All right. Did  
5 you agree that the pastor could unilaterally hire  
6 this person?

7 A: No, I did not.

8 Q: Okay. Were you threatened with  
9 termination?

10 A: Yes, sir.

11 Q: Okay. And that's all laid out in this  
12 memo?

13 A: For the most part, yes.

14 Q: For the most part. Okay. Sitting here  
15 today do you still take the position that only you  
16 in tandem with the people that you mentioned can  
17 hire this person?

18 A: Correct.

19 MR. PETERSON: That's all the questions  
20 I have.

21 THE COURT: All right. Cross-  
22 examination?

1 CROSS-EXAMINATION BY COUNSEL FOR DEFENDANT,

2 DR. KEVIN DONALSON

3 BY MR. SHADOWS:

4 Q: I believe you have the exhibits, if you  
5 would go to the bylaws. Section 3.4, that would  
6 be Exhibit --

7 MR. PETERSON: 2.

8 Q: 2, yeah.

9 THE COURT: Which page, sir?

10 MR. SHOWERS: Page 6.

11 Q: Section 3.4 church accountant. Isn't it  
12 true it doesn't say the church accountant, which  
13 is provided for in the bylaws, reports directly to  
14 you? It doesn't say that, does it?

15 A: No, does not say that.

16 Q: In fact, the church accountant is to  
17 maintain audits and inspect financial records,  
18 prepare financial tax reports, et cetera, that is  
19 what it says in the bylaws? Okay.

20 The church accountant, if I understand  
21 correctly how you do the budget, can only be hired  
22 if it was provided for in the next budget? There

1 has to be a spot to pay the church accountant  
2 because there isn't a church accountant right now,  
3 at that point, was there?

4 A: Incorrect.

5 Q: Okay. So there has to be a --

6 THE COURT: I'm sorry. Sir again, you  
7 moved away from the microphone I didn't hear your  
8 answer.

9 THE WITNESS: Incorrect.

10 Q: Was there a church accountant?

11 A: Correct, yes.

12 Q: And I thought the church accountant had  
13 passed away?

14 A: No.

15 Q: Okay. Who was the church accountant at  
16 that time?

17 A: Ms. Michelle Ford is the acting church  
18 accountant.

19 Q: Acting church accountant?

20 A: Correct.

21 Q: Okay. So there wasn't a church  
22 accountant under 3.4 that was no interim or

1 acting; is that your -- what you're saying?

2 A: Let me -- let me restate that.

3 Q: Okay.

4 A: Ms. Michelle Ford has been the church  
5 accountant for 20 plus years.

6 Q: Okay. And what was the purpose of  
7 hiring a new church accountant? Was it to replace  
8 her? Was that the concept, or what was going on  
9 there?

10 A: I -- I don't know. I was not part of  
11 the process.

12 Q: Okay. You were asked to come to the  
13 meeting you and the pastor were going to talk  
14 about that, right?

15 A: I was asked to come to a meeting.

16 Q: Right. And from that letter you just  
17 said that you -- Exhibit 19, one of the components  
18 of that was to talk about the church accountant;  
19 am I right?

20 A: According to the letter.

21 Q: Yeah. But you didn't come to that  
22 meeting alone, which is what he requested; is that

1 true?

2 A: Correct.

3 Q: And so you disobeyed exactly what he  
4 asked you to do, correct?

5 A: Incorrect.

6 Q: Yeah.

7 A: No, incorrect.

8 Q: Incorrect? And so he asked you to come  
9 to the meeting alone and you didn't come to the  
10 meeting alone?

11 A: Correct.

12 Q: And so you are saying that you did not  
13 disobey what he asked you to do?

14 A: No, I followed --

15 MR. PETERSON: Your Honor, I'm going to  
16 object to the word disobey.

17 MR. SHOWERS: Okay.

18 MR. PETERSON: I don't know where the  
19 word disobey is coming from.

20 MR. SHOWERS: Well, let me rephrase.

21 THE COURT: All right.

22 MR. PETERSON: I think that is the crux

1 of this issue.

2 Q: Who do you consider it you report to?

3 You said you report to the pastor --

4 A: I report to the --

5 Q: Who is your direct supervisor?

6 A: I report to the church.

7 Q: Okay. Ultimately to the church.

8 A: Ultimately to the church.

9 Q: But through the pastor, or not?

10 A: Through the trustees for fiduciary

11 responsibility stuff.

12 Q: So your direct boss in your mind is the  
13 trustees?

14 A: No, my direct boss in my mind is the  
15 church.

16 Q: Okay.

17 A: I act on behalf of the church to make  
18 sure --

19 Q: Okay. And then, the next line, who is  
20 the next line of your supervisor?

21 A: The trustees.

22 Q: Okay. And the pastor has no supervision



1 authority over you?

2 A: Yes, ministry.

3 Q: Only ministry. And again, in the bylaws  
4 it doesn't state that at all, does it? In fact,  
5 he's the one who appoints you and the Church  
6 approves?

7 A: He's also the one that can be of  
8 ministerial or asked me to do ministerial things.  
9 So that is why it is a split role there. You have  
10 the trustees which is fiduciary and you have the  
11 pastor who is ministry focused.

12 Q: Can you -- on page 4 of the bylaws can  
13 you look at 3.1I?

14 A: And I allowed to clear up your question  
15 before?

16 Q: I don't know what question. Let's --  
17 we'll get to that.

18 A: Okay.

19 Q: Can you read 3.1 I on page 4? What does  
20 that say?

21 A: Hold on a moment. I'm sorry, are you  
22 back in the bylaws? Excuse me.

1 Q: I am back in the bylaws. Exhibit 2 page  
2 4 the section is 3.1I under director  
3 administration.

4 A: Page 4.

5 Q: Let me simplify it for you.

6 A: Please do.

7 Q: Does it say the director of  
8 administration under 3.1I shall be responsible to  
9 the pastor and willing to assume other duties  
10 assigned; is that what the bylaws say?

11 A: Please excuse me. I was looking at the  
12 Constitution, page 4.

13 Okay. Can you please say that again,  
14 please?

15 Q: Does the bylaws say that the director of  
16 administration, who is you, is appointed by the  
17 pastor, I says shall be responsible to the Pastor  
18 and willing to assume other duties as assigned?

19 A: Correct.

20 Q: Okay. But yet you are saying that he is  
21 not your direct supervisor, contrary to the  
22 bylaws?

1           A:    He is the pastor.

2           Q:    But it says --

3           A:    I'm a minister.

4           Q:    -- you are responsible to the pastor.

5   Do you not interpret that as he is your direct  
6   supervisor?  He appoints you, and says that you  
7   are responsible to him.

8           A:    I am going to answer, I am responsible  
9   to the church.  Fiduciary responsibility to the  
10   trustees, and ministry responsibility to the  
11   pastor.

12          Q:    But it doesn't say that in the bylaws;  
13   it says you are responsible to the pastor and  
14   willing to assume other duties as assigned and the  
15   pastor is the one who appoints you.

16          A:    Correct.

17               MR. SHOWERS:  No further questions.

18               THE COURT:  Redirect?

19               MR. PETERSON:  Yes, very briefly.

20               REDIRECT EXAMINATION BY COUNSEL FOR PLAINTIFFS,  
21               MOUNT PLEASANT BAPTIST CHURCH  
22               BOARD OF TRUSTEES, ET AL.

1 BY MR. PETERSON:

2 Q: Reverend, if you look at section,  
3 subpart H, which is the mind above that, do you  
4 see that?

5 A: Yes.

6 Q: And do you see where it says, provides  
7 supervision and direction to church administrative  
8 staff?

9 A: Correct.

10 Q: And that is your role, correct?

11 A: Yes, it is.

12 MR. PETERSON: No further questions.

13 THE COURT: All right. Thank you, sir,  
14 you may step down.

15 Mr. Peterson, your next witness?

16 MR. PETERSON: Judge, I believe that is  
17 the witnesses that I have.

18 THE COURT: Okay. All right. Then --

19 MR. PETERSON: Then we have our  
20 exhibits.

21 THE COURT: Mr. Showers?

22 MR. SHOWERS: Give me just a second,

1 Your Honor?

2 THE COURT: Yes, sir.

3 MR. SHOWERS: Your Honor, I would call  
4 Antonio Clemons who is the chair of the  
5 (indiscernible).

6 THE COURT: All right. Antonio Clemons.

7 ANTONIO CLEMONS,

8 a witness, having been duly sworn was examined and  
9 testified as follows:

10 DIRECT EXAMINATION BY COUNSEL FOR DEFENDANT,

11 DR. KEVIN DONALSON

12 BY MR. SHADOWS:

13 Q: Mr. Clemons, can you state your full  
14 name for the record?

15 A: My full name is Antonio LaWayne Clemons.

16 Q: And what do you do for a living?

17 A: I am a systems engineer for a federal  
18 contractor.

19 Q: So I assume that means you have top-  
20 secret clearances said you were with the  
21 government?

22 A: I do work for the government and yes, I

1 do have a top-secret clearance, yes.

2 Q: And how long have you been at Mount  
3 Pleasant Baptist Church?

4 A: My wife and I have been member since the  
5 very early 2000s, around 2001. Late 2000, early  
6 2001 is when we first started with the church.

7 Q: And when did you first become a deacon?

8 A: In 2001.

9 Q: And when did you become chairman of the  
10 deacons?

11 A: I became chairman of the diaconate after  
12 the previous chairman, Rufus Tastings stepped  
13 down. This would have been -- I was a vice  
14 chairman serving with him, underneath him at the  
15 time, but I assumed the chairmanship when he  
16 stepped down, let's see, this would have been  
17 right around COVID, so he would have stepped down  
18 in the August timeframe. I think it became  
19 effective in September. September 2020.

20 Q: Okay. What is your role as a deacon of  
21 Mount Pleasant Baptist Church?

22 A: In its simplest terms, role is a deacon

1 of Mount Pleasant Baptist Church is to be in  
2 service to her people. To also, as a part of that  
3 role, as the chairman of the diaconate or a member  
4 of the diaconate -- of the deacons, to serve also  
5 as a fiduciary in that capacity as a member of the  
6 joint board, or the official board of the church.

7 Q: What is your duties, or role as the  
8 chairman of the deacons?

9 A: So the primary duties as the chairman of  
10 the diaconate is to, in addition to direct being  
11 in the diaconate to also serve as a principal  
12 advisor to the senior pastor, to work closely with  
13 all of the additional board members. To be  
14 chairman, also, of the official board of the  
15 church, the official board consisting of the  
16 directors, the diaconate, and the trustees.

17 Q: And what is your understanding of Mount  
18 Pleasant Baptist Church government structure? How  
19 does it work?

20 A: From a governance structure standpoint,  
21 of course, with Jesus Christ as head of the church  
22 we are a church that is pastor led. And after

1 pastor led we do have an official board, of  
2 course. And then, of course, everything is  
3 skirted up by the full body of the congregation  
4 and membership who ultimately makes decisions in  
5 terms of their approval.

6 Q: And who is on the official board? I  
7 think you could call it the joint board, but  
8 whatever --

9 A: The official board of the church  
10 consists of the ministry directors, consists of  
11 the diaconate, consists of the trustees of the  
12 church.

13 Q: Okay. How often do you meet?

14 A: The official board meets when necessary  
15 and when called by the chairman of the diaconate.

16 Q: Over approximately the last three or  
17 four years how many times per year do you meet?

18 A: So over the last three or four years as  
19 an official board I have called the board  
20 together, based on particular matters around three  
21 times per year.

22 Q: All right. Let's turn our attention to



1 the various topics we've been talking about today.  
2 First of all, the closure of the Christian  
3 Academy. What do you know about the decision to  
4 close the Christian Academy in 2020?

5 A: The decision to close the Christian  
6 Academy and its closure. Sometime early in the  
7 onset of COVID Senior Pastor Donalson did call  
8 together a group of members, if you will, to be  
9 part of what he called the transition team. That  
10 transition team included the assistant pastor,  
11 included the chair and vice chair of the  
12 diaconate. It included membership of the church  
13 you had a medical background, a medical capacity,  
14 and it included a member of the trustee also.

15 As we --

16 Q: Who was the trustee?

17 A: At that time night -- the trustee, if I  
18 am not mistaken, would have been Trustee Davis as  
19 a vice chair would have been serving on the  
20 transition team at the time.

21 Q: And that was before the closure was  
22 decided?

1           A:    That is my recollection.  And then  
2           later, an additional trustee was added, Sister  
3           Cheryl Tilman was also added later.

4           Q:    Okay.  So how was this decision made?

5           A:    With respect to the decision of the  
6           Academy, in 2020 progressed and COVID really began  
7           to set in for everyone one of the things that we  
8           knew is that the Academy at that time, during the  
9           spring was in a virtual only status.  And in the  
10          meantime, the transition team was working trying  
11          to figure out how can we even have church services  
12          at this point?  No one was having church services,  
13          not even us at the time.

14                   And so we were trying to see if we could  
15          not figure out A, how could we have church  
16          services to be able to have people back into the  
17          sanctuary.  We couldn't.  And in addition to that,  
18          we knew that the new school year would be coming  
19          up.  With respect to the Academy we had to make  
20          considerations of the Academy.

21                   And so I can recall multiple meetings  
22          where the transition team leading up to the April

1 and May timeframe, it was in late April, early May  
2 timeframe we went --

3 Q: In 2020?

4 A: In 2020. We begin to seriously take on  
5 the considerations of what are we going to do in  
6 the upcoming school year. And as we were taking  
7 on those considerations the senior pastor came to  
8 the members that were assembled on one Saturday  
9 and literally said we have got to make a decision  
10 on the Christian Academy in terms of him we safely  
11 have a Christian Academy.

12 And he asked every single -- oh, and I  
13 forgot, the director of administration was also a  
14 part of that transition team. He asked every  
15 single one of us to let him know what would we do  
16 in this moment? What would we do in consideration  
17 of COVID as it related to moving forward with  
18 Christian Academy. In the meantime, as he was  
19 getting those responses back in he asked for us  
20 within a day or two to give him those responses  
21 some of us told him our responses right then. I  
22 can recall that the medical representative on the

1 team said that --

2 MR. PETERSON: Your Honor, objection.  
3 Hearsay.

4 THE COURT: Sustained.

5 THE WITNESS: Okay.

6 Q: As a result of that meeting, what did  
7 you understand the recommendation of that  
8 transition team was to the pastor?

9 A: The larger collective of the transition  
10 team could not see a method in which we could move  
11 forward safely within COVID with the transition --  
12 with the upcoming school year.

13 In addition, the pastor also had spoken  
14 with the directors regarding the Christian  
15 Academy, both in the April meeting and the May  
16 meeting. And then eventually in a June meeting  
17 called a special meeting of the directors to let  
18 us know, based on all of his consideration and all  
19 of the information he had been gathering and the  
20 advice he had been collecting, he wanted to call  
21 the directors to let them know what he was looking  
22 toward or tending toward.

1           And he asked the directors, the ministry  
2 directors, to take a vote on it. And those  
3 votes -- that vote is captured in the minutes of  
4 that meeting.

5           Q: And was that vote overwhelming or  
6 unanimous to close the school?

7           A: It was. I can't recall if it was  
8 unanimous. It wasn't unanimous, but it was  
9 overwhelming. And then later, I think one member  
10 of the directors wrote in to actually change her  
11 vote, a day later.

12          Q: Okay. Who has the power under the  
13 bylaws to decide to close the Christian Academy?

14          A: So the power under the bylaws with  
15 respect to departments of the church and ministry  
16 of the church falls within the hands of the senior  
17 pastor. The senior pastor has the authority  
18 granted by the membership to make some of those  
19 tough decisions.

20                 Now, I would add that that is to be  
21 employed with -- by seeking with in trying to  
22 achieve the accompaniment of the membership to

1 kind of move in that direction along with him and  
2 not in authoritative ways. Yes.

3 Q: Good communication?

4 A: Good communication is key when making  
5 such a big decision like that.

6 Q: Ultimately, does the pastor have the  
7 power?

8 A: Ultimately, one person has to make that  
9 decision, yes.

10 Q: And who is that one?

11 A: In the case of Mount Pleasant Baptist  
12 Church that is the pastor of the church.

13 Q: Now, you were referring to a meeting of  
14 directors. Was that the meeting on August 23,  
15 2020?

16 A: Okay. Yes. Yes it would've been  
17 August, yeah.

18 Q: And were you present at the meeting?

19 A: I was.

20 Q: And what was the purpose of the meeting?

21 A: It was a meeting that was called by the  
22 pastor with the directors to discuss with him

1 where he had fallen in terms of that decision,  
2 having met with members of the staff of the  
3 Christian Academy, of course in all the  
4 considerations. He called that meeting to let  
5 them know what he was thinking. He wanted to see  
6 which way the board of directors was leaning.

7 Q: Okay. I think you already testified  
8 that was your --

9 A: That a vote was taken and captured in  
10 those meeting minutes, yes.

11 THE COURT: I'm sorry sir, you said the  
12 Board of Directors. Is that different to the  
13 official board?

14 THE WITNESS: That is different than the  
15 official board. So the ministry, I think you may  
16 have heard trustee Davis refer to them as the  
17 ministry directors. The board of directors, yes.

18 THE COURT: Oh, okay. Of the ministry  
19 directors that's what you were referring to?

20 THE WITNESS: That is correct, yes.

21 THE COURT: Okay. Thank you.

22 BY MR. SHOWERS:

1 Q: Did anyone question the pastor's  
2 authority to close the Christian Academy?

3 A: During that meeting, no. During that  
4 meeting I think all of us were collectively trying  
5 to not only figure out where we go with respect to  
6 the Academy, and the ultimate decision was to  
7 close the Academy. But even, how do we begin to  
8 move out of COVID. Those conversations were had  
9 even as we were within that meeting, yes.

10 Q: And are there plans to reopen the  
11 Academy?

12 A: There have been plans to reopen the  
13 Academy, essentially since the budget cycle of  
14 that year. In fact, you would have heard  
15 mentioned that within the budget cycle for the  
16 coming year, the 2021 year, there were plans that  
17 were already in place for the board to be  
18 reappointed to kind of start re-hydrating the  
19 Christian Academy, yes.

20 Q: Okay. Well, let's turn to Radio One,  
21 which we talked about. What do you know about  
22 Radio One?



1           A:    What do I know about Radio One.  Radio  
2    One is 104.1 FM, local.  They also have an AM  
3    presence.  With respect to Mount Pleasant Baptist  
4    Church, Mount Pleasant Baptist Church for decades  
5    that have been trying to get on the airwaves.  
6    This is been something that goes back to even  
7    Pastor Graham, our previous pastor that we were  
8    trying to get into -- get onto the airwaves as a  
9    church.

10           With respect to, I think the current  
11    question with respect to Radio One, in the  
12    November meeting of the directors, Pastor Donalson  
13    began to mention that there could be more of an  
14    opportunity coming forward with respect to that  
15    because he was meeting with the information  
16    ministry, the ministry that is kind of -- the  
17    media ministry that is kind of responsible for  
18    carrying out that type of ministry.

19           Q:    The ministry of the church?

20           A:    A ministry at the church, yes.

21           Q:    Not at Radio One?

22           A:    No, not at Radio One.

1 Q: Okay.

2 A: So the information ministry is one of  
3 the ministries within the church. And he had been  
4 working with that ministry as early as the  
5 November meeting. And I know that because when we  
6 had our diaconate meeting I have within my meeting  
7 minutes that that we reported on the fact that  
8 this was something that we covered in that month's  
9 directors meeting, the November directors meeting.

10 My understanding is that eventually  
11 Radio One was able to get in contact with the  
12 pastor and the pastor then began to communicate  
13 with the members of the information ministry that  
14 there was an opportunity that presented itself  
15 there in late to mid -- mid to late December, I  
16 guess the timing is. And I recall the time to be  
17 actually.

18 And then, of course, things began to  
19 move forward fast. Now mind you, in the same  
20 period of time of, you know, the fall into the  
21 December time frame is when we have our roundtable  
22 in our church meeting where we vote our annual

1 budget. So we didn't have enough of anything  
2 concrete to be able to enter anything about Radio  
3 One into the budget cycle that year because  
4 nothing was firm. Nothing had been decided.

5 Q: Meaning Radio One had an offer you a  
6 spot?

7 A: Radio One didn't even have a slot. They  
8 didn't have a slot for us at that point.

9 Q: Was there a meeting of the directors  
10 called in January 2022 concerning Radio One?

11 A: There was a meeting of the directors in  
12 January 2021, yes.

13 Q: You were present at the meeting?

14 A: Yes.

15 Q: And what was the purpose of that  
16 meeting?

17 A: To discuss the opportunity that had  
18 presented itself. To discuss the fact that the  
19 window was quick in closing, that Radio One had  
20 communicated through Hoover ever their  
21 representative was that we would have to make a  
22 decision quickly on it if we wanted to get into

1 that slot.

2 Q: Okay. And the decision was made to take  
3 the slot because if you didn't it would disappear  
4 immediately; is that your understanding?

5 A: So my understanding is that everyone  
6 was -- most people, if not everyone, were on board  
7 with the decision to move forward with it. The  
8 decision to forward with it was Reverend Marlon  
9 Sharp who is over media would continue to really  
10 press and pursue the opportunity.

11 Q: And did you agree to put that before the  
12 congregation as soon as possible?

13 A: Yeah, it would have had to have gone  
14 before the congregation because we didn't have a  
15 chance to put inside the ministry budget during  
16 the budget cycle. We knew not about the slot nor  
17 what it would cost at that time.

18 Q: And was there meeting called in February  
19 2023?

20 A: With the congregation, yes.

21 Q: Okay. And were you in charge of  
22 determining whether there was a quorum for that

1 congregational meeting?

2 A: Yes, that was a virtual meeting where  
3 with the -- when we went virtual it was common  
4 practice for us to announce this is a members only  
5 meeting and that we are here to be able to kind of  
6 make a decision to be able to move forward with  
7 this item, or to not move forward with this item  
8 depending on which way the congregation decides at  
9 that February 21 or so I think it was.

10 Q: 2022.

11 A: Or 2022, yeah.

12 Q: February 2022. How did you determine  
13 whether there was a quorum present?

14 A: Since this was virtual, multiple ways we  
15 were looking at names on there. And then, for  
16 people who were owned by phone we would actually  
17 stop and ask, could you please identify yourself  
18 for members who were on by phone.

19 Q: And how did you determine that 5 percent  
20 or more of the members were present at that  
21 meeting?

22 A: So the diaconate of Mount Pleasant

1 Baptist Church has now for a number of years going  
2 back since I became chairman, we have been  
3 actively working to resolve multiple decades of  
4 issues that we have had with the active membership  
5 of the church in terms of inflated roles.

6           You may have kind of heard Trustee Davis  
7 mention that the numbers went down, that is  
8 because of the actual process we were going  
9 through of cleaning up the roles. So when you see  
10 those numbers moving down, we were going through  
11 and removing things like, you know, individuals  
12 who were no longer with the church, individuals  
13 who were deceased. Determining who were in  
14 inactive state, serving in the military, deployed  
15 versus who may be off in college and not meeting  
16 the bylaws and definition of an active member.

17           And so as a part of that process, that  
18 number was decreasing and that represents part of  
19 that. And so for a quorum for that type of  
20 decision, it's a 5 percent of whatever that  
21 determined to membership is at that point.

22           Q: Do you remember approximately how much

1 was the membership at that time? That would be  
2 February 2022.

3 A: In that February meeting it would have  
4 been somewhere in the 800s because in the annual  
5 meeting at the end of 2021 that's what we would  
6 have announced during that meeting, that it was  
7 somewhere -- I can't remember the exact number,  
8 but it was within the 800s or so.

9 Q: But you were in the process of cleaning  
10 up those roles and by December 2022 it may have  
11 been a different number?

12 A: That's correct. And we remain in that  
13 process. And that process is a moving target.

14 Q: And so you knew that number and you  
15 identified the members on the Zoom call or  
16 whatever. And did you determine that there was a  
17 sufficient quorum to conduct business?

18 A: Well exceeded, yes.

19 Q: Okay. And how did you indicate that to  
20 the pastor?

21 A: By being able to see the number of  
22 individuals that were actually logged on or dialed

1 in. We exceeded the number and so stated, but  
2 also determined that there were somehow souls,  
3 since we were virtual that had multiple members,  
4 husbands and wives, if you will, on there. So it  
5 was not questioned or challenged because everyone  
6 could see the same thing all at the same time  
7 sitting in the same virtual space.

8 Q: So as you sit here today you are  
9 confident that there was a sufficient quorum  
10 during that meeting?

11 A: Extremely.

12 Q: Okay. What did the congregation decide  
13 regarding Radio One at that February 2022 meeting?

14 A: So during that 2022 meeting -- February  
15 21, all of the information surrounding how the  
16 opportunity came about and some of the proceedings  
17 leading up to it were talked about. I think many  
18 acknowledge that because this was a compressed  
19 timeline trying to get into that slot that some  
20 things were going clumsily. There was lots of  
21 opinion on the matter expressed good, four. Some  
22 against, if you will.



1           And then, when we moved to a vote the  
2           vote was strongly overwhelming that we continue  
3           with funding Radio One inside of our budget. At  
4           least, putting that line in there that didn't  
5           previously exist into our budget so that we could  
6           move forward with it. And by the time we moved  
7           into the March -- the next month, the March 2022  
8           ministry rollup we had a new line item, Radio One  
9           with an amount budgeted for it, yes.

10          Q:    And in 2023 did the congregation improve  
11          Radio One's budget again?

12          A:    That's correct.

13          Q:    And in 2024 have they approved the Radio  
14          One budget?

15          A:    That's correct.

16          Q:    Okay. Let's move to the Howard  
17          University Gospel Choir issue. What do you know  
18          about Pastor Donalson's invitation to Howard  
19          University Gospel Choir to perform at Mount  
20          Pleasant Baptist Church, I think 157th, I still  
21          have that in my mind, anniversary.

22          A:    Yeah. Specific to the 157th, this prior

1 year's anniversary the Howard University Gospel  
2 Choir was being invited to come out and minister  
3 on Sunday service. Sunday service it is the  
4 pastor will typically take the lead on shaping  
5 those Sunday services during the anniversary week.  
6 That is typical.

7           There is an anniversary team that is  
8 usually working if we are having things outside,  
9 because we celebrate for the full month. If we  
10 are having things outside of the Sunday  
11 anniversary service that teams is responsible for  
12 carrying out those activities and making them fit  
13 within the anniversary line item that we have  
14 within the budget.

15           When it comes to Sunday mornings,  
16 whether it be the preacher and even sometimes the  
17 singing ministry that is invited there has been  
18 traditionally been something that has also been  
19 done at the pastor's level as he has either worked  
20 with -- he has worked with the director of music  
21 and arts in order to identify individuals who  
22 could come and minister on man anniversary Sunday,

1 the high Sunday.

2 Q: So who has the authority to invite the  
3 Howard University Gospel Choir to perform at Mount  
4 Pleasant Baptist Church on a Sunday morning?

5 A: That invitation can happily couple of  
6 different ways. Often times, as was the case in  
7 this particular situation a senior pastor will  
8 work with a director of music and arts to first, I  
9 think identify who may be available and then kind  
10 of work to -- either the singing pastor will be  
11 working with the ministry or the choir, if you  
12 will, group, or the director of music and arts can  
13 be working with him to bring them in.

14 But ultimately, those -- that line that  
15 is used on that Sunday morning typically will,  
16 underneath the pastor's line item.

17 Q: Where did the funding, for those  
18 performances?

19 A: So as with anything, when we have --  
20 when we do our annual church meetings at the end  
21 of the year there is a part of the budget that is  
22 outlined for the senior pastor as well as other

1 ministry directors. And inside of the pastor's  
2 budget line item that has been approved by the  
3 congregation he has that discretion within those  
4 line items.

5 Q: And the funding was within his budget?

6 A: Yes, that is correct.

7 Q: Okay. Who has the authority to approve  
8 or reject the funding on the -- of any worship  
9 related ministry project?

10 A: The director for those ministries.

11 Q: Okay. And if it is on a Sunday morning,  
12 who is in charge of that?

13 A: The pastor. He has direct lead of the  
14 pulpit.

15 Q: Okay. And what is the trustees roles in  
16 such situations?

17 A: So usually, whenever we have a ministry  
18 activity that is going to have a contract  
19 involvement it is a part of our practice, you're  
20 not going to see it spelled out within the bylaws,  
21 but it is a part of our practice that we will have  
22 the trustees review the contract for soundness.

1 If there is a weather event can we get out of this  
2 with, you know, without having to pay the full  
3 amount. Or if the vendor cannot provide a  
4 service, making sure that the refund -- so that's  
5 what the contract review process is with respect  
6 to the trustees.

7 Q: Okay.

8 A: And so they review the contract for  
9 soundness. And if something is not sound we will  
10 work -- the assigned trustee will work with the  
11 ministry director to work with that vendor to get  
12 those items added to the contract or to negotiate  
13 those items within the contract. It could even be  
14 hotel stays and things like that.

15 And once everything is sound the  
16 trustees will sign the contract. But the ministry  
17 monies that are used for that event, that's signed  
18 for by the ministry director and only the ministry  
19 director.

20 Q: There was a contract for the Howard  
21 University Gospel Choir?

22 A: There was a contract that I'm -- I

1 haven't seen it, but there is a contract that was  
2 eventually signed by Trustee Wertz.

3 Q: Okay. Now, let's turn to the interns.  
4 What do you know about the summer camp funds being  
5 reallocated to the summer interns during the  
6 summer of 2023?

7 A: So regarding the summer camp, I think  
8 it's been already testified that the -- with  
9 respect to the summer camp which we started  
10 actually advertising for back in late February in  
11 order to kind of garner up multiple things. Camp  
12 attendees as well as camp employees to include a  
13 camp director.

14 As we moved through the springtime and  
15 moved toward the summertime when we would  
16 eventually have to do the planning, the final  
17 planning for the camp, it was determined that we  
18 did not have enough attendees signed up to be able  
19 to carry forth -- carry out the summer camp. That  
20 decision that we couldn't move forward was  
21 actually within that ministry director's  
22 responsibility. The director of children and

1 youth, Reverend Shemetris Vital. She made that  
2 determination and also she, working with her team,  
3 decided that she would make a recommendation to  
4 the senior pastor and the directors that we pivot  
5 and do a summer internship.

6 Q: Okay. And that recommendation was made?

7 A: That recommendation was made and worked,  
8 as it should, behind the scenes kind of started  
9 happening between the senior pastor, director of  
10 children and youth, the director of administration  
11 and I'm assuming the director of administration  
12 involved the trustees. And at some point a  
13 determination was made, hey, the current line item  
14 that is listed as for summer camp, and that summer  
15 camp is different than a line item for the summer  
16 internship, if you will.

17 And so a directors meeting was  
18 eventually called where the pastor and Reverend  
19 Vital presented at that to the directors and the  
20 directors, you know, kind of heard the issue about  
21 there not being a line item and thought it cleaner  
22 to simply just go back to the church and request a

1 reallocation of funds, if you will.

2 Q: And was that Congregational meeting held  
3 on July 9, 2023 to reallocate the summer camp  
4 funds to the summer in terms?

5 A: So after a series of pretty normal  
6 business, you know, in terms of announcing a  
7 meeting the senior pastor did make that known to  
8 the congregation that we would have a meeting on  
9 July 9th to handle just that matter.

10 Q: Okay. Were you present at that meeting?

11 A: I was.

12 Q: And who was in charge of determining  
13 whether a quorum was met for that meeting?

14 A: In terms of that particular meeting, at  
15 the conclusion of the service I went up to the  
16 pastor and let him know that I began to survey the  
17 crowd as members -- not members, as people who  
18 were leaving and the pastor was making the  
19 announcement over the microphone. He was making  
20 the announcement as he had done already within the  
21 service twice that this is a members only meeting.

22 And so people were leaving who were



1 guests, visitors, et cetera. There were some  
2 members who couldn't stay. I couldn't convince  
3 them to stay because they had previous plans. But  
4 once everything settled down and we were all in  
5 our places as I moved up to the front of the  
6 church and retrieved one of the mics, I began  
7 counting the membership of the church to make sure  
8 that we exceeded the quorum, which on that date  
9 would have been 66 people.

10 Q: Did you exceed the quorum?

11 A: Almost by -- I stopped counting at 125  
12 people.

13 Q: Okay.

14 A: And I gave the pastor the thumbs-up that  
15 we were good to go.

16 Q: That there was a sufficient quorum to  
17 conduct business?

18 A: That is correct.

19 Q: Okay. And what was the result of that  
20 July 9, 2020 meeting? 2023 meeting.

21 A: So July 9, 2023 meeting, of course, the  
22 pastor presented what the purpose of the meeting

1 was. We had good conversation back and forth  
2 among the membership. Lots of questions asked. A  
3 number of individuals did a really good job of  
4 kind of setting the stage of where we were here  
5 and what the purpose of the reallocation of those  
6 funds were, and why we needed to do it this way.

7 The membership understood that, had  
8 additional questions in terms of this is something  
9 we are going to move forward with in future years,  
10 et cetera. We, of course, had to explain,  
11 Reverend Vital and Pastor Donalson had to explain  
12 that this was something that was not planned for  
13 in the previous budget because we thought we were  
14 having a summer camp.

15 After about 25-ish or so minutes of good  
16 conversation around the matter we moved to a vote  
17 for a motion was made and seconded. That motion  
18 was amended eventually to include backpay since  
19 the interns had already kind of started working,  
20 and it passed all yays, no nays.

21 Q: Unanimously. Okay. And that was to  
22 reallocate the summer camp funds to summer

1 interns?

2 A: That is correct.

3 Q: What, if anything, do you know about the  
4 credit card issues that were mentioned in  
5 Plaintiff's complaint that they were talking  
6 about?

7 A: So with respect to credit card issues I  
8 am aware of some -- I am assuming not all, since I  
9 heard a number higher than I have been involved  
10 in. I do recognize that there have been some  
11 credit card related conversations in the past.  
12 One would be during a time when the senior  
13 pastor's wife's mother -- I'm sorry, had a family  
14 member passed and they had to fly at.

15 The senior pastor assume that because  
16 they were flying out to attend, you know, a family  
17 related -- a Mount Pleasant Baptist Church family  
18 related home going service that he could charge  
19 both him and his wife on the credit card, and that  
20 is not typical of the case.

21 The pastor will, when a member has a  
22 loss, if a member loses a parent or a sibling, the

1 pastor can go, or send someone from the  
2 ministerial staff, and the church will pay to go  
3 out and stand with that individual. In this case,  
4 the pastor was the person going out. And so in  
5 that case, the senior pastor's wife, Lady  
6 Donalson, was a not covered under the policy. I  
7 think he paid that back. That is one.

8 Another that I am familiar with is there  
9 have been issues with respect to a credit card  
10 being associated with a rental car. So the rental  
11 car company has both the personal and a ministry  
12 card associated with the same rental car account,  
13 and you have to choose which one you are going to  
14 use. In my understanding is that there have been  
15 times when the default card, which per my  
16 understanding, is the default card is, of course,  
17 the ministry card has been selected and paid for  
18 those instances and those have been paid for it --  
19 paid back I'm aware of.

20 And then, I'm told about there being  
21 ministry related charges where they were for  
22 associations that the church is associated with.

1 Q: And that's okay?

2 A: Those have been director of  
3 administration we are good to go on those.

4 Q: Okay. And those were the six that, I  
5 think he was referring to, at least?

6 A: That's my assumption.

7 Q: Are you aware that other staff have had  
8 problems with credit cards and making sure that  
9 they are ministry related versus personal?

10 A: The issue of --

11 MR. PETERSON: Your Honor, I would  
12 object to relevancy.

13 THE COURT: Sustained.

14 MR. SHOWERS: Okay. I'll move on. I'm  
15 just --

16 Q: Did the church -- let's talk about this  
17 lawsuit. Did the church have a congregational  
18 meeting in December regarding this lawsuit?

19 A: Yes.

20 Q: Okay. And what was the result of that  
21 meeting?

22 A: The pastor called an emergency meeting

1 with the directors first, and then a couple of  
2 days later with the congregation to alert them of  
3 the fact that he had been served.

4           There were two -- there was one primary  
5 reason that he called for that meeting and that  
6 primary reason was to -- the church to allow him  
7 to seek representation. The church and did vote  
8 to allow that representation in terms of a  
9 retainer. And then, another member voted -- a  
10 motion and was properly second that we no longer  
11 pay for the -- pay for the lawyers for the  
12 trustees. Because in essence, we are suing  
13 ourselves and we're paying double.

14           Q: Did the church congregation asked the  
15 trustees to dismiss the lawsuit and send it to  
16 Christian mediation?

17           A: That was not an official vote but there  
18 were many, many members who had that request. And  
19 those recommendations during that meeting were  
20 voiced by several members to seek Christian  
21 mediation.

22 MR. SHOWERS: No further questions, Your

1 Honor.

2 THE COURT: Cross?

3 EXAMINATION BY COUNSEL FOR PLAINTIFF,  
4 MOUNT PLEASANT BAPTIST CHURCH BOARD OF TRUSTEES,  
5 ET AL.

6 BY MR. PETERSON:

7 A: Good morning, sir.

8 Q: Good morning. How are you, sir?

9 A: I'm sorry. Good afternoon. I'm good.

10 Q: Good afternoon then. Deacon Clemons,  
11 I'm going to sort of work back from the beginning  
12 of your testimony. You talked about a transition  
13 team in 2020. Do you recollect that testimony?

14 A: That's right.

15 Q: And the transition team was more about  
16 reopening the church itself; is that correct?

17 A: No, that's not correct.

18 Q: It's not correct?

19 A: No.

20 Q: Did you have a transition team to reopen  
21 the church?

22 A: Well, we had one transition team that

1 continued for a number of years through COVID.  
2 And our purpose was involved as COVID evolved. So  
3 when COVID initially hit and we had to close down  
4 church operations as well as church ministry  
5 within the church on Sunday mornings, if you  
6 will --

7 Q: Right.

8 A: -- we still needed to be able to have  
9 church. Part of the transition teams early  
10 mandate was to even figure out how can we continue  
11 to have church service. The state was saying that  
12 we could only have 10 people within the facilities  
13 so we -- the reason why we had members, the  
14 director of administration, members of the  
15 trustees, and members of our health community  
16 within the church, as well as leaders on that team  
17 was to determine what could we do, for instance,  
18 with our filtration system to allow those  
19 individuals who were coming in, even on those  
20 Sundays.

21 Q: Yeah, I'm not getting into the details.  
22 I trust you all did an excellent job. My question



1 is whether the transition team was about the  
2 church reopening, or whether the transmission --  
3 or did you have a separate transition team to deal  
4 with the school?

5 A: No. The same transition team advised on  
6 all of that.

7 Q: Okay. All right. And you said earlier,  
8 and I note your candor that the senior pastor has  
9 the authority to make decisions.

10 A: He does per the bylaws.

11 Q: And I think you also said ultimately one  
12 person has the power, and then you talked about  
13 making decisions.

14 A: Yeah. In most organizations, especially  
15 when you look at a pastor led congregation like  
16 ours, ultimately there are decisions that has to  
17 be made by a person of one with the advisement of  
18 others. That is why we have -- the bylaws  
19 routinely talk about principal advisors. And  
20 then, of course, the pastor then communicates and  
21 seeks to gain the agreement of membership in terms  
22 of some of those decisions, yes.

1 Q: Okay. And I appreciate that. But if I  
2 look at Exhibit 5 --

3 A: Exhibit 5.

4 Q: -- which is in evidence. Yes, sir,  
5 Exhibit 5 and that is an email from Pastor  
6 Donalson dated -- there are two emails, but the  
7 one that is dated August 21, 2020. Do you see  
8 Exhibit 5?

9 A: I sent three emails, yes.

10 Q: And it is the bottom one.

11 A: Okay.

12 Q: And it says Academy. And this is  
13 addressed to the directors; do you see that?

14 A: Yes.

15 Q: So you would have received this?

16 A: Yes.

17 Q: It says, after much prayer and career  
18 consideration I have decided that we will not have  
19 an academy the school year; do you see that?

20 A: That's correct. That is the way it  
21 works when he seeks the advice of those  
22 individuals that I named earlier who gave him

1 their thoughts, their opinions, including the  
2 directors, yeah.

3 Q: And I apologize, but effectively, he  
4 acts as a chief executive. In other words, he  
5 solicits advice but at the end of the day he makes  
6 the decision?

7 A: He did make that decision, yes.

8 Q: And that's, for most of these things  
9 that we talked about, these were decisions that he  
10 had authority to make?

11 A: Yes. But it's -- the thing that has  
12 been said is that it was a unilateral --

13 Q: I'm sorry it was --

14 A: The things that have been said is that  
15 it was unilateral. It was under advisement of  
16 others and of course he then made the final  
17 decision, yes.

18 Q: So I guess that's perhaps where this  
19 case is at a crossroads.

20 A: Correct.

21 Q: Whether or not the pastor has the power  
22 to make that executive decision or whether or not

1 that is subject to the approval of another body?

2 A: Is that a question?

3 MR. SHOWERS: Is that a question or?

4 Q: That is my question to you.

5 A: And you stated as a question? I'm  
6 sorry.

7 Q: Then I'll stated as a question. This  
8 will be like what jeopardy and I will state it as  
9 a question then.

10 In other words, your position is that  
11 the pastor is the chief executive officer. He has  
12 the power to make decisions and not seek approval  
13 of other bodies?

14 A: That's not what I said, no.

15 MR. SHOWERS: Are you referring to a  
16 certain decision?

17 MR. PETERSON: Well, I'm referring to  
18 pretty much all of these decisions.

19 Q: You have said --

20 MR. SHOWERS: That was not his  
21 testimony.

22 MR. PETERSON: Well let me just as all I

1 can do is read my own notes.

2 THE WITNESS: Okay.

3 Q: You said, quote, the senior pastor has  
4 authority to make decisions. Ultimately one  
5 person has the power. I have that in quotes. Do  
6 you remember saying that?

7 A: Ultimately, one person does have the  
8 authority, given by the church to be able to make  
9 certain decisions about -- and I think I went on  
10 to even say about the departments of the church.

11 Q: And I guess what I am saying is --

12 MR. SHOWERS: And that was during his --  
13 (Crosstalk)

14 MR. PETERSON: Sir, sir.

15 MR. SHOWERS: It was during his --

16 THE COURT: Mr. Showers. Mr. Showers,  
17 you've had your --

18 MR. SHOWERS: You're right.

19 THE COURT: -- opportunity to examine.

20 MR. SHOWERS: I apologize.

21 THE COURT: You'll get a redirect.

22 MR. PETERSON: And as I said, we're here

1 seeking the guidance of the Court. So I  
2 appreciate your perspective.

3 Q: My question is, as a senior leader in  
4 the church --

5 A: That is correct.

6 Q: -- that at the end of the day if there  
7 is an impasse, if people are disagreeing, the  
8 chief executive officer is the senior pastor and  
9 he makes the decisions?

10 A: So that was not my testimony. There are  
11 times when we will call together the official  
12 board to be able to talk about and settle on  
13 certain matters, especially matters of dispute  
14 either by the senior pastor or other members of  
15 the boards. For instance, the trustees, if you  
16 will.

17 The July 18th meeting that I called  
18 would be one of those situations where the board  
19 comes together to consider what those things are  
20 that are being discussed, and the board is  
21 actually able to weigh in. The official board of  
22 the church is able to weigh in on those things,

1 yes.

2 Q: And I understand the word weigh in. But  
3 let's say they weigh in and the senior pastor says  
4 well that's fine, that's your opinion I'm making  
5 the decision. Is that possible?

6 A: Which of matter are we speaking of?

7 Q: Any of these matters.

8 A: There are certain matters, yes. Yeah,  
9 absolutely.

10 Q: Now, is it your position also, you  
11 didn't touch on but another decision we have  
12 talked about is hiring a church accountant for  
13 example.

14 A: Okay.

15 Q: Does the pastor have the ability to hire  
16 a church accountant?

17 A: The church accountant position is  
18 something that has been funded for within our  
19 budget now for the last several -- actually more  
20 than that, many years. It has just been a  
21 position that has not been filled with an  
22 individual. It has been something that the church

1 has voted on and has -- we have always had a  
2 church accountant, but not necessarily someone who  
3 was applied against that particular line item, if  
4 you will.

5 Q: And so the senior pastor -- can the  
6 senior pastor hire that person?

7 A: The senior pastor came to the directors  
8 and came with a recommendation to the ministry  
9 directors that it was time for us to get a church  
10 accountant like we have had traditionally before.  
11 And all present ministry directors with the  
12 exception of one voted yes, that it was time for  
13 us to move forward with that.

14 So he did not -- that wasn't a  
15 unilateral decision. He then went so far forward  
16 to also appoint a committee that would then be a  
17 part of -- that would actually conduct that hiring  
18 process. And Reverend Pinkney who was the  
19 director of administration was invited to be a  
20 party of that process, but did not want to be.

21 Q: Okay. So I guess you are -- in response  
22 to my question -- my question was pretty



1 straightforward. Can the senior pastor handle --  
2 hire this church accountant? That is a yes or no.

3 A: Yes.

4 Q: It's a yes. Okay. And if Reverend  
5 Pinkney decides not to hire that person and does  
6 not hire that person, can the senior pastor then  
7 terminate him?

8 A: Say that again. I'm sorry.

9 Q: If Reverend Pinkney decides not to hire  
10 that church accountant can the senior pastor then  
11 terminate Reverend Pinkney?

12 A: Not for just a single cause of that --  
13 if there were -- individual -- any individual with  
14 an employee had a track record of things that  
15 would be considered insubordination or other types  
16 of like that, then there could be a decision to  
17 move forward in that direction by any employee, to  
18 include the senior pastor. Yes.

19 Q: Okay. And I think you use the word  
20 insubordination, which I think is important.  
21 Because insubordination presumes that you have a  
22 power relationship over the person beneath you,

1 correct?

2 A: That is correct.

3 Q: And so, for example, I own a business.  
4 And if my employees don't follow my instructions I  
5 have the ability to terminate them.

6 A: That's correct.

7 Q: Does senior pastor have the ability to  
8 terminate employees within the church?

9 A: The senior pastor appoints, the church  
10 approves, and the senior pastor is the direct  
11 report to a number of individuals within the  
12 church to include the director of administration,  
13 if that is what you are asking, yes.

14 Q: Okay. So my question was, can the  
15 senior pastor hire and fire employees?

16 A: That's correct, yes.

17 Q: He can?

18 A: That's correct.

19 Q: And can the senior pastor authorize  
20 spending on his own decision?

21 A: He can authorize spending within his  
22 budgeted line items, yes.

1 Q: And if it is not within his budgeted  
2 line item can be, for example, enter a contract?

3 A: The senior pastor should not enter a  
4 contract that is not previously budgeted for, no.

5 Q: All right.

6 A: Are we referring to anything in  
7 particular?

8 Q: Not yet. One second.

9 A: Mm-hmm.

10 MR. PETERSON: That's what I have,  
11 judge.

12 THE COURT: All right. Redirect?

13 REDIRECT EXAMINATION BY COUNSEL FOR DEFENDANT,

14 DR. KEVIN DONALSON

15 BY MR. SHOWERS:

16 Q: I think there was some confusion so  
17 let's try to clear it up. So if the pastor wanted  
18 to hire the director of administration how would  
19 he do it according to the bylaws?

20 A: If the pastor wanted to hire --

21 Q: A, just general. A director of  
22 administration.

1           A:    As would have been done, for instance,  
2           in the case of Reverend Pinkney, the senior pastor  
3           would make an offer, if you will, to that  
4           individual that serves in that position that  
5           reports to the senior pastor. That offer in Mount  
6           Pleasant Baptist Church is guided by a number of  
7           things. For instance, a responsible salary,  
8           charting that we would have. And therefore, once  
9           he has made that offer to that individual, if that  
10          individual accepts that particular position then,  
11          of course, that person is hired into the position.  
12          With respect to the directorship appointment --

13          Q:    What about -- yeah, what about the  
14          congregation do they have to --

15          A:    With respect to the --

16          Q:    -- approve it?

17          A:    -- director -- directorship appointment  
18          toward the congregation and then the congregation  
19          eventually approves it, yes.

20          Q:    Okay. And conversely, if he was wanting  
21          to terminate the director of administration does  
22          heneed to also have congressional -- not

1 congressional, it's just elevated, I'm sorry.

2 Congregational approval? Does he need to have

3 Congregational approval?

4 A: So different positions --

5 Q: I'm sorry, the director of

6 administration.

7 A: Okay. Different. So with respect to

8 the director of the administration within the

9 bylaws it says that either the employer are the

10 employee can end employment with or without cause.

11 And it is my interpretation that the person that

12 hired -- the person of report, the person that the

13 individual reports to could remove that person

14 from that position. No one is above being removed

15 from a position. Correct.

16 Q: And with the congregation -- with the

17 director of administration with the congregation

18 then be asked to approve it?

19 A: In terms of removing someone from a

20 director of administration?

21 Q: Appointing and confirmed by the

22 congregation. Would he be -- with the

1 congregation be asked to confirm that?

2 A: To confirm his removal?

3 Q: Yeah.

4 A: That is not my interpretation of the  
5 bylaws.

6 Q: Okay.

7 A: That's my answer.

8 Q: Okay.

9 MR. SHOWERS: Nothing further.

10 THE COURT: All right.

11 MR. SHOWERS: I could continue but I  
12 think we're good.

13 THE COURT: Okay. Very good. Thank  
14 you, sir. You may step down.

15 THE WITNESS: Thank you.

16 THE COURT: Mr. Showers, do you have any  
17 further witnesses?

18 MR. SHOWERS: I do not, Your Honor.

19 THE COURT: You do not. All right, Mr.  
20 Peterson, any rebuttal witnesses?

21 MR. PETERSON: No rebuttal, Judge.

22 THE COURT: All right. What I think we

1 will do -- are you available tomorrow morning at  
2 9:30?

3 MR. PETERSON: Judge, I am only because  
4 I'm in front of you at 10:00 a.m.

5 THE COURT: Right. that's what I  
6 thought.

7 Mr. Showers?

8 MR. SHOWERS: I will make myself  
9 available.

10 THE COURT: All right. What I'm going  
11 to do, I'd like to hear a brief closing argument  
12 now. And -- but I'm going to give you my decision  
13 tomorrow morning at 9:30 because I need time to  
14 review all of these materials. But if you want to  
15 make a closing argument now, I'd welcome that.

16 MR. PETERSON: Judge, I will, but I am  
17 going to put my colleague on the spot. Can we  
18 keep it do what, seven minutes?

19 MR. SHOWERS: No. I've got about 20  
20 minutes.

21 MR. PETERSON: Okay. I --

22 THE COURT: It's your motion, Mr.

1 Peterson.

2 MR. PETERSON: It is my motion.

3 THE COURT: You're going to get the  
4 final word anyway.

5 MR. PETERSON: That's --

6 MR. SHOWERS: Exactly.

7 MR. PETERSON: -- indubitably true.

8 Judge, first of all, I want to thank you  
9 for your patience and I want to thank all of the  
10 people that came today for their patients. And  
11 maybe I can kind of lower the temperature of the  
12 room a little bit in that this was truly a dispute  
13 where the bylaws lay out a set of directives, and  
14 it gives the trustees certain powers. And just so  
15 we are clear, the powers are laid out pretty  
16 specifically. And it is the ability, again, to  
17 hold property, the ability to manage assets, the  
18 ability to basically protect the financial health  
19 of the church, the ability to -- and I will just  
20 read it into the record.

21 The legal custodian of church property  
22 and its assets. No limitation on that.



1 Maintaining legal title to all church properties.  
2 All church properties. That would mean both the  
3 building and the bank accounts. And assuring that  
4 the church is in compliance with federal, state,  
5 and local statutes. The trustee ministry shall  
6 function on those matters when the civil law  
7 specifically requires that they act on behalf of  
8 the church.

9 This does not mean that the trustee  
10 ministry makes decisions about legal matters. And  
11 that is why we're here seeking declaratory relief.  
12 It means that they meet the legal requirements for  
13 carrying out church decisions in matters involving  
14 the law, such as buying or selling real estate in  
15 accordance with the laws of the State of Virginia.

16 My colleague referenced title 57. Title  
17 57 is that part of the Virginia code which talks  
18 about how churches are managed. And as you said,  
19 back in the old days, there were no corporations.  
20 Churches could not be incorporated and so they  
21 were managed by trustees. Understanding that  
22 there is a distinction in American law between who

1 is in the pulpit and who owns the property.

2 And it has been that way really since  
3 Revolutionary times. And part of our First  
4 Amendment rights recognize that churches do have  
5 civil property, they do have civil rights. There  
6 are mutual principles of law that can apply and we  
7 have trustees -- the circuit court appoints  
8 trustees to basically make sure that these rules  
9 are followed, that procedures are followed, that  
10 protocols are followed.

11 So the trustees are guardians to make  
12 sure that the bylaws are followed. That is what  
13 they are there for. And I know it's a pain  
14 sometimes. And I know people -- this is a popular  
15 radio program. This is going to promote the  
16 gospel of Jesus Christ. This is something that is  
17 going to help us reach out to the kids that aren't  
18 coming to church. I understand all of that. I go  
19 to church myself. I understand all of the issues.

20 There people who asked me why I got into  
21 state politics, I did it to stay out of church  
22 politics because let me tell you, the stakes are a

1 lot higher and the emotions are a lot stronger and  
2 the goals are a lot more pure. But the bottom  
3 line is we have these bylaws in place we have laws  
4 in place to make sure that they are followed so  
5 churches can be beyond reproach. So they can keep  
6 their tax exempt status because there is nothing  
7 like a church that falls, that loses the  
8 confidence of its congregation.

9 And so my clients have done that. They  
10 have by the letter said we have to meet certain  
11 requirements. We have to run rules according to  
12 Roberts Rules of Order. Having someone just go  
13 around and count noses is not the same as Roberts  
14 Rules of Order. Having someone say well, this is  
15 what happened but not having official minutes,  
16 that's not Roberts Rules of Order.

17 And the bottom line is people are very  
18 casual and so my client said we need to be exact.  
19 We have a very exact church budget which you have  
20 in evidence, Judge, which shows very specific line  
21 items. We have a rule that says if the church  
22 enters a contract, even if it is within the

1 minister's budget, and I will accept the fact the  
2 minister has a discretionary budget.

3 But even so, if he enters a contract  
4 that binds the church that has to be approved by  
5 the trustees. Okay. That has to be approved by  
6 the trustees. And corners were cut and instead of  
7 saying hey, you know what, I made a mistake let's  
8 see if we can find a middle ground here, instead  
9 it was well, go talk to your own lawyer. Or you  
10 know, I am not going to deal with you. Or the  
11 church has already acted on this. And it was very  
12 dismissive.

13 And you'll see in evidence, Judge, you  
14 don't have to read them but there are multiple  
15 letters saying let's have a meeting. Let's have a  
16 meeting. Let's have a meeting. On those letters  
17 were ignored.

18 And so we've come before the Court not  
19 because this is what we want. Not because this is  
20 where we want to be. I've got a trial myself to  
21 prepare for tomorrow. But the bottom line is as  
22 Americans this is how we validate our right in

1 civil institutions. And when it comes to owning  
2 property and making sure that the institution that  
3 you invested your life in your time, and your  
4 children's time, you want to make sure that it is  
5 playing by the law, playing by the rules. And  
6 this is the only way we can really validate our  
7 rights as Americans is appearing in civil court.

8 Now, my colleague is an excellent  
9 attorney. He is the dean of attorneys that  
10 represent religious institutions. And we have had  
11 a well fought contest today, but what we have come  
12 down to is who is in charge of the church  
13 finances. And I can't get a straight answer out  
14 of anybody from the witness stand, at least on the  
15 other side, about who actually is responsible for  
16 church finances. Who is in charge of hiring and  
17 firing people? Well, our position has been very  
18 clear. The minister controls the pulpit. He also  
19 controls -- and this is in the bylaws, those  
20 ministry directors. He controls that. He  
21 controls the word that is preached to the  
22 congregation and to the greater world.

1           The mundane details. The operational  
2 details of the church, the ownership of the  
3 property, the spending of the money, writing the  
4 checks, entering of the contracts that's not  
5 controlled by the minister. I mean, Deacon  
6 Clemons is just simply wrong on that. And the  
7 bylaws are clear, that is within the custody and  
8 control of the trustees. And they are here  
9 seeking relief from the Court to simply rule that  
10 contracts, money spent, things of that nature,  
11 non-spiritual matters, that has to be done with  
12 the approval of the trustees. And whether it is  
13 through a Board of Directors or some other way,  
14 that's fine. But the bottom line is the pastor is  
15 not in a -- have the ability to unilaterally  
16 dictate the terms of the church on secular matters  
17 like that. It's just not. And the bylaws are  
18 clear about that.

19           So Judge, I am not going to reiterate  
20 all of the points I have made. I just want to say  
21 this is not, in any way detracting from this  
22 church. It is not detracting from the power of

1 the pastor to win souls. It is simply making sure  
2 that people in this church that donate their time  
3 to the church have confidence in how the money is  
4 being spent. Have confidence that procedures are  
5 being followed. Have confidence that their  
6 nonprofit status is not in jeopardy, and is simply  
7 asking the Court to make a firm ruling on that.  
8 There is no damages, but simply the ability to get  
9 a temporary injunction, I think, would be very  
10 important. Besides the likelihood of success, I  
11 would simply say the irreparable harm of not  
12 having a defined line of what the trustees what  
13 role they have in the finances, I think would  
14 cause damage to this church which is --

15 THE COURT: Is that the irreparable harm  
16 that you are alleging? Because it seems that that  
17 in all the instances where the pastor arguably  
18 went outside his bounds to spend money, the  
19 church later corrected that by having a  
20 congregational meeting.

21 MR. PETERSON: Well, see, Your Honor,  
22 that is kind of the problem that it has become

1 this ad hoc process. The process of the church  
2 has fallen where if something is called out it  
3 then becomes sort of ad hoc to retroactively put  
4 it back together. The irreparable harm to keep  
5 going on this way is unsustainable. Obviously,  
6 you can look at the exhibits yourself about the  
7 threats for people that challenge the pastor's  
8 authority. All we are looking to do is just have  
9 a bright line on spending, unemployment, that the  
10 pastor cannot step outside of what has been  
11 granted him by the bylaws. He is limited by the  
12 bylaws, and I think if we get an injunction order  
13 to that effect everybody is going to be better off  
14 for it.

15 THE COURT: And what exactly do you want  
16 the Court to enjoin him from doing?

17 MR. PETERSON: Well, one would be  
18 spending money outside the budget.

19 THE COURT: Okay.

20 MR. PETERSON: Unilaterally. Spending  
21 money outside the budget, and I think this is laid  
22 out -- I think at one point we had amended our



1 motion but I think that the details are the same.  
2 Spending money outside the budget, hiring and  
3 firing people. Again outside his role in the  
4 bylaws.

5 And just, I guess I would simply say  
6 affirming the role of the trustees in terms of the  
7 budget and the operation of the church.

8 THE COURT: Well, that's more like a  
9 declaratory judgment other than an injunction.  
10 You are asking me to order him to do or refrain  
11 from doing.

12 MR. PETERSON: Right. I think the key  
13 to our spending money outside the budget without  
14 the approval of the trustees. If it's inside the  
15 budget, it's fine. And secondly is hiring and  
16 firing people outside of what is directly  
17 authorized by him in the bylaws.

18 THE COURT: Okay.

19 MR. PETERSON: Thank you, Judge.

20 THE COURT: Thank you.

21 MR. SHOWERS: Let me start there, Your  
22 Honor. And just where you ended. And that is,

1 they are asking to make, approve, or authorize any  
2 expenditures of the church without the approval of  
3 the board of trustees. Again, the Board of  
4 Trustees are not the ultimate decision makers. As  
5 you have heard throughout the testimony, it is the  
6 congregation on that. So that injunction would be  
7 against the bylaws and against the procedure of  
8 this church on how funds are authorized and  
9 actually spent. Hiring and firing of any church  
10 employees without the approval of the trustees.  
11 That's not in the bylaws about them approving  
12 hiring and firing trustees. Again, in the process  
13 is throughout the bylaws it's who reports to whom.  
14 And I would say, as you look, that the pastor is  
15 given the oversight and supervision of all  
16 interests of the church in all departments of its  
17 work, both temporal and spiritual. And I am  
18 quoting right from the bylaws.

19 As you know, the pastor has a role to  
20 play in the financial decisions in the church, in  
21 the composition of church staff, in the  
22 composition even of the Board of Trustees. The

1 pastor of points the director of administration.  
2 He appoints the assistant pastor, director of  
3 nurturing, director of education, director of  
4 admissions, Dir. of family life, director of  
5 children and youth, director of economic  
6 community. In the bylaws he appoints them. They  
7 are asking, basically, that he -- that you rewrite  
8 the bylaws and that you put the trustees in  
9 charge. That's where I started with this as you  
10 look in their complaint.

11 I would note, Your Honor, that in fact,  
12 there amended complaint said that he was going to  
13 do certain things and the congregation was going  
14 to do certain things, none of them were done. I  
15 thought that was an interesting point. That's why  
16 they never brought up there amended complaint.

17 But the fact is the preliminary  
18 injunction is clearly not the appropriate remedy  
19 in this case. As we started, you know, there are  
20 questions about the bylaws. Some of them are not  
21 as clear as they could be but there's a process to  
22 clear it up. It's called the amendment process.

1 And so if they want to clear up questions of who  
2 has exactly what authority and how you're going to  
3 do it the church has that ability to amend the  
4 bylaws to make that clear. We think that there is  
5 enough clarity and certainly --

6 THE COURT: Well, right now, Mr.  
7 Peterson is asking -- he is limiting the relief he  
8 is requested, or maybe varying at some point, he  
9 is asking me first of all for an injunction to  
10 prohibit the pastor from spending money outside  
11 the budget. That is not what's in the request --  
12 written motion for an injunction. But even your  
13 witness, testified that the pastor doesn't have  
14 any authority to spend money outside the budget.

15 MR. SHOWERS: And if there was a mistake  
16 made as you imagine the congregation does  
17 corrected. There has only been a couple of times  
18 like the Radio One where he had to do a quick  
19 decision and within a month he put it before the  
20 congregation for them to approve or disapprove.

21 THE COURT: Well, but what I --

22 MR. SHOWERS: There is a process is what

1 I am saying.

2 THE COURT: Right. But that is a  
3 process to fix a problem.

4 MR. SHOWERS: Right.

5 THE COURT: Shouldn't there be -- he  
6 doesn't have the authority to spend outside the  
7 budget apparently. As I said, even your one  
8 witness acknowledged that.

9 MR. SHOWERS: Right. And if, in fact,  
10 there is a remedy for that. If he does continue  
11 to spend outside the budget the congregation can  
12 disapprove that expenditure or in the new clear  
13 version they can remove the pastor. That is --  
14 they don't need the Court to basically say what is  
15 already provided in the bylaws.

16 THE COURT: Well apparently, he doesn't  
17 seem to understand that.

18 MR. SHOWERS: Well, they can remove him  
19 if the congregation wants to. Or, if the  
20 congregation wants to they could have disapproved  
21 that funding of the --

22 THE COURT: Right.

1 MR. SHOWERS: -- Radio One as an  
2 example. So there is a position. And a  
3 preliminary injunction is supposed to keep the  
4 status quo. It is not supposed to fundamentally  
5 alter the government structure or the church  
6 policy of the church. And we are arguing that  
7 this fundamentally alters the governing structure  
8 of --

9 THE COURT: How does that -- but how  
10 would an injunction enjoining him from spending  
11 money outside the budget upset the structure?

12 Your own witness testified that he  
13 doesn't have the authority to do that.

14 MR. SHOWERS: Right. But for the Court  
15 to step in on something that there is already  
16 sufficient remedies within the bylaws within the  
17 church seems to be outside of the authority.

18 THE COURT: Well, they could --

19 MR. SHOWERS: They have a way --

20 THE COURT: Well, they did fix it,  
21 that's true.

22 MR. SHOWERS: Well, and they can remove

1 him or they can disapprove it. They have that --  
2 what I'm saying is in the bylaws they have that  
3 ability to correct. That is -- doesn't need a  
4 civil court to step in and to say what's already  
5 provided in the bylaws. And they have that  
6 ability to correct. And if they -- if he doesn't  
7 go along with their correction, they can remove  
8 him.

9 So that's the fundamental altering that  
10 I'm talking about. It's an extraordinary remedy,  
11 as you know, Your Honor, the preliminary  
12 injunctions, you know, the pastor has those. I  
13 went down through wo we dan appoint and he has the  
14 power to hire and fire.

15 THE COURT: All right. Now, we're  
16 talking about the other issue?

17 MR. SHOWERS: Yeah. And there are a  
18 couple of times when he needed congregational  
19 approval, which is stated in the bylaws. He  
20 participates in the selection of trustees. He has  
21 the unilateral authority to appoint. A lot of the  
22 things they were asking for in there does alter.

1           Now, I know, you've really limited it  
2 today. I get that. But even what you limited it  
3 to is not necessary. There is provisions in the  
4 bylaws and in the structure that would correct it  
5 and would keep that from happening, and it has  
6 kept it from happening.

7           Now, they don't like some of the  
8 decisions that were made. Maybe they don't'  
9 like --

10           THE COURT: Well, hasn't it correct --  
11 it hasn't kept it from happening. It's allowed it  
12 to be fixed later.

13           MR. SHOWERS: Well, it -- I would say  
14 it's corrected it from happening because it --  
15 you're talking about a very few number of times  
16 when it actually happened. And each time it  
17 happened the congregation approved it. Sometimes  
18 unanimously. So I mean, the Court, I think, and  
19 this gets to the crux of the issue. If in fact,  
20 there are things that need to be amended in the  
21 bylaws to give it full clarity, the congregation  
22 has that ability.



1           If there are things that the pastor does  
2           that are outside his authority the congregation  
3           has the authority to keep it from happening or  
4           correct it. They can keep it from happening by  
5           removing him, and that will never happen again if  
6           that's what they choose to do.

7           So clearly, it's an extraordinary  
8           remedy. We think it will change the status quo,  
9           and you know, the second part obviously of any  
10          preliminary injunction is the plaintiff likely to  
11          succeed on the merits. We would argue they're  
12          not. Whether plaintiff is likely to suffer  
13          irreparable harm, we don't see any irreparable  
14          harm in the absence of preliminary injunction.

15          THE COURT: Well, you're trying to --  
16          that's the federal standard. The Virginia  
17          standard is a little different. And a little --

18          MR. SHOWERS: It is. But it's very  
19          close, I guess, is what I would say. You're  
20          looking at irreparable harm. You're looking at  
21          balancing the equities and the public interest,  
22          all of hta tis within the Virginia standard. And

1 there's just -- there's not going not be  
2 irreparable harm as Your Honor asked about that.  
3 There's not going to be irreparable harm if you  
4 don't enter a preliminary injunction.

5 Now, the declaratory judgment, that is a  
6 different story. But the preliminary injunction  
7 is what I am arguing right now.

8 THE COURT: Right. Right. And that is  
9 what we're here for.

10 MR. SHOWERS: Right. And that is just  
11 simply not needed in this. And I think that the  
12 balance of the equities clearly are in favor of  
13 that. You know, we went through closure of the  
14 Academy, Radio One, invitation to Howard  
15 University, reallocation of the money from the  
16 summer camps to the summer interns. Even the  
17 special meeting. All of those, Your Honor are  
18 really ministry decisions in the large part. And  
19 again, ministry decisions are part of the  
20 congregational's decision and part of the pastor's  
21 decision as long as he stays within the budget.

22 And on one or two occasions, like I

1 said, Radio One, that is the only one that I am  
2 looking at here that he did not stay within the  
3 budget and it was quickly corrected. The other  
4 ones are the closure of the Academy. He had a lot  
5 of advice but he has the power to make that  
6 ministry decision, would be what we would say in  
7 the bylaws. He has the power to invite the Howard  
8 University Gospel Choir as part of the 157th  
9 anniversary as long as it is in the budget, and it  
10 was in his budget as you testified on both sides  
11 the reallocation of the money from summer camps to  
12 summer in terms, again, that was made by the  
13 congregation as well as him.

14           There wasn't anything that wasn't  
15 outside except for the Radio One outside of the  
16 budget. So clearly, the granting of this  
17 injunction is not really needed. We believe that  
18 if we are talking about declaratory judgment that  
19 is a different story, which we will certainly  
20 argue. But not the preliminary injunction. This  
21 is simply -- that's an extraordinary remedy. It  
22 is not needed in this case, and I think it will

1 actually create irreparable harm to the church and  
2 to the pastor if it is granted that way because it  
3 will throw that into complete disarray.

4 THE COURT: Okay.

5 MR. SHOWERS: And by the way, Your  
6 Honor, there also is -- besides the congregation,  
7 as I mentioned there is Christian mediation  
8 arbitration that they could do as well. And they  
9 declined to do it a number of times.

10 MR. PETERSON: I'll object to that.

11 THE COURT: That's not in front of me.  
12 I don't think there is a requirement in here  
13 somewhere that says you have to go to mediation.

14 MR. PETERSON: No.

15 THE COURT: Mr. Peterson, could you  
16 address the second part of your request, the  
17 hiring and firing?

18 MR. PETERSON: Yes, Judge. I think --

19 THE COURT: Outside of the bylaws? I'm  
20 not sure --

21 MR. PETERSON: The bylaws are hard to  
22 follow because they talk about a name being put

1 forward. And then, the congregation approving of  
2 that employee. And then once they are approving  
3 it doesn't -- it is not clear as to who can  
4 terminate. I was just looking at that --

5 THE COURT: It's the --

6 MR. PETERSON: And if you look at it  
7 it's almost as if the church has to terminate the  
8 employee. And the reason why I made that a part  
9 of our relief is because there's a subtext and  
10 let's focus specifically on the director of  
11 administration since that's the one that they're  
12 sort of been caught in the crosshairs, so to  
13 speak.

14 Section 3.1, director of administration.  
15 Appointed by the pastor, and confirmed by the  
16 congregation. And then employment and/or service  
17 required. The mutual consent to the individual and  
18 the Church, capital C, Church. Either party has  
19 the right to turn the

20  
21

22 employment. Well, that's interesting.

1 What is does the quote church mean? Does that  
2 mean that's the pastor? The pastor can terminate  
3 that person? At the end, it goes on to talk about  
4 his duties and it says, shall be responsible to  
5 the pastor and as my colleague pointed out in his  
6 cross-examination. But the subtext that I was  
7 talking about, Your Honor, is the bylaws are clear  
8 that the pastor will put forward a name and that  
9 person might become an officer in the church and  
10 they are approved by the congregation, and then it  
11 is much more cryptic as to how they are removed.

12 And what I am asking is there is a  
13 subtext that people that have brought forward  
14 these financial issues and effectively been  
15 whistleblowers have been threatened with  
16 termination. And that is a subtext of what is  
17 going on. And we are asking, at least while this  
18 case is pending, which it may -- maybe we can get  
19 to trial within 90 to 120 days, that people like  
20 Ezekial Pinkney that have had the courage to come  
21 forward and say hey, I'm not comfortable with the  
22 pastor hiring the same person that is going to

1 manage it the finance, that they not be allowed to  
2 be terminated unilaterally by the pastor. I don't  
3 think that's too much to ask.

4 THE COURT: Well, it says employment  
5 and/or service required the mutual consent of the  
6 individual and the Church, as you said with a C.

7 MR. PETERSON: Right.

8 THE COURT: Either party -- do you  
9 interpret that to mean the individual are the  
10 Church the parties that are --

11 MR. PETERSON: Yeah, party I think means  
12 the Church.

13 THE COURT: All right.

14 MR. PETERSON: And I would take Church,  
15 and again, I've read these bylaws probably a dozen  
16 times and I know you will be reading them tonight.

17 I would take Church to mean sort of the  
18 church leadership. I don't think that's the  
19 pastor.

20 THE COURT: Well, the next -- the end of  
21 the last paragraph says -- refers to the paragraph  
22 of the church -- excuse me, the pastor of the

1 church.

2 MR. PETERSON: Right.

3 THE COURT: So clearly church and pastor  
4 it seem to be means the same thing.

5 MR. PETERSON: Well, that talks about  
6 the written agreement, yeah.

7 THE COURT: Right. But the point is  
8 that they're talking about the pastor of the  
9 church.

10 MR. PETERSON: Right.

11 THE COURT: So the church and the pastor  
12 can't be the same thing.

13 MR. PETERSON: Totally different things.

14 So Your Honor, that's all I have. All I  
15 want to say is my favorite book in the Bible is  
16 the Book of Acts, and it's because it's the story  
17 of the Apostle Paul who always exercised his  
18 rights at a Roman citizen and I think it's  
19 biblical to do that and anyways, I hope we haven't  
20 trespassed to much on your time.

21 Thank you.

22 THE COURT: Not at all. All right. We



1 will adjourn for the day and both counsel, I  
2 understand are available at 9:30 tomorrow morning  
3 so I will give you my decision at 9:30 tomorrow  
4 morning and then we will, at 10:00 segue into Mr.  
5 Peterson's other case.

6 The Court is in recess.

7 THE COURT OFFICER: All rise.

8 (Off the record at 2:06 p.m.)  
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1 CERTIFICATE OF COURT REPORTER - NOTARY PUBLIC

2 I, Marcellous Grant, the officer before  
3 whom the foregoing proceedings were taken, do  
4 hereby certify that any witness(es) in the  
5 foregoing proceedings were fully sworn; that the  
6 proceedings were recorded by me and thereafter  
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10 accurate record to the best of my knowledge,  
11 skills, and ability; and that I am neither counsel  
12 for, related to, nor employed by any of the  
13 parties to this case and have no interest,  
14 financial or otherwise, in its outcome.

15 Notary Registration No.: 8037496

16 My Commission Expires: 9/30/2027

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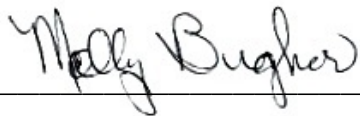
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I, Molly Bugher, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding; that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; and that I am neither counsel for, related to, nor employed by any of the parties to the case and have no interest, financial or otherwise, in its outcome.



Molly Bugher, CDLT-161

February 13, 2024

Transcript of Hearing  
Conducted on January 30, 2024

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