

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

STATE OF WEST VIRGINIA EX REL.
TRUSTEES OF THE WEST VIRGINIA
CONFERENCE OF THE UNITED METHODIST
CHURCH, BISHOP DEBRA WALLACE
PADGETT, BISHOP SANDRA STEINER BALL,
MELISSA SHORTRIDGE, RICK SWEARENGIN,
LORETTA ISAIAH, AMY SHANHOLTZER,
JOE HILL, NEIL LETFWICH, SCOTT
FERGUSON, AND CHIP BENNETT,

SCA EFiled: May 18 2026
04:14PM EDT
Transaction ID 79498254

Petitioners,

Docket No. 26-198 (Mercer County
No. CC-28-2024-C-272)

THE HONORABLE MARK WILLS,
TRUSTEES OF MADISON UNITED
METHODIST CHURCH, TRUSTEES OF
FIRST UNITED METHODIST CHURCH –
PRINCETON, TRUSTEES OF BELLEMEAD
UNITED METHODIST CHURCH,
TRUSTEES OF IRONS CHAPEL UNITED
METHODIST CHURCH, TRUSTEES OF
OAKVALE UNITED METHODIST
CHURCH, TRUSTEES OF HORNER
UNITED METHODIST CHURCH,
TRUSTEES OF WASHINGTON LANDS
UNITED METHODIST CHURCH,
TRUSTEES OF HEASTON UNITED
METHODIST CHURCH, TRUSTEES
OF NEW SALEM UNITED METHODIST
CHURCH, TRUSTEES OF LERONA UNITED
METHODIST CHURCH, TRUSTEES OF
FIRST UNITED METHODIST CHURCH –
PARSONS, TRUSTEES OF BETHEL UNITED
METHODIST CHURCH, TRUSTEES OF ST.
PAUL’S UNITED METHODIST CHURCH,
TRUSTEES OF KEE STREET UNITED
METHODIST CHURCH, TRUSTEES
FRIENDLY UNITED METHODIST CHURCH,
TRUSTEES HEIGHTS UNITED
METHODIST CHURCH, TRUSTEES

STINSON UNITED METHODIST CHURCH,
TRUSTEES SISTERSVILLE FIRST UNITED
METHODIST CHURCH, TRUSTEES SIX
MILE UNITED METHODIST CHURCH,
TRUSTEES STONE COAL UNITED
METHODIST CHURCH, TRUSTEES
SANDLICK UNITED METHODIST CHURCH,
TRUSTEES MAHONE CHAPEL UNITED
METHODIST, TRUSTEES BROWN'S CHAPEL
UNITED METHODIST CHURCH, TRUSTEES
EBENEZER UNITED METHODIST CHURCH,
TRUSTEES FRANKLIN UNITED METHODIST
CHURCH, TRUSTEES GOOD SHEPHERD
UNITED METHODIST CHURCH, TRUSTEES
MILLER MEMORIAL UNITED METHODIST
CHURCH, TRUSTEES MT. HOREB UNITED
METHODIST CHURCH, TRUSTEES MT. ZION
UNITED METHODIST CHURCH, TRUSTEES
OAK GROVE UNITED METHODIST CHURCH,
TRUSTEES RACINE UNITED METHODIST
CHURCH, TRUSTEES TRINITY UNITED
METHODIST CHURCH, AND TRUSTEES
WALNUT STREET UNITED METHODIST
CHURCH

Respondents,

**VERIFIED OPPOSITION TO
PETITIONERS' PETITION FOR WRIT OF PROHIBITION**

FILED BY THE FOLLOWING:

Anthony R. Veneri, Esquire
West Virginia State Bar No. 4310
Veneri Law Offices
1600 W. Main Street
Princeton, West Virginia 24740
(304) 425-8751
(304) 487-2830 – Fax
office@venerilaw.com

William P. Stafford, II, Esquire
West Virginia State Bar No. 5778
Taylor W. Bohon, Esquire
West Virginia State Bar No. 13323
Brewster Morhous PLLC
418 Bland Street
Post Office Box 529
Bluefield, West Virginia 24701-0529
(304) 325-9177
wstafford@brewstermornous.com
tbohon@brewstermorhous.com

David C. Gibbs III, Esquire
Florida Bar No. 992062
Gibbs Law Firm
P.O. Box 5076
Largo, Florida 33779-5076
Phone: (727) 362-3700
Fax: (727) 398-3907
dgibbs@gibbsfirm.com

Jonathan Bailie, Esquire
West Virginia State Bar No. 14712
National Center for Life and Liberty
445 Dexter Avenue, Suite 4050
Montgomery, Alabama 36104
727-362-3700
jbailie@ncll.org

Counsel for Respondent Churches

TABLE OF CONTENTS

I.	QUESTION PRESENTED.....	p.1
II.	STATEMENT OF THE CASE AND FACTS.....	p.1
	A. Statement of Facts.....	p.1
	1. The Discipline and the Trust Clause.....	p.1
	2. Paragraph 2553 of the Discipline.....	p.1
	3. Petitioners repeatedly lied to Respondents.....	p.2
	4. The subsequent Judicial Council Decision.....	p.3
	B. Statement of the Case.....	p.4
III.	SUMMARY OF THE ARGUMENT.....	p.4
IV.	STATEMENT REGARDING ORAL ARGUMENT AND DECISION.....	p.5
V.	ARGUMENT.....	p.5
	A. The ecclesiastical abstention doctrine is not a doctrine of immunity shielding church actors from the consequences of their unlawful, secular conduct.....	p.6
	B. This case falls squarely within the fraud or collusion exception to the ecclesiastical abstention doctrine.....	p.7
	1. The United States Supreme Court has established claims for fraud or collusion are an exception to the ecclesiastical abstention doctrine.....	p.7
	2. West Virginia jurisprudence recognizes claims for fraud and collusion.....	p.8
	3. The allegations in the Complaint must be taken as true.....	p.9
	4. The facts alleged in the Complaint are sufficient to raise the fraud and collusion exceptions.....	p.10

5.	The Judicial Council does not have to be the Tribunal to decide the issue.....	p.11
C.	The UMC Judicial Council Decision 1512 does not in any way affect the facts of this case or the claims asserted.....	p.13
D.	Petitioners cannot avoid the consequences of their fraud by claiming Respondents could have appealed.....	p.14
E.	Judge Wills committed no error in granting Respondents' motion to alter or amend and reversing Judge Flanigan's dismissal so the case can be heard by a jury.....	p.16
F.	This is not an appropriate case for a writ of prohibition.....	p.16
VI.	CONCLUSION.....	p.17
VII.	VERIFICATION.....	p.19

TABLE OF AUTHORITIES

CONSTITUTION:

U.S. Const. amend. I	6
----------------------------	---

CASES:

<i>Santa Fe Indep. Sch. Dist. v. Doe</i> , 530 U.S. 290 (2000)	6
<i>Sch. Dist. v. Schempp</i> , 374 U.S. 203 (1963)	6
<i>Serbian E. Orthodox Diocese v. Milivojevich</i> , 426 U.S. 696 (1976)	6,7,9,12
<i>Cantwell v. Connecticut</i> , 310 U.S. 296 (1940)	6
<i>Wis. v. Yoder</i> , 406 U.S. 205 (1972)	6
<i>Our Lady of Guadalupe Sch. v. Morrissey-Berru</i> , 591 U.S. 732 (2020)	6
<i>Watson v. Jones</i> , 80 U.S. 679 (1872)	6
<i>Harmon v. Dreher</i> , 17 S.C. Eq. (Speers Eq.) 87 (1843)	6
<i>Gonzalez v. Roman Catholic Archbishop</i> , 280 U.S. 1 (1929)	7,11
<i>Kedroff v. St. Nicholas Cathedral of Russian Orthodox Church</i> , 344 U.S. 94 (1952)	7,11
<i>Presb. Church in U.S. v. Mary Elizabeth Blue Hull Mem’l Presb. Church</i> , 393 U.S. 440 (1969)	7
<i>MD & VA Eldership of Churches of God v. Church of God, Inc.</i> , 396 U.S. 367 (1970)	7

<i>Jones v. Wolf</i> , 443 U.S. 595 (1979).....	7-8
<i>Hyun Jin Moon v. Fam. Fed’n for World Peace & Unification Int’l</i> , 281 A.3d 46 (D.C. Ct. App. 2022).....	8,11
<i>Heard v. Johnson</i> , 810 A.2d 871, (D.C. 2002).....	8
<i>Holy Spirit Ass’n for the Unification of World Christianity v. World Peace & Unification Sanctuary, Inc.</i> , No. 3:18-CV-01508, 2022 U.S. Dist. LEXIS 58955, *16-17 (M.D.Pa. Mar. 30, 2022).....	8
<i>Brady v. Reiner</i> , 157 W. Va. 10, 198 S.E.2d 812 (1973).....	8,9,11,12
<i>Bd. of Church Extension v. Eads</i> , 159 W. Va. 943, 230 S.E.2d 911 (1976).....	9,11,12
<i>Pennsylvania v. Consol Energy, Inc.</i> , 233 W.Va. 409, 758 S.E.2d 762 (2014).....	9
<i>Collia v. McJunkin</i> , 178 W.Va. 158, 358 S.E.2d 242 (1987).....	9
<i>Courtney v. Smith</i> , 297 F.3 rd 455 (6 th Cir. 2002).....	9
<i>Pierson v. Miles</i> , 2023 W.Va. Lexis 333, 2023 WL 6012535.....	9
<i>State ex rel. Peacher v. Sencindiver</i> , 160 W. Va. 314, 233 S.E.2d 425 (1977).....	16
<i>State ex rel. Ford Motor Co. v. McGraw</i> , 237 W. Va. 573, 788 S.E.2d 319 (2016).....	16-17
<i>State ex rel. Monster Tree Serv. v. Cramer</i> , 244 W. Va. 355, 853 S.E.2d 595 (2020).....	17

**VERIFIED OPPOSITION TO
PETITIONERS' PETITION FOR WRIT OF PROHIBITION**

I. QUESTION PRESENTED

Whether the ecclesiastical abstention doctrine prohibits the circuit court from presiding over a case of fraud and collusion committed by a statewide conference of a claimed hierarchical church against local churches?

II. STATEMENT OF THE CASE AND FACTS

A. Statement of facts

1. The Discipline and the Trust Clause

The United Methodist Church (“UMC”) is a church denomination with a connectional structure that purports to govern itself by the United Methodist Church Book of Discipline (the “Discipline”). Complaint at ¶¶36-37 (Petitioners’ Appendix (“Appx.”) 32). The Discipline contains a “trust clause” that purportedly places all the real and personal property of every local UMC church in a trust for the benefit of the UMC. *Id.* at ¶¶73-74; Discipline at ¶2501 (Appx. 36, 171-172). The trust clause itself allows for property to be released from the trust under certain circumstances allowed by the Discipline, and the UMC has a long history of allowing local churches to disaffiliate free of the trust clause under Discipline paragraphs 2548.2 and 2549. Complaint at ¶¶75, 183 (Appx. 36, 50).

2. Paragraph 2553 of the Discipline

There is no dispute that the UMC shifted its fundamental values in recent years, putting the denomination at odds with thousands of its member churches. Complaint at ¶¶75, 183 (Appx. 36, 50). Because of this widespread disagreement, in 2019 the UMC’s General Conference enacted ¶2553 of the Discipline. *Id.* Paragraph 2553 laid out a neutral process whereby a local

church could disaffiliate, free of the trust clause, for reasons of “conscience.” *Id.* ¶2553 (Appx. 62-64). Local churches could not simply leave on their own, however. This required the cooperation of the UMC annual conferences such as Petitioners. Complaint at ¶79 (Appx. 37). Paragraph 2553 had a sunset date of December 31, 2023. *Id.* at ¶81; ¶2553(2) (Appx. 37, 62).

3. Petitioners repeatedly lied to Respondents

Respondents represent local churches that, due to the issues of “conscience” referenced by the General Conference, wished to disaffiliate from the UMC free of the trust. *Id.* at ¶82 (Appx. 37-38). Petitioners, perhaps upon realizing the number of local churches wishing to leave, engaged in duplicitous tactics to deprive Respondents of their ¶2553 rights.

In or around August 2022, Petitioners informed Respondents they did not qualify for disaffiliation under ¶2553 because their issues of “conscience” had not yet been written into the Discipline. *Id.* at ¶83 (Appx. 38). Petitioners Shortridge and Superintendents, as representatives and agents of Petitioner Conference, personally visited each Respondent Church and told them there was no reason to make any disaffiliation decision before the next General Conference meeting in May 2024, where the Discipline may or may not be changed. *Id.* at ¶86 (Appx. 38). Nothing in ¶2553 supported Petitioners’ position and other conferences across the UMC made no such claim. *Id.* at ¶¶83-84 (Appx. 38).

To assuage Respondents’ concerns about missing ¶2553’s December 31, 2023, sunset date, Petitioners Shortridge and Superintendents expressly promised that if, after the May 2024 General Conference meeting, Respondents still wished to disaffiliate with their property, they could do so under ¶2549. Complaint at ¶¶85-86 (Appx. at 38). Paragraph 2549 had long been used for that purpose, including very recently for churches under the authority of Petitioner Conference, so Respondents believed and trusted Petitioners and, as instructed, waited until after

May 2024 to make their final disaffiliation decision. *Id.* at ¶¶75, 87; Motion to Alter or Amend Judgment at Exs. A-C (Appx. 36, 38, 368-404).

At the May 2024 General Conference meeting, broad changes were made to the Discipline that enacted as UMC law the exact issues of “conscience” that led Respondents to seek disaffiliation in the first place. *Id.* at ¶¶88-89 (Appx. 39). In reliance on Petitioners’ earlier representations, Respondents approached Petitioners regarding the promised disaffiliation under ¶2549. *Id.* at ¶89 (Appx. 39). At that point, Petitioners informed Respondents that ¶2549 was no longer an available option and they would not be permitted to disaffiliate without surrendering their property. *Id.* Respondents subsequently learned that Petitioners’ agents, including but not limited to Petitioner Bishop Ball, were actively working to orchestrate the very changes to the Discipline that concerned Respondents, even as Petitioners were lying to Respondents and inducing them to allow the ¶2553 deadline to pass. *Id.* at ¶¶90-91 (Appx. 39).

Petitioners’ fraudulent scheme worked. Although more than 7,500 former UMC churches in other conferences successfully disaffiliated from the UMC with their property since June 2023, Respondents, having relied on Petitioners’ promises and representations, lost the opportunity to do so. *Id.* at ¶95 (Appx. 40). Petitioners’ conspiracy was intended to deprive Respondents of their contractual rights and to either strip them of their property or force them to remain in the UMC forever paying millions of dollars in apportionments to Petitioners. *Id.* at ¶¶96-97 (Appx. 40).

4. The subsequent Judicial Council Decision

After these events, on October 26, 2024, the judicial branch of the UMC considered the propriety of using ¶2549 to disaffiliate free of the trust. Appx. 94-97. In Decision Number 1512, the Judicial Council determined that churches “cannot now use” ¶2549 to disaffiliate, and that

representations otherwise had “confuse[d] congregations, giving them mixed messages, false hope, and misplaced reliance.” Appx. 96.

B. Statement of the Case

Based on these facts, Respondents filed this action against Petitioners alleging fraud, fraudulent inducement, breach of fiduciary duty, constructive fraud, collusion and conspiracy, promissory estoppel, equitable estoppel, and unjust enrichment. Complaint, generally (Appx. 26-55). Petitioners moved to dismiss for lack of subject-matter jurisdiction under the ecclesiastical abstention doctrine. Appx. 66-142. Respondents opposed that motion. Appx. 143-320.

On October 28, 2025, Judge Ryan Flanigan granted Petitioners’ motion to dismiss for lack of subject-matter jurisdiction under the ecclesiastical abstention doctrine. Appx. 5-25. Despite the long-recognized fraud or collusion exception to that doctrine, Judge Flanigan rejected the exception by retroactively applying Judicial Council Decision 1512. *Id.*

On November 24, 2024, Respondents filed a Motion to Alter or Amend Judgment and for Clarification and Factual Findings Pursuant to Rules 52(b) and 59(e). Appx. 351-404. Judge Flanigan then transferred the case to Judge Mark Wills citing a conflict. Appx. 437-438. After considering the matter, Judge Wills granted Respondents’ Motion and reversed Judge Flanigan’s dismissal. Appx. 1-4. Judge Wills explained: “the Court feels that it is necessary to remedy a clear error of law: that the possibility of fraud or collusion were not considered when the previous Judge made his ruling.” Appx. 3. Petitioners then filed the current Writ of Prohibition in an effort to prevent judicial review of their secular conduct.

III. SUMMARY OF THE ARGUMENT

Respondents filed claims against Petitioners specifically and sufficiently alleging Petitioners committed fraud and collusion and seeking monetary damages and other remedies.

Petitioners argued below, as they do here, that Respondents' claims are barred by the ecclesiastical abstention doctrine. Contrary to their argument, however, the ecclesiastical abstention doctrine is grounded in deference, not immunity. While secular courts must respect legitimate ecclesiastical determinations, they must not allow such determinations to be used as instruments of fraud.

Accordingly, there is a well-established exception to the doctrine of ecclesiastical abstention for fraud and collusion. That exception requires courts to exercise jurisdiction over the very type of fraudulent and collusive acts that Respondents alleged here. Judge Wills correctly concluded that Respondents clearly alleged fraud and collusion, and that the question of fraud and collusion must be presented to a jury.

The subsequent Judicial Council Decision 1512 does not change these facts or have any bearing here. At the time Petitioners committed fraud and collusion to the substantial injury of Respondents, there was no Decision 1512. Decision 1512—which does not even address Petitioners' conduct—cannot retroactively turn unlawful acts into lawful ones.

IV. STATEMENT REGARDING ORAL ARGUMENT AND DECISION

Respondents submit that the fundamental public importance of the legal issues presented here, in combination with the need for clarification of constitutional doctrine established by this Court, support a signed opinion from this Court. Thus, Rule 20 Oral Argument is requested.

V. ARGUMENT

When taking the facts alleged in the Complaint as true (some of which are fully supported with affidavits, deeds, and other documents demonstrating the actual, now proven conduct of Petitioners), the Respondent local churches state claims for fraud and collusion under West Virginia law, over which circuit courts have subject matter jurisdiction.

- A. *The ecclesiastical abstention doctrine is not a doctrine of immunity shielding church actors from the consequences of their unlawful, secular conduct.*

The First Amendment to the United States Constitution, applicable to the states through the Fourteenth Amendment, contains two clauses concerning religion: the Free Exercise Clause and the Establishment Clause. U.S. Const. amend. I; *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 301–302 (2000). The Free Exercise Clause guarantees the right to believe and profess one’s chosen religion. *Sch. Dist. v. Schempp*, 374 U.S. 203, 216 (1963). The Establishment Clause prevents the government from passing laws that “aid one religion, aid all religions, or prefer one religion over another.” *Id.* These concepts gave birth to the ecclesiastical abstention doctrine, which prohibits “extensive inquiry by civil courts into religious law and polity.” *Serbian E. Orthodox Diocese v. Milivojevich*, 426 U.S. 696, 709 (1976).

It has long been recognized, however, that while the freedom to believe is absolute, the freedom to act is not. *Cantwell v. Connecticut*, 310 U.S. 296, 303-304 (1940). “[T]he very concept of ordered liberty precludes allowing every person to make his own standards on matters of conduct in which society as a whole has important interests.” *Wis. v. Yoder*, 406 U.S. 205, 215-216 (1972). Religious institutions are not given general immunity from secular laws. *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 591 U.S. 732, 746 (2020). “When a civil right depends upon an ecclesiastical matter, it is the civil court and not the ecclesiastical which is to decide.” *Watson v. Jones*, 80 U.S. 679, 731 (1872) (quoting *Harmon v. Dreher*, 17 S.C. Eq. (Speers Eq.) 87 (1843)). Thus, subject-matter jurisdiction exists over matters of secular conduct.

B. *This case falls squarely within the fraud or collusion exception to the ecclesiastical abstention doctrine.*

It is a well-settled fact that churches cannot violate secular laws with impunity. To reflect that fact, the United States Supreme Court and the Supreme Court of Appeals of West Virginia have long held specific exceptions to the ecclesiastical abstention doctrine for fraud or collusion. Petitioners' conduct in this case falls squarely within those exceptions.

1. The United States Supreme Court has established claims for fraud or collusion are an exception to the ecclesiastical abstention doctrine.

The exception was first noted by the United States Supreme Court in *Gonzalez v. Roman Catholic Archbishop*, 280 U.S. 1, 16 (1929). There, the Court reiterated that courts must abstain from considering purely ecclesiastical matters “[i]n the absence of fraud, collusion, or arbitrariness.” *Id.* See also *Kedroff v. St. Nicholas Cathedral of Russian Orthodox Church*, 344 U.S. 94, n.23 (1952) (“In the absence of fraud, collusion, or arbitrariness, the decisions of the proper church tribunals on matters purely ecclesiastical... are accepted in litigation before secular courts as conclusive”); *Presb. Church in U.S. v. Mary Elizabeth Blue Hull Mem’l Presb. Church*, 393 U.S. 440, 451 (1969) (considering whether a church decision “resulted from fraud, collusion, or arbitrariness... does not inject the civil courts into substantive ecclesiastical matters”); *MD & VA Eldership of Churches of God v. Church of God, Inc.*, 396 U.S. 367, n.3 (1970) (probing into religious law prohibited “[e]xcept that civil tribunals may examine church rulings alleged to be the product of ‘fraud, collusion, or arbitrariness’”) (Brennan, J., concurring).

Although the “arbitrariness” aspect of *Gonzalez* was later discredited in *Serbian Orthodox Diocese v. Milivojevich*, 426 U.S. 696, 96 S.Ct. 2372, 49 L.Ed.2d 151 (1976), the fraud and collusion aspects have been repeatedly reinforced. In *Jones v. Wolf*, 443 U.S. 595 (1979), the

Court found consideration of a church tribunal's decision constitutionally barred because there was "no suggestion in this case that the decision... was the product of 'fraud' or 'collusion.'" *Id.* at 609. In *Hyun Jin Moon v. Fam. Fed'n for World Peace & Unification Int'l*, 281 A.3d 46 (D.C. Ct. App. 2022), the District of Columbia Court of Appeals wrote:

While religious abstention is a robust doctrine that provides substantial protections to religious organizations' autonomy within the religious sphere, the Supreme Court has strongly suggested that there is a "fraud or collusion" "exception to the general rule of non-interference," under which a civil court may decide a facially ecclesiastical dispute when religious figures "act in bad faith for secular purposes."

Id. at 70 (quoting *Heard v. Johnson*, 810 A.2d 871, 881 (D.C. 2002), in turn citing *Milivojevich*, 426 U.S. at 713). See also *Holy Spirit Ass'n for the Unification of World Christianity v. World Peace & Unification Sanctuary, Inc.*, No. 3:18-CV-01508, 2022 U.S. Dist. LEXIS 58955, *16-17 (M.D.Pa. Mar. 30, 2022) (courts defer to churches on religious doctrine or polity so long as church decisions are free of fraud or collusion).

2. West Virginia jurisprudence recognizes claims for fraud and collusion.

In Syllabus Points 9 and 10 of *Brady v. Reiner*, 157 W.Va. 10 198 S.E. 2d 812 (1773), this Court established:

9. In the absence of an express trust conditioning the use of property contrary to the rule of the church, a rule of the church resolving a church property dispute is conclusive upon the civil courts ***so long as such adjudicated disposition of the property was not obtained by fraud, collusion or arbitrary action.***

10. According to the ecclesiastical law of The United Methodist Church, titles to property held by trustees of a local church are held in trust for the general church. Consequently, the action of the general church through the trustees appointed by its West Virginia Annual conference to recover the local church property, ***not being the product of fraud, collusion or arbitrary conduct***, is absolutely conclusive upon the civil courts and will be respected and enforced by the courts of this State.

Syl. Pts. 9 and 10, *Brady v. Reiner, supra.*, (emphasis added). In *Brady*, this Court addressed a dispute which arose between a local church ("Avery Church"), which separated from the UMC, and the UMC which attempted to keep ownership and title to the personal and real property.

Notably, there were no allegations of fraud or collusion in *Brady*. The claims made by the Respondent churches in this case are distinguishable from those of *Brady* in that the Respondent churches did allege the UMC committed fraud and collusion. That fraud and collusion exception is expressly recognized and contemplated in *Brady*.

Following the *Brady* decision, this Court followed the lead of the United States Supreme Court and eliminated the “arbitrariness” exception to ecclesiastical abstention in *Serbian Orthodox Diocese, supra*. Footnote 6, *Board of Church Extension v. Eads*, 159 W.Va. 943, 230 S.E.2d 911 (1976). Other than the elimination of the “arbitrariness” exception, *Eads* did not alter or modify the doctrine of *Brady*. With both cases having a different fact pattern *and in neither case did the local church assert allegations of fraud or collusion*, there is no basis for the position that *Eads* changed the fraud and collusion exception promulgated by this Court in *Brady*.

3. The allegations in the Complaint must be taken as true.

While civil courts may consider matters beyond the pleadings regarding a motion to dismiss for lack of subject matter jurisdiction, this Court has also established that allegations of fact within the complaint must be taken as true, and those facts alleged must be viewed in a light most favorable to the complaining party. *See Pennsylvania v. Consol Energy, Inc.*, 233 W.Va. 409, 758 S.E.2d 762 (2014) citing in footnote #4, *Collia v. McJunkin*, 178 W.Va. 158, 358 S.E.2d 242 (1987) and *Courtney v. Smith*, 297 F.3rd 455 (6th Cir. 2002).

In 2023, this Court in a Memorandum Decision relied on the above principles and established that punitive damages could support *subject matter jurisdiction*; the Order dismissing the complaint in that case was reversed. *Pierson v. Miles*, 2023 W.Va. Lexis 333, 2023 WL 6012535.

4. The facts alleged in the Complaint are sufficient to raise the fraud and collusion exceptions.

Here, the Respondent churches' Complaint pleads, in part, the following allegations:

75. The trust clause notwithstanding, the UMC has a decade's long pattern and practice of allowing local churches to disaffiliate with their property pursuant to ¶¶2548.2, 2549, and others in the *Discipline*.

83. In or around August 2022, Defendants informed Plaintiff Churches that they did not qualify for disaffiliation under ¶2553 because nothing had yet changed in the *Discipline* and the Conference had not taken any actions that would give the Plaintiffs the ability to utilize that Paragraph which was an alternate interpretation than utilized across the majority of the conferences in the United States.

84. This was a false statement because there was nothing in ¶2553 that disqualified Plaintiff Churches from disaffiliating under ¶2553.

85. Defendants announced, however, that Plaintiff Churches could disaffiliate with their property pursuant to ¶2549 as a replacement to ¶2553, with one of the required steps being that each Plaintiff Church must meet with Melissa Shortridge or another representative of the Defendants.

86. Despite ¶2553's December 31, 2023, sunset date, Shortridge and/or one of Defendants' district superintendents, as representatives and agents of Defendants, personally visited each Plaintiff Church and told them there was no reason to make any disaffiliation decision prior to the next General Conference meeting in May 2024, where the *Discipline* may or may not be changed, and expressly promised that if, after that conference, they still wished to disaffiliate with their property, they would be allowed to do so as their process under ¶2549 did not have that sunset date and would still be available. This was one of the selling points of the substituted process the Defendants made available.

87. Plaintiff Churches, in good faith, trusted Defendants and waited until after May 2024 to make their final disaffiliation decision.

88. At the May 2024 General Conference meeting, broad changes were made to the *Discipline*.

89. As a result, each Plaintiff Church independently determined it wished to disaffiliate. However, when Plaintiff Churches reached out to Defendants to do so, Defendants informed Plaintiff Churches that they would not be permitted to leave without surrendering their real and personal property.

94. Defendants used fraud and collusion to intentionally deprive Plaintiff Churches of their contractual right to disaffiliate with their property.

There are other allegations of facts for fraudulent inducement in paragraphs 90, 91, 92, and 93. All of the factual allegations were included by reference for each fraud and collusion count.

When taking the above allegations of fact as true, and with a special reference to the allegations in paragraph 75 *which are fully proven with affidavits and deeds demonstrating both the reality and truthfulness of those allegations (see Appx. 368-404)*, the Respondent churches have provided the legal basis for the circuit court's subject matter jurisdiction applying the fraud and collusion exceptions to ecclesiastical abstention pursuant to *Brady* and *Eads*. Further, in deciding the issue of whether facts supporting fraud and collusion were sufficiently plead, Judge Wills correctly concluded that Respondents clearly alleged fraud and collusion, and that the question of fraud and collusion must be presented to a jury.

5. The Judicial Council does not have to be the tribunal to decide the issue.

Judge Flanigan and Petitioners read a limit into this exception that does not exist. Judge Flanigan concluded that the fraud or collusion exception applies only to a "final adjudication... by the highest ecclesiastical authority of a hierarchical religious organization." Appx. 19. But courts have imposed no such limitation. *See Gonzalez*, 280 U.S. at 16 (exception applies to any decision of any "proper" church tribunal); *Kedroff*, 344 U.S. at 116 n.23 (same); *Hyun Jin Moon*, 281 A.3d at 70 (exception applies where religious figures act in bad faith for secular purposes).

The language relied on by the Petitioners is that language in both Syllabus Point 2 and in the body of the opinion which states:

2. With regard to disputes within hierarchical churches, civil courts should respect, *and where appropriate enforce*, the final adjudications of the *highest church tribunals*, provided that such adjudications are not procured by fraud.

Syllabus Point 2, *Eads, supra* (emphasis added). If the Judicial Council had actually decided the issues in this case without committing fraud or collusion, that decision would, *if appropriate*, be enforced. But the Judicial Council did not address the issues in this case, and it does not have to be the tribunal to decide them under *Brady*.

The standard set by this Court in *Brady* is to evaluate the claims for fraud or collusion of the *highest church judicatory passing upon the question (in this case, the West Virginia Annual Conference)*, which does not require a decision from the Judicial Council. This is particularly true since the Respondent local churches had no procedural right or path to seek redress by the Judicial Council by virtue of ¶2609 of the *Book of Discipline*.

Brady is still fully valid and binding law in West Virginia, except that the “arbitrariness” exception to the ecclesiastical abstention doctrine is now, because of *Eads*, overruled based on the United States Supreme Court decision in *Serbian Orthodox Diocese v. Milivojevich, supra*.

Here, Respondents alleged that Petitioners lied to them about being unqualified to disaffiliate under ¶2553 when, in fact, they were qualified; lied to them that they must allow the ¶2553 deadline to pass and wait until the May 2024 General Conference when, in fact, they did not; lied to them that after May 2024, departure free of the trust would be available under ¶2549 when, in fact, Petitioners had no intention of allowing such departure; and then when that time came, lied to them about ¶2549 being unavailable when, in fact, it still was, as Judicial Council Decision 1512 had not yet been written and other churches—including within Petitioner Conference—had used ¶2549 for that purpose for decades. Petitioners’ collusive actions were intended to deprive Respondents of their contractual rights under ¶2553 by inducing them to allow the deadline to pass, for the intended purpose of either taking Respondents’ valuable

property or trapping and forcing them to forever pay Petitioners millions of dollars of apportionments.

Despite Petitioners' religious smokescreen, these allegations, taken as true as the lower court was required to do on their motion to dismiss, precisely describe the fraud and collusion to be excepted from the general rule of abstention. The lower court has subject-matter jurisdiction because the UMC tribunal deciding the property and disaffiliation issues in question (Petitioner Conference) is the very tribunal that committed the fraud and collusion.

C. The UMC Judicial Council Decision 1512 does not in any way affect the facts of this case or the claims asserted.

Judge Flanigan concluded, and Petitioners argue, that Judicial Council Decision 1512 somehow retroactively erased any fraud or conspiracy by Petitioners because it—eventually—became the highest tribunal to pass upon the issue. It does not, and it cannot.

First, the Decision is not retroactive. Contrary to Judge Flanigan's improper and unsupported conclusions of law, the UMC had—as Respondents alleged in their Complaint—for decades allowed churches to disaffiliate free of the trust under ¶2549. Complaint at ¶¶75, 198 (Appx. 36, 52). In fact, Petitioner Conference itself had allowed this, even during the time ¶2553 was in effect. Appx. 368-404. When the Judicial Council issued Decision 1512, it ruled that churches “cannot now use” ¶2549 to disaffiliate. Appx. 94-97. The Decision did not go back and nullify the many past disaffiliations under ¶2549, it necessarily could only apply prospectively.

Second, the Decision does not somehow turn fraud into truth. When Petitioners falsely told Respondents they did not qualify to leave under ¶2553, Decision 1512 did not exist. When they promised Respondents they could confidently allow the ¶2553 deadline to pass because ¶2549 would be available, Decision 1512 did not exist. When Petitioners reneged on their promises and told Respondents they could *not* use ¶2549, Decision 1512 *still* did not exist.

Third, the Decision does not address the claims at issue here. It does not consider allegations of fraud or collusion, does not evaluate reliance by local churches, and does not speak to damages arising from misrepresentations. It addresses only the interpretation of certain provisions of the Discipline. It certainly does not serve as a retroactive shield against liability for conduct it never addressed, and it cannot, therefore, serve as a jurisdictional bar to claims that arise from entirely different legal principles.

If Decision 1512 has any relevance to this case at all, it is this: the UMC Judicial Council expressly called out representations that ¶2549 was available as “confus[ing] congregations, giving them mixed messages, false hope, and misplaced reliance.” Appx. 94-97. This recognition by the UMC’s own Judicial Council confirms the very fraud Respondents alleged.

Just as there was nothing but Petitioners’ lies preventing Respondents from timely exiting under ¶2553, there was nothing but Petitioners’ lies preventing them from subsequently exiting under ¶2549. At the time Petitioners made these representations, they knew they were false, they intended them to induce Respondents’ reliance, and they most certainly did so, all to Respondents’ substantial injury. Judicial Council Decision 1512 does nothing—and cannot do anything—to change these facts.

D. Petitioners cannot avoid the consequences of their fraud by claiming Respondents could have appealed.

Petitioners contend that because ¶2553 disaffiliation required annual conference approval, their statements to Respondents that they did not qualify was within their rights and, if Respondents disagreed, they could have appealed to the UMC Judicial Council. That argument misses the mark for at least five reasons.

First, the argument that disaffiliation required West Virginia Annual Conference approval is a “red herring.” *The West Virginia Annual Conference did grant permission to a number of*

churches to disaffiliate, but only under ¶2549, with some occurring before the ¶2553 sunset and at least one after. (This is proven with the affidavits and deeds provided to Judge Wills cited above.) Permission to disaffiliate with church property was not a problem—it was regularly given by the Petitioners, but only using ¶2549.

Second, nothing in ¶2553 could be read to assume offending changes to the Discipline actually had to be made for a church to qualify to disaffiliate under that section. Petitioners' representation otherwise was false.

Third, Respondents had no idea Petitioners were lying to them. Rather, in the true nature of fraud, Respondents trusted and relied on Petitioners' false statements and did not know there was a reason to appeal.

Fourth, Respondents did not have the right to simply appeal Petitioners' false statements to the Judicial Council, even if they had reason to believe they should. The Judicial Council does not sit as a general court of appeals ready to hear any grievance any member or local church may have. Rather, ¶2609 of the Discipline sets out clear limits as to who can seek review in the Judicial Council and when they may do so. Any concerns Respondents had about Petitioners' representations did not qualify.

Finally, even if Respondents could have appealed, they were once again induced not to by Petitioners' fraudulent representation that they could (and must) allow the ¶2553 deadline to pass because ¶2549 would then be available. By the time Respondents figured out Petitioners had lied, the deadline had passed and there was no further opportunity to leave under ¶2553, making any possible appeal moot.

Petitioners' motion to dismiss in the lower court was not the time to speculate as to what might have been had Petitioners not lied or had Respondents really been able to appeal. Those questions cannot be answered now due to Petitioners' fraud.

E. Judge Wills committed no error in granting Respondents' motion to alter or amend and reversing Judge Flanigan's dismissal so the case can be heard by a jury.

In granting Respondents' motion to alter or amend, Judge Wills correctly concluded that allegations of fraud and collusion present factual issues fully supporting the well documented exceptions to the ecclesiastical abstention doctrine. That is consistent with the principle that, when considering a motion to dismiss or a jurisdictional challenge, the court must accept the plaintiff's allegations as true and construe them in the light most favorable to the plaintiff.

Petitioners invited the lower court to do the opposite. They asked the court to disregard Respondents' allegations, draw inferences in Petitioners' favor, and conclude as a matter of law that no fraud occurred. That is not the proper standard on a motion to dismiss but rather, at most, an argument for summary judgment or trial. Judge Wills did not err by rejecting Petitioners' invitation.

F. This is not an appropriate case for a writ of prohibition.

A writ of prohibition is appropriately granted only where the lower court has no jurisdiction or has exceeded its legitimate jurisdiction. *State ex rel. Peacher v. Sencindiver*, 160 W. Va. 314, 315, 233 S.E.2d 425, 425 (1977). Under well-settled law, the lower court here did have subject-matter jurisdiction pursuant to the fraud or collusion exception to the ecclesiastical abstention doctrine.

To the extent there could be any question about subject-matter jurisdiction, that does not justify issuance of a writ of prohibition. The lower court has, at a minimum, colorable jurisdiction based on well-established legal principles and the allegations set forth in the

Complaint. Where jurisdiction is arguable and depends on factual development, prohibition is inappropriate. *State ex rel. Ford Motor Co. v. McGraw*, 237 W. Va. 573, 580, 788 S.E.2d 319, 326 (2016) (“relief in prohibition is inappropriate where jurisdiction turns on contested issues of fact”); *State ex rel. Monster Tree Serv. v. Cramer*, 244 W. Va. 355, 361, 853 S.E.2d 595, 601 (2020) (where a petition raises a jurisdictional challenge, court must determine if the challenge is factual or purely legal and if “it rests upon a determination of fact, prohibition will not lie”).

Here, the lower court’s jurisdiction is grounded in well-established legal principles and contested factual allegations. Petitioners are not entitled to the extraordinary relief they seek. Prohibition must be denied.

VI. CONCLUSION

While Respondents certainly have doctrinal disagreements with the UMC, the fundamental issues in this case involve Petitioners’ unlawful secular conduct that, under well-settled law, is not immune under the ecclesiastical abstention doctrine. Petitioners cannot commit fraud and conspiracy, then have courts defer to their self-serving claim to be untouchable. These civil questions must be judged by civil law. Judge Flanigan got it wrong, and Judge Wills corrected it. Respondents’ claims must be left for a jury to decide.

Therefore, Respondents request this Court **deny** Petitioners’ Writ of Prohibition.

Dated this 18th day of May, 2026

Respectfully submitted,

/s/ Anthony R. Veneri

Anthony R. Veneri, Esquire
West Virginia State Bar No. 4310
Veneri Law Offices
1600 W. Main Street
Princeton, West Virginia 24740
Phone: (304) 425-8751
Fax: (304) 487-2830
office@venerilaw.com

/s/ William P. Stafford, II

William P. Stafford, II
West Virginia State Bar No. 5778
Taylor W. Bohon
West Virginia State Bar No. 13323
Brewster Morhous PLLC
418 Bland Street
Post Office Box 529
Bluefield, West Virginia 24701-0529
Phone: (304) 325-9177
wstafford@brewstermorhous.com

/s/ Jonathan Bailie

Jonathan Bailie
West Virginia State Bar No. 14712
National Center for Life and Liberty
445 Dexter Avenue
Suite 4050
Montgomery, AL 36104
Phone: 727-362-3700
jbailie@ncll.org

/s/ David C. Gibbs III

Pro Hac Pending
David C. Gibbs III
(Florida Bar No.: 992062)
Admitted *Pro Hac Vice*
Gibbs Law Firm, P.A.
P.O. Box 5076
Largo, FL 33779-5076
Phone: (727) 362-3700
Fax: (727) 398-3907
dgibbs@gibbsfirm.com

VII. VERIFICATION

I, Taylor W. Bohon, attorney for Respondent Trustees of Madison United Methodist Church, et al, verify that the factual and legal arguments discussed herein are accurate and true to the best of my belief.

/s/ Taylor W. Bohon
Taylor W. Bohon, Esq.
West Virginia Bar No. 13323

CERTIFICATE OF SERVICE

I, Taylor W. Bohon, attorney for Respondents Trustees of Madison United Methodist Church, et al., certify on the 18th day of May, 2026, I have served the foregoing VERIFIED OPPOSITION TO PETITIONERS' PETITION FOR WRIT OF PROHIBITION upon all counsel of record and parties via the Court's E-Filing System:

Honorable Mark E. Wills, Judge
Mercer County Circuit Court
Mercer County Courthouse Annex
120 Scott Street, Suite 203
Princeton, West Virginia 24740
Mark.Wills@courtswv.gov

M. Shane Harvey, Esquire
Jackson Kelly PLLC
Post Office Box 553
Charleston, West Virginia 25322
sharvey@jacksonkelly.com

Wendy G Adkins, Esquire
Dale H. Harrison, Esquire
Jackson Kelly PLLC
3000 Swiss Pine Way, Suite 200
Post Office Box 619
Morgantown, West Virginia 26501
wgadkins@jacksonkelly.com
dharrison@jacksonkelly.com

/s/ Taylor W. Bohon