

VIRGINIA:

IN THE CIRCUIT COURT FOR FAIRFAX COUNTY

STEVE GASKINS, )  
)  
MICHAEL MANFREDI, )  
)  
ROLAND SMITH, )  
)  
KEVIN ELWELL, )  
)  
and )  
)  
ADAM JEANTET. )  
)  
Plaintiffs, )  
)  
v. ) Case No.  
)  
MCLEAN BIBLE CHURCH, INC., )  
)  
Serve: )  
McLean Bible Church Inc. )  
8925 Leesburg Pike )  
Vienna, VA 22182 )  
)  
Defendant. )

---

COMPLAINT FOR INJUNCTIVE RELIEF

COME NOW your Plaintiffs, Steve Gaskins, Michael Manfredi, Roland Smith, Kevin Elwell and Adam Jeantet, by counsel, and propound this Complaint for injunctive relief, and pray this honorable Court to enjoin Defendant from holding a planned vote on a proposed new church constitution which is improperly designed to circumvent this Court's authority in deciding multiple cases against Defendant currently pending in or on appeal from this Court. **Because the proposed vote is scheduled for May 24, 2023, a mere thirteen days away, and because passage of the new constitution is designed to moot ongoing litigation in this Court**

**and the Court of Appeals, Plaintiffs seek emergency relief to preserve the status quo, and request a hearing at this Court’s earliest possible opportunity.** In support thereof, Plaintiffs state as follows:

**I. PARTIES**

1. Plaintiff Steve Gaskins is a natural person, a citizen of the United States and the Commonwealth of Virginia, and a member of McLean Bible Church (“MBC” or “the Church”).
2. Plaintiff Michael Manfredi is a natural person, a citizen of the United States and the Commonwealth of Virginia, and a member of McLean Bible Church.
3. Plaintiff Roland Smith is a natural person, a citizen of the United States and the Commonwealth of Virginia, and a member of McLean Bible Church.
4. Plaintiff Kevin Elwell is a natural person, a citizen of the United States and the Commonwealth of Virginia, and a member of McLean Bible Church.
5. Plaintiff Adam Jeantet is a natural person, a citizen of the United States and the Commonwealth of Virginia, and a member of McLean Bible Church.
6. On information and belief, Defendant McLean Bible Church is a Virginia unincorporated association, a house of religious worship located in Fairfax County and the Commonwealth of Virginia.

**II. JURISDICTION AND VENUE**

7. This Court has jurisdiction to grant the requested injunction pursuant to § 8.01-620 of the Code of Virginia.
8. Venue is proper in this Court pursuant to § 8.01-262 (1), (3) and (4) of the Code of Virginia, as the defendant Church is located in Fairfax County, several Plaintiffs are residents of

Fairfax County, and the actions complained of as breaches of contract and the actions taken by Defendant that Plaintiffs seek to enjoin occurred in Fairfax County.

## **I. BACKGROUND**

### **A. The Initial Lawsuit Claiming an Illegal Election for Governing Elders**

9. In July of 2021, Plaintiffs filed a lawsuit against Defendant for breach of contract, asserting that Defendant had conducted an illegal election for three members of MBC's governing Board of Elders in June-July, 2021.

10. Plaintiffs alleged that Defendant had illegally and arbitrarily placed numerous MBC members into "inactive" non-voting status (including Plaintiffs Elwell and Jeantet) in violation of those members' rights under the MBC Constitution ("the constitution"), Defendant's governing document.

11. Plaintiffs alleged that the reason for placing members into inactive status was to illegally taint the vote for Elders, by diluting the voting strength of dissenting members.

12. In addition, Plaintiffs allege that Defendant intimidated MBC members who were also MBC employees by stripping members of the secret ballot in the 2021 election, to produce a predetermined result.

13. Plaintiffs alleged that the constitution requires candidates for Elder to receive 75 percent of the vote at a congregational meeting in order to be seated as Elders.

14. Plaintiffs alleged that the constitution requires that, if candidates for Elder fail on two consecutive votes to receive 75 percent support from voting members, the entire Board of Elders must face a "vote of confidence" from the congregation, and if the Board fails to receive 75 percent at the "vote of confidence," the "congregational veto" is exercised and the congregation can select an entire new Board of Elders from among its members.

15. Plaintiffs alleged that the Board possesses “immense power” under the constitution (Initial Complaint at ¶ 34), and that the “congregational veto” is the only means by which the congregation can remove the Board from power. *Id.* at ¶¶ 36-38. A copy of the Complaint from Plaintiffs’ initial lawsuit is attached as Exhibit 1.

**B. Defendant Elects New Elders and Moves to Dismiss as Moot**

16. After the previous suit had consumed a year of time in litigation, and after this Court had denied Defendant’s Demurrer and motion to dismiss, MBC held a new Elder election in June 2022, and again moved this Court to dismiss the suit, this time on mootness grounds, due to the intervening Elder election.

17. This Court granted the motion to dismiss, and Plaintiffs appealed to the Court of Appeals, requesting that the dismissal be overturned and the matter remanded to this Court for adjudication on the merits. Plaintiffs argued that the 2021 Board was illegally elected, and was thus without authority to call the intervening 2022 Elder election in an attempt to moot Plaintiffs’ case.

18. That appeal was argued on February 16, 2023. A ruling is expected in the near future, but has not occurred yet.

**C. Defendant Incurs Another Breach of Contract Suit From Other Members**

19. In the meantime, other members also sued MBC in this Court, alleging that MBC had affiliated with the Southern Baptist Convention (“SBC”), in violation of the MBC constitution.

20. The suit is styled “*Jeremiah Burke, et. al. v. McLean Bible Church*,” Case No. CL-2022-12576 (hereinafter “Burke lawsuit”).

21. The constitution prohibits affiliation with any denomination, and goes so far as to prohibit even amending that specific provision of the constitution in the future.

22. The plaintiffs in the Burke lawsuit allege that, *inter alia*,

[In September 2017, MBC] applied for an affiliation with the SBC via a formal request to the Southern Baptist Conservatives of Virginia (“SBCV”), which is a fellowship of SBC churches across the Commonwealth of Virginia. That affiliation request was not disclosed to the congregation in any way, shape, or form. In fact, the Church denies its SBC affiliation to date. Regardless, the Church became formally affiliated with the SBCV (and the SBC) in the months after its September 2017 affiliation request. As a result of the 2017 affiliation, the Church was given an ID (or Identification) number by the SBC, which corresponded to those given to the 47,000+ Baptist churches in the United States. It was also entitled to “messengers” with voting rights at SBC’s annual convention. In turn, and as stated *infra*, the Church was expected to share the same confession of faith as the SBC – i.e. the BFM. In tandem with that formal affiliation, the Church also began a campaign of financially supporting the Southern Baptists, in violation of its Constitution. [Burke Lawsuit Complaint, at ¶¶ 25-30.]

23. That lawsuit as well has survived a motion to dismiss and a demurrer filed by MBC in this Court.

**I. Defendant Attempts to Approve a New Constitution, in an Attempt to Deny This Court’s Jurisdiction**

24. Now, in a transparent effort to again claim that both cases are moot, without ever letting this Court adjudicate the merits of either underlying suit, MBC has issued a quick call for a congregational meeting on May 24, 2023, to vote on a new constitution, for the first time in the history of MBC.

25. Under the current constitution, proposed amendments “must be approved by the Board of Elders unanimously and by a three-fourths (3/4) vote of the congregation present and voting” at a “duly announced business meeting.” Art. III, Section 2.

26. Should the Court of Appeals grant the appeal of Plaintiffs herein, this Court will be adjudicating two lawsuits alleging violations of MBC’s current constitution by its current Board of Elders.

27. Plaintiffs herein alleged in their initial lawsuit in this Court that the Elders elected in 2021 were illegally elected, and that the Board illegally placed members into “inactive” status to

taint the outcome of the 2021 election. Should Plaintiffs prevail at the Court of Appeals and prove their case in this Court, the current Board is accordingly illegally elected, and wholly without authority to propose a new constitution to attempt to moot the current lawsuits.

28. However, the current Board, alleged by Plaintiffs to be illegal and without authority, seeks to “remedy” the contractual breaches alleged in 2021 by the plaintiffs in both suits, by simply approving a new constitution that would not contain the breached provisions.

**A. Defendant Admits the Proposed New Constitution is an Attempt to Divest this Court of Jurisdiction**

29. Defendant’s actions are a transparent effort to divest this Court of authority to remedy the breaches alleged in both lawsuits.

30. MBC admits as much in its emailed notice to the current congregation of the vote on the proposed new constitution, dated May 7, 2023 (“the Notice”).

31. In the Notice, Defendant states

the vast majority of our current constitution was written in 1961, at or around the same time the church was founded.... Unfortunately, over recent years a small group of church members and nonmembers has leveraged such language in our constitution to file successive lawsuits, complaints, and appeals against our church family.... **Clearly it is neither biblically faithful or practically helpful for such lawsuits from this small group of people to continue.... Based on all of the above, we believe now is the time to amend our constitution.** We believe that the proposed amendments will better align with and support our growth in overall biblical health while also providing clarity to help us prevent further harm to our church family (emphasis added)

A copy of the Notice is attached as Plaintiff’s Exhibit 2.

**B. The Proposed New Constitution Attempts to Moot the Burke Lawsuit**

32. The new constitution proposes to attempt to moot the Burke lawsuit by adding a new Article IV, Section 4, which states, *inter alia*:

Article I, Section 2 shall not preclude the Church from entering into a collaborative arrangement, project, or relationship with another church, ministry, organization or denomination if, in connection with such arrangement, project, or relationship, (1) the

Church is not required to agree with any theological position inconsistent with the Church's beliefs set forth in this Constitution (as determined by the Board of Elders), and (2) such church, ministry, organization or denomination does not obtain any governing authority or rights with respect to the nomination, election or removal of any elders, pastors or members of the Church, or with respect to any amendments to the Constitution.

A copy of the proposed new constitution is attached as Exhibit 3.

33. The proposed new constitution would still prohibit “affiliation” with a denomination in theory, but allow it in practice, by simply renaming “affiliating” as “collaborating” with a denomination.

34. This provision is transparently designed to attempt to moot the Burke lawsuit.

### **C. The Proposed New Constitution Again Attempts to Moot Plaintiffs’ Initial Lawsuit**

35. The proposed new constitution also attempts to again moot Plaintiffs’ initial lawsuit in this Court, regardless of the eventual ruling of the Court of Appeals.

#### **1. The Proposed New Constitution Gives the Board Dictatorial Authority Over All MBC Membership Rights**

36. First, the proposed new constitution does away with the “active/inactive” membership distinction, and simply vests final and sole authority and discretion for a member’s remaining in membership with the Board of Elders.

37. The proposed new Article V, Section 1 reads, *inter alia*, “An individual shall qualify as a Church member only if such individual ... has subsequently neither resigned his or her membership nor been removed from membership by the Board of Elders **based on the Board's determination that the individual no longer satisfies constitutional membership requirements.**”

38. The current constitution, under which plaintiffs herein have sued, provides in Article V, Section 1 that “Active membership in McLean Bible Church shall be open to all persons twelve (12) years of age and older who confess Christ as Savior, who desire Him to be Lord of their

lives, and who are in agreement with the doctrinal position of McLean Bible Church as stated in Article II herein.”

39. It provides in Section 2 that “Voting privileges are restricted to active members who have passed their sixteenth (16th) birthday.”

40. Section IV provides for placement into “inactive,” nonvoting status of “members who have absented themselves from the worship services of McLean Bible Church for a period of eight (8) consecutive weeks without reasonable excuse for their absence.”

41. Without that determination, there is no provision for declaring a member nonvoting other than being “publicly dismissed from the Church fellowship” for engaging in “conduct that is a reproach to Christ and a derogatory reflection upon the reputation of His Church.” Article V, Section 6.

42. A central argument of the Complaint of the initial lawsuit of Plaintiffs herein was that the Board had arbitrarily declared a large number of members “inactive” and thus nonvoting, with no determination of missing the required eight consecutive services. Plaintiffs alleged that these decisions were made to exclude members the Board believed would vote against its choices for Elder.

43. The proposed new constitution removes all requirement to determine whether the member has actually missed services, and any standard by which to judge a member’s qualifications (“conduct that is a reproach to Christ and a derogatory reflection upon the reputation of His Church”), and simply substitutes a purely subjective determination by the Board that “the individual no longer satisfies constitutional membership requirements.” It essentially “constitutionalizes” arbitrary action by the Board, turning MBC from a theological, scripturally-based organization into a purely political organization dictated to by the all-powerful



Board of Elders – all in a transparent effort to deprive this Court of jurisdiction to rule on the Board’s previous breaches of contract under the current constitution.

**2. The Proposed New Constitution Removes the “Congregational Veto,” Allowing the Board to Perpetuate Itself Indefinitely Regardless of Congregational Support**

44. The proposed new constitution removes entirely the old Article VI, Section 11, entitling the congregation to a “vote of confidence” on the entire Board if proposed new Elder candidates fail in two consecutive votes to achieve 75 percent support.

45. Accordingly, the proposed new constitution removes the sole check and balance currently in the hands of the congregation, and places entire, absolute, arbitrary and sole authority in the hands of the Board of Elders.

46. (The proposed new constitution also reduces the threshold of support to elect an Elder from 75 percent to two-thirds). [Proposed new constitution, Art. V, Section 3.b (“the Church membership may approve or adopt a proposed action or matter by the affirmative vote of at least two-thirds of the members present and voting during a Church Family Meeting”).

47. The proposed new constitution would entirely remove the congregational veto. The only remaining provision where the congregation has any say over removal of an Elder is in the new Article VI, Section 1.f: “An elder may also be removed from office by the delivery to any elder in office of a written statement demanding such removal that is verifiably signed by Church members entitled to vote constituting at least fifty percent (50%) of the total number of Church members entitled to vote.”

48. But since the Board has no obligation to furnish a list of voting members to anyone not on the Board, it is impossible for any member desiring to remove an Elder to know what individuals must be approached about signing any such removal petition. Accordingly, any removal of Elders by the congregation is effectively destroyed.

49. Thus, actual removal of anyone on the Board of Elders is at the sole, complete and arbitrary discretion of the Board itself. “An elder may be removed from office by resignation or by a vote of not less than two-thirds of the elders in office.” [Proposed constitution, Art. VI, Section 1.f.]

50. The proposed new constitution additionally provides, “if the number of elders in office (not including any Lead Pastor(s)) at the end of a Church Family meeting is less than six, the Board of Elders may extend the term of any elder whose term expired at the end of such meeting until the end of the next Church Family meeting.” [Proposed new constitution, Art. VI, Section b.]

51. In other words, no matter how much the congregation may believe that an Elder may be failing to fulfill his responsibilities, or damaging the church, as long as two other Elders support him, he can simply be reappointed again and again even if he cannot obtain two-thirds support from the congregation. This reduces MBC from a nominally congregational church to a self-appointed and self-perpetuating dictatorship of six.

52. If, as Plaintiffs herein alleged in their initial lawsuit currently pending in the Court of Appeals, the Board conducted an illegal Elder election in July 2021, the Board is without authority to propose the new constitution or bring it to the congregation for a vote.

### **3. The Proposed New Constitution Attempts to Divest the Courts of Jurisdiction Over MBC Constitutional Violations**

53. Finally, and with no small degree of irony, the proposed new constitution would divest this Court of any authority to resolve any disputes regarding MBC.

54. The proposed new Article VII, Section 5, “Dispute Resolution,” provides that any dispute between MBC and its members must be resolved through mediation and arbitration, with no right of appeal to this or any other Court.

The Church and its members agree that any Dispute shall be resolved solely through alternative dispute resolution as described herein.... The Church and its members agree to seek to resolve any Dispute first through confidential biblically-based conciliation as determined by the Board of Elders.... If biblically-based conciliation does not resolve the Dispute, the Church and its members agree that the Dispute shall be resolved solely through legally binding confidential arbitration in accordance with the Rules of Procedure for Christian Conciliation of the Institute for Christian Conciliation or any similar arbitration procedures approved by the Board of Elders.... The Church and its members expressly waive their right to file a lawsuit in any court or other judicial body for any Dispute, except to enforce an arbitration decision as described above....

55. Accordingly, the current Board, which Plaintiffs allege in their initial lawsuit, currently pending in the Court of Appeals was illegally elected by denying to 2021 MBC members the right to vote guaranteed in the current constitution, is proceeding *ultra vires* to deny this Court jurisdiction to resolve on the merits either Plaintiffs' claims or those in the Burke lawsuit.

56. Even if Plaintiffs prevail in the Court of Appeals, should the proposed new constitution be approved on May 24, Defendant will no doubt come back to this Court, as it did after the 2022 Elder election, arguing again that the intervening vote to approve the new constitution moots the case all over again, and moots the Burke lawsuit as well.

57. If Plaintiffs prevail in the Court of Appeals, and are then able to prove their case in this Court, then the Board was illegally elected in 2021, and was thus without authority to conduct the 2022 Elder election or the 2023 vote on a new constitution.

58. This matter cannot be resolved while the Court of Appeals is still considering its ruling on whether the question of whether the Board was indeed illegally elected in 2021 is in fact moot.

### **REQUEST FOR RELIEF**

Accordingly, Plaintiffs respectfully pray this honorable Court for the following relief:

1. An injunction against any consideration by MBC of any proposed new constitution, until a final determination is made in the Court of Appeals as to whether Plaintiffs' initial lawsuit is moot. If Plaintiffs prevail before the Court of Appeals and the matter is remanded to this Court for adjudication, Plaintiffs pray this Court for an injunction against any consideration by MBC of any proposed new constitution until the initial lawsuit is decided on the merits in this Court.
2. Such other and further relief as shall seem to this honorable Court to be just and prudent.

Respectfully Submitted,

Steve Gaskins  
Michael Manfredi  
Roland Smith  
Kevin Elwell  
Adam Jeantet

By Counsel

\_\_\_\_\_/s/\_\_\_\_\_  
Rick Boyer, Esq. (VSB No. 80154)  
INTEGRITY LAW FIRM, PLLC  
P.O. Box 10953  
Lynchburg, VA 24506  
Phone: 434-401-2093  
Fax: 434-239-3651  
Email: rickboyerlaw@gmail.com  
*Counsel for Plaintiffs*