

STATE OF NORTH CAROLINA
HALIFAX COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
20 CVS 664

GLORIA BATTLE; MAMIE BATTLE;
MARY BATTLE; JAMES BATTLE;
STEPHANIE BATTLE; STEPHEN
MATTHEW BATTLE; STEVEN
BATTLE; WILLIAM M. BATTLE;
PAMELA BRINKLEY; HERBERT
DANIEL; ELAINE DICKENS;
PAULINE DIXON; COLLIN
DOZIER; ELMA GRAY; MARY
HARRINGTON; SHIRLEY
HEDGEPEETH; TIMOTHY
HEDGEPEETH; WILLIAM
HEDGEPEETH; ANNETTA HEWLIN;
RODERICK HEWLIN; TANDREA
HILLIARD-BOONE; ATIA
HORTON; CAROLYN JAMES;
CATHY JONES; CHARLENE
JONES; DAISY JONES; JOYCE
JONES; PEGGY L. KNIGHT;
CLARA LEE; DOROTHY LEE;
QUEEN BATTLE LEE; BARBARA
LEONARD; MILTON LEONARD;
CAROLYN MASSENBURG; HAGEE
McCOWEN; MAMIE H. MILLS; RAY
MILLS; CAROLYN MITCHELL;
CORINE MITCHELL; STEPHANIE
E. MITCHELL; DELORIS MYRICK;
CHARLENE NICHOLSON;
GERALDINE NICHOLSON;
FLOSSIE PETERSON; COY PITTS;
MAGGIE POWELL; GRACIE
PULLEN; ETTA RICHARDSON, JR.;
GLADYS RICHARDSON; PAMELA
L. RICHARDSON; DORIS ROSSER;
CHARLES A. RUDD; CHARNEKIA
RUDD; TAMMY RUDD; WILLIAM
SOLOMON; CATHERINE SLEDGE;
GLORIA WESTER; JAMES
WESTER, JR.; KISHUN WESTER;
JOHNNY WESTER; TIAA WESTER;
LINDA MONROE WHITEHEAD;
MACK WILLIAMS; NEHEMIAH
WILLIAMS and ODELL R.
WILLIAMS,

Plaintiffs,

ORDER ON DESIGNATION

v.

ARNELL HEDGEPEETH; HORACE
HEDGEPEETH; ALVIN WEST; and
DELANO MILLER,

Defendants,

v.

WHITE OAK BAPTIST CHURCH,
an Unincorporated North Carolina
Association, and WHITE OAK
BAPTIST CHURCH, a North
Carolina Nonprofit Corporation,

Intervenors Requesting to be
Joined as Defendants.

1. **THIS MATTER** is before the Court pursuant to the Determination Order issued on September 23, 2020 by the Honorable Cheri Beasley, Chief Justice of the Supreme Court of North Carolina, directing the undersigned to determine whether this action is properly designated as a mandatory complex business case in accord with N.C.G.S. § 7A-45.4(a) (the “Determination Order”).

2. Plaintiffs filed the Complaint and Motions for Temporary Restraining Order, Preliminary and Permanent Injunctive Relief (the “Complaint”) initiating this action in Halifax County Superior Court on September 4, 2020, asserting claims against Defendants Arnell Hedgepeth, Horace Hedgepeth, Alvin West, and Delano Miller for declaratory judgment, breach of fiduciary duty, temporary restraining order, and preliminary and permanent injunctive relief. Intervenors White Oak Baptist Church, an unincorporated North Carolina association, (“White Oak Association”) and White Oak Missionary Baptist Church of Enfield, North Carolina,

Inc.,¹ a North Carolina non-profit corporation, (“White Oak, Inc.”) (together, “Intervenors”) timely filed the Notice of Designation (“NOD”) along with their Motion to Intervene and a Proposed Answer on September 17, 2020.

3. Plaintiffs, all of whom are members of White Oak Baptist Church (the “Church”), predicate their claims on their allegations that Defendants Arnell Hedgepeth, Horace Hedgepeth, and Alvin West, as members of the Deacon Board of the Church, and Defendant Delano Miller, as chief executive officer and pastor of the Church, have (i) failed to schedule a church business meeting to vote on whether to remove the pastor upon petition by the membership; (ii) removed active members from their leadership positions within the Church; (iii) removed active members of the Church from membership without a congregational vote; and (iv) authorized the use of Church funds for personal use and benefit, all in contravention of the White Oak Baptist Church Constitution and Mission Statement (the “Constitution”), which Plaintiffs allege is the governing document of the Church. (*See* Compl. & Mot. TRO, Prelim. & Permanent Relief ¶¶ 7–9, 17, 21, 33 [hereinafter “Compl.”].)

4. Intervenors contend that designation as a mandatory business case is proper under N.C.G.S. § 7A-45.4(a)(1). Designation under section 7A-45.4(a)(1) is

¹ The captions of Intervenors’ NOD, Motion to Intervene, and Proposed Answer respectively list the name of White Oak, Inc. as “White Oak Missionary Baptist Church of Ensfield, a North Carolina nonprofit corporation,” “White Oak Baptist Church, a North Carolina nonprofit corporation,” and “White Oak Missionary Baptist Church of Ensfield, NC, a North Carolina nonprofit corporation.” The Court will use the name on file with the North Carolina Secretary of State, “White Oak Missionary Baptist Church of Enfield, North Carolina, Inc.” *See* Business Entity Search, North Carolina Secretary of State, https://www.sosnc.gov/online_services/search/by_title/_Business_Registration (type “White Oak Missionary” in search field and select “White Oak Missionary Baptist Church of Enfield, North Carolina, Inc.”).

proper if the action involves a material issue related to “[d]isputes involving the law governing corporations, except charitable and religious organizations qualified under G.S. 55A-1-40(4) on the grounds of religious purpose, partnerships, and limited liability companies, including disputes arising under Chapters 55, 55A, 55B, 57D, and 59 of the General Statutes.”

5. In support of designation under section 7A-45.4(a)(1), Intervenors argue that this action is “an organizational governance and organizational merger dispute.” (Notice Designation 3 [hereinafter “NOD”]; *see* Proposed Answer 2–3, 6–7.) Specifically, Intervenors allege that “the Church was historically operated as an unincorporated association” referenced as White Oak Association, which adopted the Constitution, the governing document referenced in the Complaint, in 2002. (NOD 3; *see* Proposed Answer 2–3, 6–7; Compl. ¶ 9.) Intervenors further allege that although White Oak, Inc. filed its Articles of Incorporation in 2003,² White Oak, Inc. did not adopt new bylaws, elect a new board of directors, or merge with White Oak Association, which has resulted in “significant questions as to even which documents govern the Church’s operations after incorporation, if any.” (NOD 3; *see* Proposed Answer 2–3, 6–7.)

6. As made plain by a review of the Articles of Incorporation of White Oak, Inc., however, White Oak, Inc. was created as, and continues to exist as, a charitable or religious corporation as defined in N.C.G.S. § 55A-1-40(4), and section 7A-45.4(a) expressly excludes disputes involving “charitable and religious organizations

² Intervenors mistakenly state that White Oak, Inc. was incorporated in 2013 in response to Plaintiffs’ jurisdictional allegations. (*See* Proposed Answer 2.)

qualified under G.S. 55A-1-40(4) on the grounds of religious purpose[.]” Business Entity Search, North Carolina Secretary of State, https://www.sosnc.gov/online_services/search/by_title/_Business_Registration (type “White Oak Missionary” in search field and select “White Oak Missionary Baptist Church of Enfield, North Carolina, Inc.”; follow “View Filings” hyperlink and download “Articles of Incorporation”).

7. Based on the foregoing, the Court concludes that this action is not properly designated as a mandatory complex business case in accord with N.C.G.S. § 7A-45.4(a) and thus shall not be assigned to a Special Superior Court Judge for Complex Business Cases.³

8. Consistent with the Determination Order, the Court hereby advises the Senior Resident Superior Court Judge of Judicial District 6A that this action is not properly designated as a mandatory complex business case so that the action may be treated as any other civil action, wherein the parties may pursue designation as a Rule 2.1 exceptional case with the Senior Resident Judge.

9. The Court’s ruling is without prejudice to the right of any party to seek timely designation of this matter as a mandatory complex business case as provided under section 7A-45.4.

³ The Court will assume without deciding for purposes of this Order on Designation that this civil action may properly be heard in the North Carolina state courts but notes that the United States Supreme Court has cautioned state courts not to hear these types of cases. *See Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 140 S. Ct. 2049, 2052 (2020) (“The First Amendment protects the right of religious institutions ‘to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine.’ ” (quoting *Kedroff v. Saint Nicholas Cathedral of Russian Orthodox Church in North America*, 344 U.S. 94, 116 (1952))).

SO ORDERED, this the 23rd day of September, 2020.

/s/ Louis A. Bledsoe, III
Louis A. Bledsoe, III
Chief Business Court Judge