IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

REVEREND ALICIA BYRD	:	
v.	:	Civil Action No. DKC 17-3251
WILLIAM P. DEVEAUX, SR., et al.	:	

MEMORANDUM OPINION

Plaintiff Alicia Byrd ("Plaintiff") initiated the instant action against Defendants William P. DeVeaux, Sr. ("Bishop DeVeaux"), the General Conference of the African Methodist Episcopal Church ("General Conference"), and the Washington Conference Second Episcopal District African Methodist Episcopal Church ("Washington Conference") (collectively, "Defendants") in the Circuit Court for Prince George's County, Maryland on September 27, 2017. Bishop DeVeaux and the General Conference, with the consent of the Washington Conference, removed the case to this court on November 3, 2017 based on diversity jurisdiction. (ECF No. 1). The complaint alleges two counts: (1) false light invasion of privacy (ECF No. 2, at 19-21), and (2) alternate liability of the General Conference and the Washington Conference based on their agency relationship with Bishop DeVeaux (*Id.* ¶¶ 90-92). Plaintiff seeks $3,600,500 in compensatory damages, $10,815,000 in punitive damages, attorneys' fees, and prejudgment and post-judgment

interest. (ECF No. 2, at 22-23). Plaintiff filed a motion for leave to amend her complaint on August 1, 2018. (ECF No. 30). Defendants filed a motion for summary judgment on August 6, 2018. (ECF No. 33). Defendants also filed a motion to strike Plaintiff's response to Defendants' motion for summary judgment on September 4, 2018, asserting that Plaintiff violated Local Rule 105.3 by exceeding the maximum page limitations in her response. (ECF No. 38). The issues have been fully briefed, and the court now rules, no hearing being deemed necessary. Local Rule 105.6. For the following reasons, Defendants' motion for summary judgment will be granted and Plaintiff's motion to amend will be denied.

I. Background[1]

The African Methodist Episcopal Church ("AME Church") is a worldwide church denomination that is divided into twenty districts. (ECF No. 33-3 ¶ 2). Each AME Church district is further divided into conferences. St. Stephens is a local, hierarchical church located in Maryland that "falls within . . . the Washington [AME Church] Conference."[2] (*Id.* ¶ 6).

[1] Unless otherwise noted, the facts outlined here are undisputed and construed in the light most favorable to Plaintiff. Additional facts are discussed in the analysis section below.

[2] "Hierarchical churches are organized as a body with other churches having similar faith and doctrine with a common ruling convocation or ecclesiastical head." (ECF No. 35, at 32)(quoting 77 C.J.S. Religious Societies § 8 (2019)).

Upon completing a one-year term as AME chaplain at Howard University, Plaintiff was appointed to the position of pastor for St. Stephens in 1988. (ECF No. 35-1, at 4, p. 22). Plaintiff continued to serve as pastor at St. Stephens until being placed on administrative leave in 2015. (ECF No. 35-1 ¶¶ 2-3). During the 2012-2015 period of her tenure, Plaintiff operated under the leadership of Bishop DeVeaux, who "served as the Bishop and presiding prelate of the Second Episcopal District of the AME Church." (ECF No. 33-3 ¶ 3).

In 1994, St. Stephens church members formed the St. Stephens Economic Development Corporation ("the corporation") as part of an initiative to "seek ways that the church could expand their church meeting and ministry spaces."[3] Plaintiff played an active role in the corporation, which was governed by a board of directors made up of church and community members. (ECF No. 35-1 ¶¶ 4-5). The corporation aimed to build a child care and community center on the existing St. Stephens property, and conducted planning and fundraising activities to that end over the twelve years following its creation. (*Id.* ¶¶ 8; 12). Planning for the child care and community center included a lease agreement between St. Stephens and the Corporation wherein "the church retained ownership of the

[3] Although Plaintiff's affidavit initially states that the Corporation was established in 1998, the remainder of Plaintiff's affidavit repeatedly references the Corporation's functionality dating back to 1994. (ECF No. 35-1 ¶ 5-12).

property and the . . . [c]orporation would own the building in order to attract funding from government and foundation sources." (*Id.* ¶ 14). The corporation obtained funding in the form of a $1,350,000 revenue bond loan issued by the State of Maryland Economic Development Corporation and sold through Columbia Bank. (*Id.* ¶ 15). The corporation secured the revenue bond with the forthcoming child care and community center and a deed of trust on the St. Stephens AME Church building located at 7741 Mayfield Avenue in Elkridge, MD ("the church property"). (*Id.* ¶ 19). Proceeds from the revenue bond were used to cover construction costs for the child care and community center. (ECF No. 35-1 ¶ 18). The child care and community center opened on October 21, 2006. (*Id.* ¶ 20).

Beginning in June 2010, the corporation failed to furnish timely loan payments according to the loan repayment terms.[4] In an attempt to mitigate the corporation's loan default, Plaintiff unsuccessfully attempted to seek financial assistance from other pastors within the Washington Conference and to negotiate a loan modification with Columbia Bank. (*Id.* ¶¶ 22-25). The loan and collateral were transferred to Acquired Capital II, LLP in July

[4] Plaintiff states that the missed payments occurred "as a result of the downturn in the U.S. economy combined with the loss of funds because of fraud by two venders of the . . . corporation." (ECF No. 35-1 ¶ 21).

2012. (*Id.* ¶ 27). As a result of the corporation's inability to comply with the loan repayment terms, the child care and community center was put into foreclosure in late 2014 and the church property was put into foreclosure in March 2015. (*Id.* ¶¶ 28 & 38).[5] Plaintiff alleges that she took steps to resolve the impending foreclosure sale of the church property by: (1) discussing how to restructure the debt with a financial consultant; (2) working with the corporation to file a request for injunction in the Circuit Court for Howard County; (3) keeping the "official board of St. Stephens . . . abreast of the potential foreclosure . . [.] during regular[ly] held and called church meetings;" (4) requesting financial assistance from presiding elder Louis Charles Harvey; and (5) working with the corporation to file a joint petition for bankruptcy protection in the United States District Court for the District of Maryland Northern Division. (*Id.* ¶¶ 39-43).

In addition to the child care and community center construction loan, the Corporation also secured a $50,000 line of credit on the church property in September 2008. This loan resulted from the corporation's construction of an adult day care

[5] The Corporation's payment status during the period of July 2012 to late 2014 is unclear. Plaintiff provides that the "Corporation made eight monthly payments of $4,200 and then continued to make monthly payments of $6,000 to Acquired Capital until late 2014," but fails to clarify the exact timing of the purported payments. (ECF No. 35-1 ¶ 28).

center at 7320 Roosevelt Boulevard in Elkridge, MD. The corporation financed the adult day care project with a $487,000 grant from the State of Maryland Board of Public Works and a $241,000 loan from Harbor Bank. The corporation refinanced the adult day care center in 2008. Refinancing retired the Harbor Bank loan and replaced it "with a $550,000 loan from the Washington Savings Bank." The new loan "included a $50,000 business line of credit [that] was cross-collateralized on the [church] property." (ECF No. 35-1 ¶¶ 30-31). The new loan was twice transferred in 2013: (1) to Old Line Bank in May 2013 due to Old Line Bank's acquisition of Washington Savings Bank (*Id.* ¶ 32); and (2) to Greenwich Investors in October 2013 due to a general transfer (*Id.* ¶ 33).

Bishop DeVeaux first learned about St. Stephens' financial difficulties in early 2015. (ECF No. 33-3 ¶ 12). In response, Bishop DeVeaux referred Plaintiff to the Ministerial Efficiency Committee ("MEC") in March 2015 for the purpose of determining "whether or not [Plaintiff]'s actions led to the danger of losing St. Stephen's AME Church."[6] (ECF No. 33-3 ¶ 15). After referring Plaintiff to the MEC, Bishop DeVeaux "did not personally

[6] The AME church governance structure includes multiple committees, including the MEC, which is a group of five (or more) elders appointed by the bishop (ECF No. 33-8, at 5, pp. 23-24). The MEC generally is "charged with investigating the affairs of congregations and ministers" (ECF No. 33-4, at 4, p. 31).

participate in the MEC's investigation of [Plaintiff,] . . . formulate the conclusions reached by the MEC, . . . [or] draft or otherwise construct the statements contained in any MEC report relating to [Plaintiff]." (ECF No. 33-3 ¶¶ 16-17).

Plaintiff met with the MEC on two separate occasions.[7] (ECF No. 35-2, at 2). Following the second meeting, the MEC issued a report ("the first report") in preparation for the AME Church's 65th Session of the Washington Annual Conference.[8] The report asserted that Plaintiff "failed to secure approval from the Conference trustees and . . . a resolution duly approved by the [q]uarterly conference to collateralize [the] St. Stephens property" (ECF No. 35-2, at 2), "was eight years delinquent in paying the mortgage[,] leading to foreclosure" (*Id.*, at 3), and

[7] The meetings likely took place on March 19 and March 26. Plaintiff states in her affidavit that she "met with the [MEC] twice and met during the Annual Conference in April 2015." (ECF No. 35-1, at 12-13). Plaintiff states in her deposition that she met with the MEC "in April at the Annual Conference and the prior date . . . was March the 26th." (ECF No. 35-4, at 5-6, pp. 32-33). However, several MEC members stated or agreed that the meetings took place on March 19 and March 26 (ECF Nos. 33-5, at 8-9; 33-8, at 7, p. 38; 33-11, at 5), and the MEC's first report states that the MEC "held an initial call meeting on March 19, 2015 to receive information with regard to the St. Stephens AME Church foreclosure bankruptcy," and held a "subsequent fact finding meeting . . . on March 26, 2015" (ECF No. 35-2, at 2).

[8] Bishop DeVeaux described the Washington Annual Conference as "a meeting of various Church leaders within the Washington Conference itself to discuss a variety of matters of import to church members." (ECF No. 33-3 ¶ 8).

should "be placed on paid Administrative leave for the next 90 days" (*Id.*, at 2). On behalf of the entire MEC, committee member Reverend Anna Mosby ("Reverend Mosby") read the report aloud before the conference attendees (ECF No. 33-5, at 34) at the 65th Washington Annual Conference on April 24, 2015 (ECF No. 35-1 ¶ 53).[9] Attendees of the 66th Session of the Washington Annual Conference received a supplemental report pertaining to the MEC's review of Plaintiff in April 2016. (ECF No. 36-2). The supplemental report reaffirmed the original report, stating that Plaintiff "collateralized the church property of St. Stephens AM[E] Church to build a nonprofit-facility . . . without the approval of the local church Trustees, the local Church Conference and the Washington Annual Conference Trustees . . . result[ing] in foreclosure proceedings on the church property." (ECF No. 35-3, at 2). The report also recommended that Plaintiff should not be reappointed to her prior pastoral position in the Second Episcopal District. (ECF No. 35-3, at 2).

[9] The number of people in attendance is disputed. Plaintiff asserts that the report was read to "over one thousand AME church members, clergy, officers, and lay persons" (ECF No. 35-1 ¶ 54), MEC member Reverend William Lamar stated that 600-700 people attended (ECF No. 33-12, at 12), and Reverend Mosby estimated that the audience consisted of "a couple of hundred" people (ECF No. 33-5, at 15). Plaintiff also asserts that the first report was "published to the Bishop's Council of the AME Church which includes Presiding Elders, ministers, pastors and lay person of the AME church worldwide." (ECF No. 2, at 20).

Plaintiff also asserts that a March 30, 2015 letter alleging that Plaintiff commingled church funds "was [] reported to meetings of the Bishops' Council of the AME Church[.]" (ECF No. 35-1 ¶ 57). Plaintiff's affidavit seems to imply that Bishop DeVeaux published the letter. However, Plaintiff's complaint and opposition do not include a copy of the letter and Plaintiff does not provide further information about the complete contents of the letter or who wrote the letter.

II. Motion to Strike

Defendants move to strike Plaintiff's response to Defendants' motion for summary judgment, arguing that "[t]he total length of the [o]pposition is forty-seven (47) pages," and the local rules limit the length of opposition memoranda to thirty-five pages. (ECF No. 38 ¶¶ 2-3). In response, Plaintiff's attorney submitted a sworn affidavit wherein he apologizes to the court and explains his mistaken reliance on the former local rule that limited opposition memoranda to fifty pages. (ECF No. 42, at 3-4).

Pursuant to Local Rule 105.3, memoranda "in support of a motion or in opposition thereto" are not to exceed thirty-five (35) pages, exclusive of attachments, absent leave of court. Although Plaintiff's response considerably exceeds the page limitation, Defendants' motion to strike will be denied and Plaintiff's response will be considered in its entirety. Despite

this allowance, Plaintiff's counsel is advised to stay informed of changes to court rules and procedures.

III. Motion for Summary Judgment

A. Standards of Review

Defendants first argue that the First Amendment ecclesiastical abstention doctrine presents a jurisdictional bar to Plaintiff's claim. (ECF No. 33-1, at 6). Challenges to subject matter jurisdiction are evaluated under Fed.R.Civ.P. 12(b)(1). Generally, "questions of subject matter jurisdiction must be decided first, because they concern the court's very power to hear the case." *Owens-Illinois, Inc. v. Meade*, 186 F.3d 435, 442 n.4 (4th Cir. 1999). The party bringing suit in federal court bears the burden of proving that subject matter jurisdiction properly exists. *See Evans v. B.F. Perkins Co*., 166 F.3d 642, 647 (4th Cir. 1999). In deciding a Rule 12(b)(1) motion, the court "may consider evidence outside the pleadings" to help determine whether it has jurisdiction over the case before it. *Richmond, Fredericksburg & Potomac R.R. Co. v. U.S.*, 945 F.2d 765, 768 (4th Cir. 1991); *see also Evans*, 166 F.3d at 647. Such a motion should only be granted "if the material jurisdictional facts are not in dispute and the moving party is entitled to prevail as a matter of law." *Richmond*, 945 F.2d at 768.

Defendants' remaining arguments seek summary judgment under Fed.R.Civ.P. 56. A motion for summary judgment will be granted

only if "there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed.R.Civ.P. 56(a); *see Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250 (1986); *Emmett v. Johnson*, 532 F.3d 291, 297 (4th Cir. 2008). To prevail on a motion for summary judgment, the movant generally bears the burden of showing that there is no genuine dispute as to any material fact. *Liberty Lobby*, 477 U.S. at 248-50. A dispute about a material fact is genuine "if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Id.* at 249. In undertaking this inquiry, a court must view the facts and the reasonable inferences drawn therefrom "in the light most favorable to the party opposing the motion," *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986) (quoting *United States v. Diebold, Inc.*, 369 U.S. 654, 655 (1962)); *see also EEOC v. Navy Fed. Credit Union*, 424 F.3d 397, 405 (4th Cir. 2005), but a "party cannot create a genuine dispute of material fact through mere speculation or compilation of inferences." *Shin v. Shalala*, 166 F.Supp.2d 373, 375 (D.Md. 2001) (citation omitted). If a party "fails to make a showing sufficient to establish the existence of an element essential to that party's case . . . which that party will bear the burden of proof at trial[,]" there can be no "genuine issue as to any material fact, since a complete failure of proof concerning an essential element of the nonmoving party's

case necessarily renders all other facts immaterial." *Celotex Corp.*, 477 U.S. at 323.

B. False Light Invasion of Privacy

As to this claim, Defendants argue that: (1) the court lacks subject matter jurisdiction due to the First Amendment ecclesiastical abstention doctrine; (2) Plaintiff's claim is barred under the First Amendment ministerial exception; (3) Plaintiff's claim lacks essential elements required to demonstrate false light invasion of privacy; and (4) Plaintiff's claim is barred by the common interest conditional privilege. (ECF No. 33, at 1).

1. Ecclesiastical Abstention Doctrine

Defendants contend that, under the ecclesiastical abstention doctrine ("the doctrine"), the court may not "rule upon matters that fall squarely within the freedoms guaranteed by the First Amendment." (ECF No. 33-1, at 11). Defendants state that "[c]laims such as false light invasion of privacy and defamation require review of the church's stated reason for the discharge, which is an essentially ecclesiastical concern." (*Id.*, at 9) (internal quotations omitted).

Matters of ecclesiastical doctrine sometimes are not amenable to review by civil courts. As the United States Court of Appeals for the Fourth Circuit reasoned in *Dixon v. Edwards*, 290 F.3d 699, 714 (4th Cir. 2002):

> As we explain below, the civil courts of our country are obliged to play a limited role in resolving church disputes. This limited role is premised on First Amendment principles that preclude a court from deciding issues of religious doctrine and practice, or from interfering with internal church government. When a civil dispute merely involves a church as a party, however, and when it can be decided without resolving an ecclesiastical controversy, a civil court may properly exercise jurisdiction. The courts must avoid any religious inquiry, however, and they may do so by deferring to the highest authority within the church.

"In keeping with the First Amendment's proscription against the 'establishment of religion' or prohibiting the 'free exercise thereof,' civil courts have long taken care not to intermeddle in internal ecclesiastical disputes." *Bell v. Presbyterian Church (U.S.A.)*, 126 F.3d 328, 330 (4th Cir. 1997). The Fourth Circuit explained in *Bell*, 126 F.3d at 331:

> *It has . . . become established that the decisions of religious entities about the appointment and removal of ministers and persons in other positions of similar theological significance are beyond the ken of civil courts*. *Rather, such courts must defer to the decisions of religious organizations "on matters of discipline, faith, internal organization, or ecclesiastical rule, custom or law." Id*. The Supreme Court explained, "[i]t is the essence of religious faith that ecclesiastical decisions are reached and are to be accepted as matters of faith whether or not rational or measurable by objective criteria." *Id*. at 714–15.

(emphasis added).

The First Amendment does not, however, remove all controversies involving religious institutions from the purview of civil courts. *Jones v. Wolf*, 443 U.S. 595, 602–03 (1979); *American Union of Baptists, Inc. v. Trustees of Particular Primitive Baptist Church at Black Rock, Inc. et al.*, 335 Md. 564, 574 (1994) ("Each set of circumstances must be evaluated on an individual basis by the court to determine whether, under the facts of that particular case, a court would be forced to wander into the 'theological thicket' in order to render a decision."). Maryland courts opt to apply neutral civil law principles whenever possible to resolve church disputes that do not involve doctrinal implications. *See American Union of Baptists, Inc.*, 335 Md. at 575 ("Although the line separating those disputes which are grounded in religious doctrine from those which concern purely secular matters is often difficult to discern, we have in many cases been able to resolve church property disputes with the application of neutral principles of law."); *Babcock Mem. Pres. Ch. v. Presbytery*, 296 Md. 573 (1983) (resolving interests in property by determining whether the church polity was congregational or hierarchical in nature; such an inquiry required application of neutral principles of law).

Defendants' argument predominantly relies on two analogous cases before the Court of Special Appeals of Maryland: *Downs v.*

Roman Catholic Archbishop of Baltimore, 111 Md.App. 616 (1996) and *Bourne v. Ctr. on Children, Inc.*, 154 Md.App. 42 (2003).

In *Downs*, the appellant was released from the Roman Catholic Archdiocese of Baltimore and barred from consideration for the diocesan priesthood. Prior to appellant's release, "defendant Reverent John T. Wielebski, 'made and published false and defamatory statements respecting [p]laintiff's honesty, reliability, integrity and morality, specifically, asserting sexually motivated conduct toward certain staff members of St. Patrick's Parish." *Downs*, 111 Md.App. at 619-620. Appellant filed a complaint against appellees alleging two counts of defamation. *Id.* at 618-619. The court held that the Circuit Court for Baltimore County lacked subject matter jurisdiction. The court concluded that the case fell "squarely within the protective ambit of the First Amendment" because appellant's clerical supervisors made allegedly defamatory statements against appellant as an expression of their determination that he "was not a suitable candidate for the priesthood." *Id.* at 625.

In *Bourne,* the Court of Special Appeals again concluded that the Free Exercise clause precluded the Circuit Court for Baltimore City from exercising subject matter jurisdiction. The appellant there founded the Lighthouse Community Church under the Church of the Nazarene Christian denomination. *Id.* at 45. The General Board of the Church of the Nazarene rejected appellant's request to

become an "ordained" minister of the church and reassigned him to a post in Trinidad. Appellant's relationship with church leaders deteriorated during the board's deliberation process and led a church minister to circulate a letter "containing defamatory statements concerning the status of appellant's paid vacation time" to church members. *Id.* at 50. Appellant sued church leaders for breach of employment contract, defamation, and false light. *Id.* at 45. The Court of Special Appeals held that, because the statements constituted part of the clergy's determination that appellant was not suitable for ordination, the court was precluded from reviewing appellant's defamation and false light claims:

> Appellant's tort claims of defamation and false light are based upon . . . operative facts concerning his employment, his ordination, and his relocation. The only specific instance of defamation referenced in appellant's complaint involves a letter sent by Reverend Allison to various Church members regarding appellant's behavior as pastor of the LCC. Appellant claims that the defamatory statements were made in an effort to force him to leave town so the Church would not have to uphold its end of his employment contract. Even if Reverend Allison made defamatory statements in this letter and placed appellant in a false light, this Court may not consider the issue because it relates to appellant's employment with the Church. *Clearly, any statements made by appellees with regard to appellant's performance as a minister are protected by the case law[.]*

Bourne, 154 Md.App. at 56–57 (emphasis added).

To establish the tort of false light invasion of privacy, Plaintiff must demonstrate that: (1) the defendants' statements have placed the plaintiff in a false light before the public; (2) the false light is highly offensive to a reasonable person; and (3) the defendant had knowledge of or acted in reckless disregard as to the falsity of the publicized material and the false light in which the plaintiff would be placed. *Bagwell v. Peninsula Reg'l Med. Ctr.*, 106 Md.App. 470, 513–14 (1995). To satisfy the first element, the statement in question must have actually been false. Thus, Plaintiff's claim will turn, in part, on analyzing the truthfulness of Defendants' purported public statements about Plaintiff. Under the ecclesiastical abstention doctrine, the court does not have subject matter jurisdiction over Plaintiff's claim if this analysis requires the court to "adjudicate matters of church doctrine or governance, or to second-guess ecclesiastical decisions made by a church body created to make those decisions." *Downs*, 111 Md.App. at 622.

The MEC created the reports as part of their "church discipline" process wherein they considered whether Plaintiff complied with the standards of the AME church's internal "ecclesiastical government." *Serbian E. Orthodox Diocese for U. S. of Am. & Canada v. Milivojevich*, 426 U.S. 696, 714 (1976). While the circumstances surrounding the March 30, 2015 letter are unclear, Plaintiff's statements about the letter indicate that it

was also created in relation to Plaintiff's disciplinary review. Plaintiff's claim for false light falls outside the court's subject matter jurisdiction because it requires the court to reexamine the MEC's findings, which would "deprive the [MEC] of the right to construe [its] own church laws." *Id.*

Plaintiff points to several statements in the MEC's reports and the March 30, 2015 letter in support of her single count of false light invasion of privacy. Plaintiff specifically relies on the statements that she failed to seek approval from the appropriate authority to use the church property as collateral, failed to make mortgage payments on the church property for eight years, and commingled church funds. (ECF No. 2, at 19-20). Some of the independent statements Plaintiff relies on are obviously fused with concepts of church law, polity, or doctrine, while others appear secular. For example, analyzing whether Plaintiff sought approval from the appropriate church authorities clearly requires an inquiry into church doctrine and procedure, but analyzing the veracity of the statement that Plaintiff failed to pay the church property mortgage for eight years only requires consideration of Plaintiff's payment history. Regardless of the individual analysis that each statement compels, Defendants made the overall reports and letter as part of the MEC's disciplinary review of Plaintiff. As held in *Bourne,* "[w]hen allegedly defamatory statements are made during the process of determining

fitness for religious leadership positions, even if the statements are invalid and unfair, such speech is protected through the ambit of the First Amendment freedom of religious provisions." 154 Md.App. at 56 (citing *Downs*, 111 Md.App. at 625-626). As a whole, the reports and letter constitute a matter of internal church discipline, and the statements contained within the documents are incapable of extrapolation from the overall ecclesiastical nature of the documents. Thus, Plaintiff's false light claim is barred by the ecclesiastical abstention doctrine.

Plaintiff argues that her false light claim should be excepted from the doctrine because the MEC's disciplinary proceedings were tainted by fraud or collusion. Defendants purportedly committed fraud or collusion in the disciplinary proceedings against Plaintiff by "act[ing] in total disregard for the bylaws contained in the Discipline." (ECF No. 35, at 40) (emphasis removed). Plaintiff's response describes the MEC's multitude of Discipline violations and concludes that Defendants "essentially have not played by the rules." (*Id.*, at 40).

Plaintiff relies on *First Baptist Church of Glen Este v. State of Ohio*, 591 F. Supp. 676, 677 (S.D. Ohio 1983), an outdated case that is not binding authority here. The Supreme Court of the United States originally found that fraud, collusion or arbitrariness could warrant court review of ecclesiastical matters in *Gonzalez v. Roman Catholic Archbishop of Manila*, 280 U.S. 1

(1929). The Court later clarified in *Milivojevich* that the exception "was dictum only," and discarded the arbitrariness component altogether:

> For civil courts to analyze whether the ecclesiastical actions of a church judicatory are in that sense "arbitrary" must inherently entail inquiry into the procedures that canon or ecclesiastical law supposedly requires the church judicatory to follow, or else in to the substantive criteria by which they are supposedly to decide the ecclesiastical question. But this is exactly the inquiry that the First Amendment prohibits; recognition of such an exception would undermine the general rule that religious controversies are not the proper subject of civil court inquiry, and that a civil court[.]

426 U.S. at 712. Plaintiff's numerous references to the Discipline demonstrate that, to determine whether the fraud or collusion exception applies here, the court would have to decipher and analyze the process for disciplining pastors within the AME Church. Plaintiff asks the court to conduct the very analysis described above as prohibited under the First Amendment. Because the court "must accept the ecclesiastical decisions of church tribunals as it finds them," the fraud or collusion exception cannot place Defendants' statements within the court's subject matter jurisdiction. *Milivojevich*, 426 U.S. at 713.

Plaintiff also argues in favor of subject matter jurisdiction on the basis that two prior proceedings pertaining to the church property construed "the application section of real property in

the Discipline." (ECF No. 35, at 46). However, it is well-settled that "[c]ivil courts do not inhibit free exercise of religion merely by opening their doors to disputes involving *church property*." *Presbyterian Church in U.S. v. Mary Elizabeth Blue Hull Mem'l Presbyterian Church*, 393 U.S. 440, 449 (1969) (emphasis added). As already discussed above, Plaintiff's false light invasion of privacy claim is subject to different requirements, and thus a different analysis, under the doctrine than the property disputes Plaintiff references in her response. Consequently, Plaintiff's attempt to analogize her false light claim to a property dispute is unsuccessful.

2. Ministerial Exception

Defendants also argue that they are entitled to summary judgment because Plaintiff's claims are barred by the ministerial exception. Plaintiff's response does not address the ministerial exception.

Like the ecclesiastical abstention doctrine, the ministerial exception originates from the First Amendment. The exception "precludes application of [employment discrimination laws] to claims concerning the employment relationship between a religious institution and its ministers." *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. E.E.O.C.*, 565 U.S. 171, 188 (2012). The Supreme Court described the exception in *Hosanna-Tabor*, 565 U.S. at 188-189:

> The members of a religious group put their faith in the hands of their ministers. Requiring a church to accept or retain an unwanted minister, or punishing a church for failing to do so, intrudes upon more than a mere employment decision. Such action interferes with the internal governance of the church, depriving the church of control over the selection of those who will personify its beliefs. By imposing an unwanted minister, the state infringes the Free Exercise Clause, which protects a religious group's right to shape its own faith and mission through its appointments. According the state the power to determine which individuals will minister to the faithful also violates the Establishment Clause, which prohibits government involvement in such ecclesiastical decisions.

The Supreme Court concluded that the ministerial exception bars "an employment discrimination suit brought on behalf of a minister challenging her church's decision to fire her," but "express[ed] no view on whether the exception bars other types of suits, including actions by employees alleging breach of contract or tortious conduct by their religious employers." *Id*., at 196. The exception "operates as an affirmative defense to an otherwise cognizable claim, not a jurisdictional bar . . . because the issue presented by the exception is 'whether the allegations the plaintiff makes entitle him to relief,' not whether the court has 'power to hear [the] case.'" *Id*., at n.4 (quoting *Morrison v. Nat'l Australia Bank Ltd*., 561 U.S. 247, 254 (2010)).

The ministerial exception most commonly applies to employment claims. *See, e.g*., *Shaliehsabou v. Hebrew Home of Greater*

Washington, Inc., 363 F.3d 299, 305 (4th Cir. 2004) ("We have recognized that there is a ministerial exception to the FLSA."); *E.E.O.C. v. Roman Catholic Diocese of Raleigh, N.C.*, 213 F.3d 795, 800 (4th Cir. 2000) (applying the ministerial exception to plaintiff's Title VII claim). However, the Court of Appeals of Maryland held in *Prince of Peace Lutheran Church v. Linklater*, 421 Md. 664 (2011), that the ministerial exception precluded plaintiff's tortious claims, including intentional infliction of emotional distress, breach of contract, and breach of implied contract. The court cited approvingly *Black v. Snyder*, 471 N.W.2d 715, 720 (Minn.Ct.App. 1991), which held that a defamation claim violates the ministerial exception when it requires "review of the church's motives for discharging [plaintiff]." *Linklater*, 421 Md. at 697. Here, Plaintiff's claim is rooted in the MEC's disciplinary review of Plaintiff and decision that Plaintiff should be placed on administrative leave. Under *Linklater*, the ministerial exception would apply to Plaintiff's false light claim and would provide an additional reason to grant summary judgment to Defendants.

Under these circumstances, it is not necessary to analyze Defendants' remaining arguments.

C. Alternate Liability

Defendants next argue that they "are entitled to judgment as a matter of law as to Plaintiff's Count II for vicarious

liability[.]" (ECF No. 33-1, at 22). Defendants state that Plaintiff's claim for alternate liability is actually a respondeat superior claim that fails because respondeat superior is not a separate cause of action. Plaintiff fails to address or defend her alternate liability claim in her opposition to Defendants' motion for summary judgment. Indeed, there is no independent cause of action for alternate liability. To the extent Plaintiff intends Count II to be a claim for respondeat superior, as Defendants suggest, the claim is unsuccessful because the court does not have subject matter jurisdiction over Plaintiff's false light claim and "there is no separate cause of action for respondeat superior." *Stewart v. Bierman*, 859 F.Supp.2d 754, 768 (D.Md. 2012), *aff'd sub nom. Lembach v. Bierman*, 528 F.App'x 297 (4th Cir. 2013).

IV. Motion for Leave to Amend Complaint

Plaintiff seeks leave to amend her complaint to add "Reverends Bell, Browning, Glenn Langston, Lamar, Mosby, Seawright, Washington, Weaver and White" as named Defendants because "during discovery it was determined that members of the [MEC] should become Defendants due to the publication of false statements in the 66th Session of the Washington Annual Conference[.]" (ECF No. 30 ¶¶ 5-6). Plaintiff's proposed amendment also changes "the name of the Defendant, General Conference of the African Methodist Episcopal Church to read 'African Methodist Episcopal Church, Incorporated.'" (*Id.*, ¶ 4). In their response, Defendants assert

that Plaintiff must demonstrate good cause to amend her complaint because the 21-day period to amend as a matter of course expired well before she moved to amend. (ECF No. 34, at 3). Defendants argue that Plaintiff should have been aware of the additional defendants prior to discovery and, as a result, she cannot "demonstrate good cause to allow her to belatedly file an amended complaint." (*Id.*, at 4).

A party may amend its pleading once as a matter of course within 21 days after serving it or within 21 days after service of a motion under Rule 12(b), whichever is earlier. Fed.R.Civ.P. 15(a)(1). When the right to amend as a matter of course expires, "a party may amend its pleading only with the opposing party's written consent or the court's leave." Fed.R.Civ.P. 15(a)(2). Rule 15(a)(2) provides that courts should "freely give leave [to amend] when justice so requires," and commits the matter to the discretion of the district court. *See Simmons v. United Mortg. & Loan Inv.*, LLC, 634 F.3d 754, 769 (4th Cir. 2011). Denial of leave to amend is appropriate "only when the amendment would be prejudicial to the opposing party, there has been bad faith on the part of the moving party, or the amendment would be futile." *Edwards v. City of Goldsboro*, 178 F.3d 231, 242 (4th Cir. 1999) (emphasis in original) (quoting *Johnson v. Oroweat Foods Co.*, 785 F.2d 503, 509 (4th Cir. 1986)). Leave to amend may be denied as futile "if the proposed amended complaint fails to satisfy the

requirements of the federal rules," including federal pleading standards. *Katyle v. Perm Nat. Gaming, Inc.*, 637 F.3d 462, 471 (4th Cir. 2011) (quoting *United States ex rel. Wilson v. Kellogg Brown & Root, Inc.*, 525 F.3d 370, 376 (4th Cir. 2008)).

Plaintiff's proposed amendments would be futile because they fail to cure her complaint's deficiencies. Naming additional defendants would do nothing to alleviate the obstacles impeding Plaintiff's claims. Additionally, bringing Plaintiff's proposed defendants into the case would likely destroy diversity jurisdiction.[10] For these reasons, Plaintiff's motion for leave to amend her complaint is denied.

V. Conclusion

For the foregoing reasons, Defendants' motion for summary judgment will be granted. Plaintiff's motion for leave of court to amend complaint and Defendants' motion to strike response in opposition to motion will be denied. A separate order will follow.

/s/
DEBORAH K. CHASANOW
United States District Judge

[10] According to 28 U.S.C. § 1332, "[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of $75,000 . . . and is between—citizens of different states." Granting Plaintiff's amended complaint would destroy diversity of citizenship because Plaintiff and at least one of the proposed new defendants are citizens of Maryland. (ECF No. 33-11, at 3).