

IN THE SUPREME COURT OF FLORIDA

CASE NO.:SC00-2579  
Lower Tribunal No.:1D99-4333

VIRGINIA M. CARNESI,

Petitioner,

vs.

FERRY PASS UNITED METHODIST CHURCH, THE  
PENSACOLA DISTRICT OF THE ALABAMA WEST  
FLORIDA CONFERENCE OF THE UNITED METHODIST  
CHURCH, and ALABAMA WEST FLORIDA UNITED METHODIST  
CONFERENCE OF THE UNITED METHODIST CHURCH,

Respondents.

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**RESPONDENT THE PENSACOLA DISTRICT OF THE  
ALABAMA WEST FLORIDA CONFERENCE OF THE  
UNITED METHODIST CHURCH'S ANSWER BRIEF**

On Discretionary Review from  
The First District Court of Appeal

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## **STATEMENT OF THE CASE AND STATEMENT OF THE FACTS**

Respondent, Pensacola District of the Alabama West Florida Conference of the United Methodist Church ("The District"), endorses the Petitioner's statement of the case and supplements her statement of the facts as follows:

Petitioner Virginia Carnesi ("Ms. Carnesi") was employed by Ferry Pass United Methodist Church ("Ferry Pass"). The District and its superintendent pastor William Charles Avery ("Superintendent Avery") had no role in the hiring, firing or other employment decisions of Ferry Pass or other churches in the District. (R. 1200 or App. 7 at 10). Specifically, the District does not make employment decisions regarding secretaries or other lay positions in the local churches such as volunteer chairman of the Pastor Parish Relations Committee (PPRC). (R. 303 or App. 3 at 264; R. 1200, 1203 or App. 7 at 10, 13; R. 1234-1235 or App. 7 at 44-45; R. 1250 or App. 7 at 60). The District has only two employees, the District Superintendent and his secretary. (R. 1246 or App. 7 at 56). Neither Ms. Carnesi nor Chet Harrison, PPRC chairman, were employees of the District. (R. 1246 or App. 7 at 56).

The District is a part of the hierarchical structure of the United Methodist Church. (R. 281 or App. 3 at 33). The ecclesiastical structure of the entities from the local church to the highest named body in this case are as follows: 1) The Church; 2) The District; and 3) The Conference. (R. 1196 or App. 7 at 6).

However, despite the structure, the higher bodies have little, if any, supervision and control over the mission and day-to-day affairs of the lower bodies. (R. 1230-1234 or App. 7 at 40-44; R. 1196-1200 or App. 7 at 6-10). The local United Methodist churches in the District are given a lot of flexibility as to how they organize. (R. 1197 or App. 7 at 7).

The District's purpose is to aid and guide the local churches in primarily spiritual matters. (R. 1230-1234 or App. 7 at 40-44; R. 1298 or App. 8 at 99). The relationship between the District and the churches within it is not one of domination and subservience. (R. 1199-1200 or App. 7 at 9-10; R. 1207-1208 or App. 7 at 17-18; R. 1298 or App. 8 at 99).

As a representative body of the United Methodist Church, the Conference has its own policy on sexual harassment. (R. 1232-1235 or App. 7 at 42-45; R. 1242 or App. 7 at 52; R. 1301-1303 or App. 8 at 102-104). The Conference policy applies only to Clergy and Conference employees and merely serves as a guideline to the local churches in drafting or implementing their own sexual harassment policies. (R. 1232-1233 or App. 7 at 42-43; R. 1247 or App. 7 at 57; R. 1301-1303 or App. 8 at 102-104). The national body of the United Methodist Church also has its own internal policy for handling sexual harassment. (R. 324 or App. 3 at 657). Each church is encouraged to develop its own policy. (R. 1247 or App. 7 at 57; R. 1301-1303 or App. 8 at 102-104). Any sexual harassment policy applicable to Ms.

Carnesi and Mr. Harrison would have been the policy the Church had at the time of the Ms. Carnesi's employment. (R. 1247 or App. 7 at 57; R. 1301-1303 or App. 8 at 102-104).

Ms. Carnesi alleges that Mr. Harrison committed acts which constitute sexual harassment. (R. 1-13 or App. 1 at 13). She ultimately reported the alleged incidents to her supervisor, Reverend Moore, the minister at Ferry Pass Church, who took action to resolve the situation. (R. 647 or App. 5 at 29; R. 692-693 or App. 5 at 74-75; R. 704-705 or App. 5 at 86-87; R. 1137-1139 or App. 6 at 64-66). Reverend Moore scheduled a meeting between himself, Ms. Carnesi, a respected member of the Church named Dr. Renfroe, and Mr. Harrison. (R. 647 or App. 5 at 29). At the meeting, Mr. Harrison made amends with Ms. Carnesi and they resolved their differences. (R. 647 or App. 5 at 29; R. 693 or App. 5 at 75; R. 704-705 or App. 5 at 86-87). Ms. Carnesi has stated that after the meeting, no more incidents of sexual harassment occurred and she considered the matter closed. (R. 654 or App. 5 at 36; R. 693 or App. 5 at 75; R. 705 or App. 5 at 87). **Only after resolution of the matter did Reverend Moore report the incidents to the District by discussing it with District Superintendent Avery.** (R. 1207-1208 or App. 7 at 17-18).

Reverend Moore had the authority to mediate this situation as ministers in the Methodist Church are charged to resolve situations such as these in a pastoral

and Christian manner, rather than taking religious disciplinary actions against church members. (R. 321-329 or App. 3 at 654-662; R. 1303-1304 or App. 8 at 104-105). These disciplinary actions could include a thorough investigation and even a trial by an ecclesiastical tribunal. (R. 327-341 or App. 3 at 660-674). Such canonical disciplinary actions provided for in the Book of Discipline are used only as a last resort. (R. 321-329, or App. 3 at 654-662). The Book of Discipline contains the doctrines, rules, and discipline policy of the United Methodist Church, as well as the way the Church is organized at all levels and the Church's official positions on various social issues. (R. 1238, or App. 7 at 48).

After resolving the issue, Reverend Moore approached Superintendent Avery to inform him about the allegations of harassment and the resolution of the situation. (R. 1207-1208 or App. 7 at 17-18). Reverend Moore reported the situation to Superintendent Avery to seek counsel on the situation and to keep the Superintendent informed of events at the Church. (R. 1207-1208 or App. 7 at 17-18).

Accordingly, the District was not involved in Ms. Carnesi's employment or matters concerning her employment. It is undisputed in the record below that the structure of an interrelationship between the organizational bodies of the United Methodist Church are not similar to corporate structures in the secular world.

Petitioner states in her brief as follows: "The District and Conference failed



to perform any investigation into Ms. Carnesi's allegations of her subsequent retaliatory termination or take any remedial action or enforce the limited sexual harassment policy." (Pet. Brief p.7). The District and Conference had no doctrinal duty to undertake such investigations and enforcements.

## SUMMARY OF THE ARGUMENT

The First District Court of Appeal's affirmance of the trial court below, which entered summary judgment in favor of the District and the Church defendants, upholds constitutional principles. To allow a cause of action such as in Carnesi to go forward would have the courts run afoul of the First Amendment in two ways. First, the mere inquiry into the nature of the relationship between the District and a volunteer local church committee chairman or the District and a local church secretary would require a court to examine church law, policies and practices in violation of the excessive entanglement doctrine of the First Amendment's Establishment Clause. Second, both the Establishment Clause and the Free Exercise Clause of the First Amendment are violated by a court imposing secular principles of agency or respondeat superior upon the District where the interrelationship between the District and other bodies and personnel within the hierarchy are governed by United Methodist Church law and practices. The record establishes that the hierarchical organization of the United Methodist Church is not similar to other secular organizations. The relationship between the District and the churches within it are more pastoral and advisory than controlling or dictatorial.

Florida district court decisions concerning secular defendants in tort or intentional tort cases are not factually similar to Carnesi. Some of the courts would

allow a cause of action to proceed against church hierarchy when criminal conduct is involved or apparently where there are allegations of actual notice. The Carnesi case does not present such a compelling factual scenario. If the Supreme Court is to "draw a line" concerning when secular duties will be imposed upon church hierarchy, the District should fall well within the constitutionally protected confines of that line.

The record in this case establishes that the District has no agency relationship and therefore no respondeat superior or vicarious liability for the conduct of PPRC Chairman Harrison. The District is comprised of Superintendent Avery and his secretary. The District's purpose, pursuant to church law and practice, is to aid and guide the local churches in primarily spiritual matters. The District does not employ secretaries or PPRC chairmen and has no supervisory authority over them. The local churches themselves are extended a great deal of flexibility as to how they organize and operate. Thus, even under secular standards, the affirmance of summary adjudication in favor of the District should be upheld.

## ARGUMENT

### **I. Standard of Appellate Review**

Respondent District agrees with the standard of appellate review as set out in the brief of Respondent Alabama West Florida United Methodist Conference.

### **II. Constitutional Standards Were Upheld by the First District**

The First District Court of Appeal's affirmance of summary judgment in favor of Respondent District below is the correct result under the United States and Florida Constitutions. The First Amendment to the United States Constitution provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . . ." Florida's Constitution contains a similar provision at Article 1, Section 3.

The "establishment clause" of the First Amendment is interpreted to prohibit excessive government entanglement with religion. Lemon v. Kurtzman, 403 U.S. 602, 91 S.Ct. 2105, 29 L.Ed. 2<sup>nd</sup> 745 (1971). Excessive entanglement occurs "where resolution of the disputes cannot be made without extensive inquiry by civil courts into religious law and polity . . . ." The Serbian Eastern Orthodox Diocese for the United States of America and Canada v. Milivojevich, 426 U.S. 696, 709, 96 S.Ct. 2372, 50 L.Ed. 2<sup>nd</sup> 151 (1976). The principle of excessive judicial entanglement versus appropriate judicial review was stated by the Supreme

Court of Wisconsin quoted by the Fourth District Court of Appeal in Florida as follows:

It is well-settled that excessive governmental entanglement with religion will occur if a court is required to interpret church law, policies, or practices; therefore, the First Amendment prohibits such an inquiry. However, it is equally well-settled that a court may hear an action if it will involve the consideration of neutral principles of law.

House of God v. White, 26 Fla. L. Weekly D399 (Fla. 4<sup>th</sup> DCA February 7, 2001)

(quoting LLN v. Clauder, 209 Wis. 2<sup>nd</sup> 674, 563 N.W. 2<sup>nd</sup> 434, 440 (1997))

(citations omitted).

The Petitioner's claims of District liability for sexual harassment, assault, battery and false imprisonment by Mr. Harrison, both personally and in his capacity as a Pastor Parish Relations Committee (PPRC) chairman, cannot be judicially remedied without examination of church law, policies and practices pertinent to the relationship *vel non* between PPRC chairmen and district bodies of the United Methodist Church. Since the District (Superintendent Avery and his secretary) is not alleged to have committed these civil infractions directly, Ms. Carnesi can only impose liability upon the District on the basis of agency, respondeat superior<sup>1</sup>, vicarious liability, or a similar theory. In the abstract, torts

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<sup>1</sup> Let the master answer for the wrongful acts of his servant. *Black's Law Dictionary* 1179 (5<sup>th</sup> Ed. 1979).

and intentional torts may be neutral principles of law but it is in the application of these civil causes of action that would necessarily entangle the court in interpretation of church law, such as is found in the Book of Discipline, to determine for instance whether Mr. Harrison could be considered an "employee" or agent of the District. The undisputed record below establishes that Mr. Harrison was a volunteer chairman of the Ferry Pass PPRC.

At the same time, for a civil court to impose agency or respondeat superior liability in a blanket fashion upon the District for claims such as those asserted in Carnesi would amount to ignoring and superseding church laws and practices concerning the relationship between the District and the local church, its lay employees, volunteers, and PPRC chairmen. Such a blanket imposition, without regard to church organization is also constitutionally proscribed as a violation of the Free Exercise clause of the First Amendment to the United States Constitution. See, e.g., Swanson v. Roman Catholic Bishop of Portland, 692 A.2d 441, 445 (Me. 1997) ("to import agency principles wholesale into church governance and to impose liability for any deviation from the secular standard is to impair the free exercise of religion and to control denominational governance.")

In Doe v. Evans, 718 So. 2d 286, 290 (Fla. 4<sup>th</sup> DCA 1980), rev. granted, 735 So. 2d 1284 (Fla. 1999), the Fourth District discussed the constitutional perils of an inquiry into the existence of an agency relationship in the sectarian setting. The

Evans court quoted extensively from Swanson, 692 A.2d at 444-45 which held that "[w]hen a civil court undertakes to compare the relationship between a religious institution and its clergy with the agency relationship of the business world, secular duties are necessarily introduced into the ecclesiastical relationship and the risk of constitutional violation is evident." Evans at 290. Although in Carnesi Mr. Harrison was not a pastor, Petitioner is still asking a civil court to compare the relationship between a religious institution and its volunteers with the agency relationship of the business world. With respect to the District, the record establishes no comparable agency relationship between Mr. Harrison and the District but the process of such an inquiry into the nature of any relationship between Mr. Harrison and the District necessitates judicial review of church policies and practices just the same.

The proscribed entanglement is not avoided by Petitioner's request that the court label her as a secular employee and Mr. Harrison as a secular supervisor. The court cannot escape evaluating the nexus between Mr. Harrison and the church defendants as it would otherwise do in the secular context. And for liability to ultimately lay against the church defendants the court must impose secular duties upon the church defendants thus infringing upon the constitutional rights of the church and its hierarchy by running contrary to its doctrinal policies and faith-based practices.

To impose secular duties upon the District in Carnesi would impair the United Methodist Church's ability to freely choose its own organizational structure in accordance with its constitutionally protected doctrines and beliefs. The relationship between the District and the churches within it is more pastoral and advisory than controlling or dictatorial. Were the cause of action in Carnesi to proceed, such would be tantamount to a civil court redefining the relationship between the District and its churches, particularly between the District and PPRC volunteer chairmen. There is no pathway a civil court can follow in the process of such an imposition without becoming excessively entangled in the Church's policies and practices concerning its hierarchical relationships and without inhibiting the free exercise of ecclesiastical self-governance.

### **III. The Import of Florida District Court Decisions Concerning Secular Defendants in Tort or Intentional Tort Cases**

There are a few and seemingly increasing Florida district court cases concerning tort or intentional tort lawsuits against churches and their hierarchy. None of them involve facts which are similar to the instant case but they discuss constitutional and tort laws which are determinative of the civil law exposures for churches and their hierarchy.

To begin with, in Carnesi v. Ferry Pass United Methodist Church, 770 So. 2d 1286 (Fla. 1<sup>st</sup> DCA 2000) the First District emphasized that PPRC Chairman



Harrison was a *volunteer*. The First District reasoned that, in light of that, to determine Carnesi's claims<sup>2</sup> would "require a secular court to review and interpret church law, policies, and practices to determine whether an agency relationship existed between [volunteer PPRC chairman] Harrison, the PPRC, and the church defendants, and whether the church defendants can be held liable for Harrison's actions." *Id.* at 1287. The district court believed that such an examination by the court would violate the First Amendment's excessive entanglement doctrine.

The First District cited Evans for Evans' discussion of the First Amendment's excessive entanglement doctrine. Because Evans involved allegations of sexual misconduct on the part of a pastor, the church defendants<sup>3</sup> were more closely connected to the alleged misconduct than were the church defendants in Carnesi where the alleged misconduct was that of a volunteer. Indeed, in Evans, the Plaintiff alleged that the church defendants were aware of prior incidents of sexual misconduct on Evans' part within the same and another church within the diocese. *Id.* at 287. Carnesi made no such allegations in the instant case. Thus, where the excessive entanglement doctrine bars the imposition of secular legal duties upon clergy in a case such as Evans involving alleged sexual misconduct towards an adult parishioner, the doctrine applies with even greater

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<sup>2</sup> Sexual harassment, assault, battery and false imprisonment.

<sup>3</sup> The parish, the diocese and the bishop.

force in a case such as Carnesi, where the alleged perpetrator of unwanted touching and advances is a church volunteer, with no secular employment relationship with the church or the district and whose role as a volunteer is governed by church law and practices. The First District's holding in Carnesi is further buttressed, at least by comparison to Evans, by the absence of any allegation in Carnesi of prior misconduct on Mr. Harrison's part, thus precluding imposition of liability on the church and its hierarchy on the basis of traditional notice or foreseeability elements of tort even if such liability could be constitutionally imposed.

The earlier case of Doe v. Dorsey, 683 So. 2d 614 (Fla. 5<sup>th</sup> DCA 1996) involved an action against the church and its bishop for negligent hiring or retention of a priest who committed sexual misconduct on an altar boy. The Fifth District affirmed the dismissal<sup>4</sup> of the case but wrote that when the allegations of negligent hiring and retention against the church pertain to criminal acts of clergy involving children, that it would "draw the line at criminal conduct." Id. at 617. The factual background of the Dorsey case is too remote to be applicable to Carnesi.

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<sup>4</sup> The dismissal was affirmed on two grounds, the first was that the misconduct towards the altar boy when he was a minor was barred by the statute of limitations and the second ground was that the sexual misconduct with the altar boy after he reached the age of majority did not amount to sexual battery.

Jane Doe I v. Malicki, 771 So. 2d 545 (Fla. 3<sup>rd</sup> DCA 2000), rev. granted, TABLE No. SC01-179 (Fla. Apr. 25, 2001) quoted Dorsey's line drawing recommendation with approval. The Malicki court distinguished Evans and avoided the constitutional bar there noting that the Evans court recognized that their case presented a "less compelling factual scenario" than cases involving criminal assaults, especially against children. Malicki, 771 So. 2d at 547. Carnesi stands in contrast to Malicki.

Notably, in Malicki the plaintiffs (one of whom was a minor) alleged that Father Malicki sexually molested, assaulted and/or battered them "and that, despite knowing that Father Malicki had committed several sexual assaults and/or batteries, he was retained by the defendants as a priest and given the task of supervising the plaintiffs." Id. Thus, the Malicki court contrasts its case with Carnesi by explaining it has a more compelling factual scenario than other cases and because its case contained allegations of previous sexual misconduct of which the church and its hierarchy were actually aware. The underlying facts of Carnesi contrast so strongly with this that Malicki should have no bearing on the Supreme Court's disposition in Carnesi.

As Chief Judge Schwartz pointed out in his dissent, by allowing the plaintiffs' cause of action to go forward against the church defendants, the Malicki majority does not explain how the trial court avoids entanglement with church

policies and practices in the process of determining what the church knew or should have know with respect to Father Malicki's misconduct. Id. at 549. Such a lawsuit also does not avoid imposition of secular duties and liability on the church defendants as "principals" which necessarily infringe upon the church's right to determine the standards governing the relationship between it, its leadership, and its priests. Id. The caveats discussed in Judge Schwarz's dissent apply to the facts in Carnesi because the imposition of secular standards on a church construct necessarily supplants church doctrine and practice. And even if the line is to be drawn at actual knowledge on the part of the church hierarchy of criminal conduct or criminal conduct involving a minor, the Carnesi case is well distant from such a line and therefore the District should fall within the protections of the First Amendment. Notably, in Carnesi it is undisputed that Ms. Carnesi's complaints of unwanted touching were addressed by Ferry Pass minister Revered Moore along with another parishioner. (R. 647 or App. 5 at 29). Ms. Carnesi testified that afterwards there were no more incidents of sexual harassment and she considered the matter closed. (R. 654 or App. 5 at 36; R. 693 or App. 5 at 75; R. 705 or App. 5 at 87).

Other more recent district court cases are House of God v. White, 26 Fla. L. Weekly D399 (Fla. 4<sup>th</sup> DCA Feb. 7, 2001) and Iglesia Christiana La Casa Del Señor, Inc. v. L.M., 26 Fla. L. Weekly D1139 (Fla. 3<sup>rd</sup> DCA May 2, 2001). In

House of God the plaintiff claimed that the church negligently retained and supervised its pastor and was vicariously liable for the pastor's slander in calling her a "slut" while standing at the church alter in front of the parishioners. The Fourth District held that the trial court lacked jurisdiction to entertain such claims against the church because the process of determining church liability under the circumstances would excessively entangle the court with church policies, practices and beliefs regarding its supervisory and other relationships with its pastors. The House of God case is consistent with affirmance of the trial court in Carnesi because the process of determining whether any liability lies against the church defendants in Carnesi, particularly the District and Conference, would necessarily and excessively entangle the court with church policies and practices concerning church volunteers and the handling of employee grievances such as Ms. Carnesi's.

In the recent Iglesia Christiana case, the Third District, which decided the Evans case<sup>5</sup>, held that there was no basis in the record to hold the church liable for the pastor's criminal, sexual assault on a minor under either respondeat superior or negligent supervision theories. The respondeat superior theory did not apply since the record showed that the pastor's misconduct was outside the scope of his employment. The negligent supervision theory did not apply since the record

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<sup>5</sup> Chief Judge Schwartz was part of the panel in *Iglesia Christiana* and dissented in *Evans*.

showed that the church did not have actual or constructive notice of the pastor's misconduct or propensity for such. The Third District made no reference to the First Amendment or the excessive entanglement doctrine. As is discussed in the next section of this brief, and as in Iglesia Christiana, the record in Carnesi alternatively establishes no liability under secular tort principles. The record in Carnesi establishes that neither Ms. Carnesi nor PPRC Chairman Harrison were employed in any fashion by the District. (R. 1246 or App. 7 at 56). Furthermore, it is undisputed that the District is comprised of two individuals, Superintendent Avery and his secretary. (R. 1246 or App. 7 at 56). Superintendent Avery knew nothing of Ms. Carnesi's complaints until they were addressed by the church pastor and resolved. (R. 1207-1208 or App. 7 at 17-18). By the time Superintendent Avery learned of the incident the alleged harassment terminated by Ms. Carnesi's own admission. (R. 654 or App. 5 at 36). Thus, as in Iglesia Christiana, there is no means of imposing vicarious or other tort liability upon the District.

#### **IV. The District Is Not Liable Under Theories Of Agency, Vicarious Liability Or Respondeat Superior**

Ms. Carnesi's complaint below claims sexual harassment, battery, assault and false imprisonment all of which theories stem from unwanted actions on the part of Mr. Harrison. Since neither the District Superintendent Charles Avery nor his secretary are alleged to have committed these acts, the District could only be

found liable on the basis of secular legal principles of agency, respondeat superior, or vicarious liability. For instance, with respect to a sexual harassment claim arising out of a secular setting, an employer is subject to vicarious liability to a victimized employee for actionable hostile environment created by a supervisor. Faragher v. City of Boca Raton, 524 U.S. 775, 807, 118 S.Ct. 2275, 2292-93 (1998). Stated somewhat differently, in implementing sexual harassment law "it makes sense to hold an employer vicariously liable for some tortious conduct of a supervisor made possible by abuse of his supervisory authority . . . . consistent with agency principles." Faragher, 524 U.S. at 802, 118 S.Ct. at 2290. As outlined previously, the record before the Supreme Court in Carnesi establishes the lack of agency or any employment nexus between Mr. Harrison and the District and therefore affirmance may properly rest on non-constitutional grounds.<sup>6</sup>

In Folwell v. Bernard, 477 So. 2d 1060 (Fla. 2<sup>nd</sup> DCA 1985) the trial court undertook to determine whether an Episcopalian diocese was vicariously liable for a personal injury. The Second District made no reference to constitutional constraints on the judicial review of the case. Instead, it proceeded to an analysis of agency and vicarious liability of the diocese. The analysis of the diocese's

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<sup>6</sup> A reviewing court may affirm the judgment of a lower court which reached the correct result but did so for different reasons than those which the reviewing court finds support that result. Combs v. State, 436 So. 2d 93, 96 (Fla. 1983).

constitution and canons revealed a lack of diocesan control over the every day secular affairs of the church to sustain a finding of agency and vicarious liability. Arguably the trial court exceeded the First Amendment constraints by entering into such an inquiry but upon doing so it found insufficient control or nexus. The Folwell court nevertheless touched on constitutional principles when it stated that "[t]he components of the ecclesiastical interrelationship between the parent church and the subordinate body cannot be permitted to serve as a bridge capable of reaching the non-secular parent in a civil proceeding." Id. at 1063. The District should obtain the same result in Carnesi.

## **V. Conclusion**

The Pensacola District of the Alabama West Florida Conference of the United Methodist Church requests the Florida Supreme Court approve and uphold the First District Court of Appeal's affirmance of the trial court below in Carnesi.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of Respondent The Pensacola District of the Alabama West Florida Conference of the United Methodist Church's Answer Brief has been furnished this \_\_\_\_\_ day of May, 2001, by U.S. Mail, to **Troy A. Rafferty, Esquire/Timothy M. O'Brien, Esquire**, Post Office Box 12308, Pensacola, FL 32581; **William H. F. Wiltshire, Esquire**, 201 East Government Street, Pensacola, FL 32501; **Kathy J. Maus, Esquire/Kim E. Wells, Esquire**, 3520 Thomasville Road, Suite 102, Tallahassee, FL 32308; **William R. Mitchell, Esquire/Stephen F. Bolton, Esquire**, Post Office Box 30589, Pensacola, FL 32503-4350; **James F. Gilbride, Esquire**, One Biscayne Tower, Suite 1570, Two South Biscayne Boulevard, Miami, Florida 33131; **J. Patrick Fitzgerald, Esquire**, 110 Merrick Way, Suite 3B, Coral Gables, Florida 33134 and **Robert S. Glazier, Esquire**, 220 S. E. Second Avenue, Suite 1020, Miami, FL 33131.

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**CERTIFICATE OF COMPLIANCE WITH FONT  
REQUIREMENTS OF RULE 9.210(2)**

This is to certify that this brief complies with the font requirements of Rule 9.210 and that the font used is Times New Roman 14-point.

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## APPENDIX

1. Complaint (R:1-13)
2. Order Granting Motion for Summary Judgment (R:411-412)
3. Notice of Filing and Affidavit of William Wesley Morris (with attachments) (R:271-343)
4. Excerpts from deposition of Virginia M. Carnesi taken January 5, 1998 (Volume I) (R: 419-618A)
5. Excerpts from deposition of Virginia M. Carnesi taken January 6, 1998 (Volume II) (R:619-751)
6. Excerpts from deposition of Chester Harrison taken November 11, 1998 (R:1074-1190)
7. Excerpts from deposition of Superintendent William Charles Avery taken November 9, 1998 (Volume I) (R:1191-1272)
8. Excerpts from deposition of Superintendent William Charles Avery taken November 11, 1998 (Volume II) (R:1273-1337)
9. November 16, 2000 Opinion of the Florida First District Court of Appeal, in Virginia M. Carnesi v. Ferry Pass United Methodist Church, et al., Case No. 1D99-4333