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SUPREME COURT OF TEXAS
BLAKE A. HAWTHORNE, CLERK

No. _____

In the Supreme Court of Texas

In re The General Council of the Assemblies of God,

Relator

Original Proceeding from the First District Court of Appeals at Houston, Texas,
No. 01-26-00634-CV, and 234th Judicial District Court
of Harris County, Texas, Cause No. 2024-16380,
the Honorable Lauren Reeder, Presiding

PETITION FOR WRIT OF MANDAMUS

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INTRODUCTION

"[This Court has] repeatedly found an adequate appellate remedy lacking when a trial court erroneously compels an apex deposition." *In re Am. Airlines, Inc.*, 634 S.W.3d 38, 43 (Tex. 2021) (per curiam) (collecting cases). This is doubly true when the apex deposition has been ordered against a religious organization's CEO where an ecclesiastical abstention plea to the jurisdiction has been pending ten months, and where the deposition is about neither a witness's unique factual knowledge nor relevant to resolving the plea. Indeed, since the plea is based on the Plaintiffs' pleadings and structural polity matters independent of any discoverable evidence in this case, the lower court should have already ruled. *See Paxton v. City of Austin*, 741 S.W.3d 109, 113 (Tex. 2026) ("A court 'must determine at its earliest opportunity whether it has the constitutional . . . authority to decide the case before allowing the litigation to proceed.'" (emphasis added) (quoting *Tex. Dep't of Parks & Wildlife v. Miranda*, 133 S.W.3d 217, 226 (Tex. 2004))). And because this case turns on the church-autonomy doctrine—"a constitutional principle of literally transcendent importance"—the Court's immediate resolution is imperative. *See Southern Methodist Univ. v. S. Cent. Jurisdictional Conf. of the United Methodist Church*, 716 S.W.3d 475, 494 (Tex. 2025) (Young, J., concurring).

Doug Clay is the General Superintendent of The General Council of the Assemblies of God (GCAG), the doctrinal governing body of affiliated Assemblies

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of God churches in America. GCAG is one of the Defendants in the underlying lawsuit, in which two plaintiffs allege that they suffered sexual abuse during their participation in a campus ministry at Sam Houston State University. The position of General Superintendent is equivalent to that of a corporate president or chief executive officer. The trial court has ordered Mr. Clay's deposition—the latest in a series of depositions ordered against current and former GCAG executive team members—even though Mr. Clay provided an uncontroverted affidavit explaining that he had no unique or superior knowledge of any facts at issue in the case.

When a party requests to depose a corporate president or other high-level corporate official, *i.e.*, an "apex deposition," that corporate official may move for protection from the deposition. Mr. Clay did so, providing an affidavit attesting to his lack of unique and superior knowledge. If the party seeking the deposition cannot meet its burden to show that the official has any unique or superior personal knowledge of discoverable information, the motion for protection *must* be granted. Plaintiffs did not meet their burden—argument of counsel is *not* evidence. In fact, Plaintiffs have no *evidence* to support their allegations as to Mr. Clay's unique knowledge or involvement relevant to the underlying issues in this case.

The trial court's abuse of discretion is particularly troubling because it involves not only an apex deposition but the deposition of the equivalent of a CEO of a religious organization. Under the ecclesiastical-abstention doctrine, civil courts

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may not delve into matters of church discipline or ecclesiastical government; however, Plaintiffs, aided by the trial court, continue to do both. GCAG filed a Plea to the Jurisdiction last December that was heard over seven months ago but tabled by the trial court to permit jurisdictional discovery. Texas law, however, permits only limited jurisdictional discovery confined to facts directly bearing on a jurisdictional issue. And Plaintiffs have never even tried to explain how the deposition of Mr. Clay bears directly on any jurisdictional issue. Indeed, the *only* evidence offered has been the argument of counsel confirming that the information sought (related to ecclesiastical investigations, discipline, etc.) is outside the boundaries of what a Texas court has jurisdiction to decide.

The petition for mandamus should be granted.

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STATEMENT OF THE CASE

Nature of the underlying proceeding:	Personal-injury action (MR0002-0027)[1]
Respondent:	The Honorable Lauren Reeder, Presiding Judge of the 234th Judicial District Court of Harris County, Texas
Respondent's action from which Relator seeks relief:	Granted Plaintiffs John Doe 1 and John Doe 2's Motion to Compel Defendant The General Council of the Assemblies of God's Doug Clay's Deposition and denied Defendant The General Council of the Assemblies of God's Motion for Protection. (MR0332-0333, 0335; Apx.[2] Tab B)
Court of Appeals:	First District Court of Appeals at Houston, Texas
Court of Appeals' Disposition:	GCAG filed a Petition for Writ of Mandamus in the First Court of Appeals on June 16, 2026. In a memorandum opinion joined by Justices Caughey, Morgan, and Dokupil issued on October 2, 2026, the court of appeals denied Relator's Petition for Writ of Mandamus. *In re The General Council of the Assemblies of God*, No. 01-26-00634-CV, 2026 WL 2963525, at *1 (Tex. App.—Houston [1st Dist.] Oct. 2, 2026, orig. proceeding [mand. filed]) (MR0337-0339; Apx. Tab A)
Motion for Temporary Relief:	After the Court of Appeals' opinion, GCAG provided proposed dates of December 2 or 3, 2026, for Mr. Clay's deposition pursuant to the trial court's prior orders, subject to its ongoing objection. The deposition has not been scheduled yet, but GCAG is moving for temporary relief given the closeness of those dates.

[1] "MR" refers to the Sworn Record Supporting Petition for Writ of Mandamus filed with this petition. For the Court's convenience, the pages in the mandamus record are consecutively Bates labeled in the lower right-hand corner beginning with MR0001.

[2] "Apx." refers to the appendix attached to this Petition for Writ of Mandamus.

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STATEMENT OF JURISDICTION

This Court has jurisdiction to issue a writ of mandamus pursuant to article V, section 6(a) of the Texas Constitution and section 22.002(a)(b)(1) of the Texas Government Code.

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ISSUE PRESENTED

Doug Clay is the General Superintendent of Defendant The General Council of the Assemblies of God (GCAG). He is neither involved with the day-to-day operations of the other divisions and separate entities named in the underlying lawsuit nor was he responsible for the daily supervision of those divisions or entities. Plaintiffs did not meet their burden to show that Doug Clay has any unique or superior knowledge of discoverable information. Nor did the Plaintiffs specify or explain how this deposition would target the jurisdictional issue—ecclesiastical abstention—pending before the trial court. Did the trial court abuse its discretion, leaving GCAG without an adequate remedy on appeal, when it ordered GCAG to produce Doug Clay for an apex deposition even though there was no showing of unique or superior knowledge of discoverable information or relevance to any jurisdictional issue?

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STATEMENT OF FACTS

This personal-injury case arises out of the alleged sexual abuse of two college students, John Doe 1 and John Doe 2. (MR0010-0014) Plaintiffs' claim that GCAG negligently supervised *other* defendants—independent ministers and ministries—which Plaintiffs allege: (1) actively sought out students to participate in campus ministries; (2) knew that a man named Daniel Savala who was previously convicted of sexual abuse was involved in the campus ministry at Sam Houston State University; and (3) failed to prohibit his involvement in the campus ministry. (MR0004-0014) Plaintiffs do not allege that Savala was employed by, supervised by, or otherwise under the control and direction of GCAG.

GCAG is the ecclesiastical governing body of the Assemblies of God USA, a large Pentecostal Christian fellowship of sovereign churches and ministers that affiliate together for doctrinal purposes. (MR0005) Defendant South Texas District Council-Assemblies of God, Inc. is a separate group created by the churches and ministers in southern Texas and is responsible for ecclesiastical oversight of its members. (MR0006) Defendant Chi Alpha Campus Ministries, U.S.A.—a department of GCAG—is a fraternal organization chartering over 300 local chapters on campuses around the world. (MR0007) Defendant Chi Alpha Campus Ministries Huntsville is located at Sam Houston State University and is one of the independent Chi Alpha campus chapters. (MR0007) Despite Plaintiffs' allegations to the

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contrary, GCAG and the other defendants are legally separate entities—GCAG had no managerial authority over the individuals whom Plaintiffs claim led them astray with regard to Daniel Savala.

Mr. Clay is the General Superintendent of GCAG. (MR0052) As detailed in Mr. Clay's affidavit supporting GCAG's Motion to Quash and Motion for Protection, he does not have any unique personal knowledge regarding the day-to-day operations of the other defendant entities. (MR0052-0053) Nor does Mr. Clay have unique personal knowledge of the facts regarding any members' or leaders' involvement with Daniel Savala. (MR0052-0053)

On September 3, 2025, Plaintiffs issued a notice for the deposition of Mr. Clay. (MR0048-0050) GCAG notified Plaintiffs' counsel that the deposition was an apex deposition and timely filed its Motion to Quash to quash the deposition. (MR0029-0034) GCAG also filed a Supplemental Motion to Quash Apex Deposition of Doug Clay and Motion for Protective Order, including the affidavit of Mr. Clay attesting to his lack of unique or superior knowledge. (MR0041-0055)

On December 29, 2025, GCAG filed a Plea to the Jurisdiction. The plea asserted that the claims against GCAG require dismissal because it is a separate legal entity from any of the ministries and ministers that affiliate together under the name "Assemblies of God" and does not exercise any supervision or control over those individual members of the fellowship outside of the doctrinal realm. (MR0057-

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0177) The plea also argues that faulting GCAG for its alleged negligent "supervision" of the ministers at issue in the underlying suit would necessarily involve faulting the church governance structure chosen by GCAG that allows affiliated—but legally independent—ministries and ministers to operate without daily supervision by the ecclesiastical governing body. (MR0057-0077) Consequently, GCAG pointed out that this Court's precedents do not allow the claims against it to proceed. *See In re Lubbock*, 624 S.W.3d 506, 513 (Tex. 2021) (orig. proceeding) (recognizing that even "secular" claims must be evaluated by "whether the application of neutral principles would impose civil liability upon a church for complying with its own internal rules and regulations").

Plaintiffs then filed a Motion to Compel GCAG to produce Mr. Clay for deposition. (MR0179-0193) The motion failed to acknowledge their deposition notice seeks an apex deposition.

A hearing was held on the Plea to the Jurisdiction on March 17, 2026. (MR0206) On that date, and continuing on May 27, 2026, the trial court also heard argument on Plaintiffs' Motion to Compel. (MR0206-0261, 0263-0330) Without any specification from Plaintiffs as to why the deposition of Mr. Clay was necessary, the trial court reserved a ruling on GCAG's Plea to the Jurisdiction and stated that "some jurisdictional discovery" would be permitted. (MR0326)

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On May 27, 2026, Plaintiffs pointed again to the deposition of another executive team member of GCAG—Donna Barrett—to show that Mr. Clay, as a member of the ministerial credentialing team, voted on the removal of credentials of certain ministers linked to the events surrounding Savala. (MR0280-0281) Plaintiffs also pointed to an email about Savala previously sent to Mr. Clay (that he acknowledged in his affidavit that he forwarded to Donna Barrett's department) to claim that he arguably must have some knowledge of the facts in this case. (MR0282) Although the only evidence cited by Plaintiffs proved (in fact) that Mr. Clay did not have unique knowledge of the facts, the trial court signed an Order granting Plaintiffs' Motion to Compel and denying GCAG's Motion for Protection. (MR0332-0333; Apx. Tab B) On June 29, 2026, the trial court signed an Order granting Plaintiffs' Motion to Compel earlier dates for Mr. Clay's deposition than those provided by counsel. (MR0335)

GCAG sought mandamus relief. The First Court of Appeals requested a response to the petition and granted a stay of the trial court's order. The court subsequently denied the mandamus petition, without substantive explanation, in a short memorandum opinion. *In re The General Council of the Assemblies of God*, No. 01-26-00634-CV, 2026 WL 2963525, at *1 (Tex. App.—Houston [1st Dist.] Oct. 2, 2026, orig. proceeding). (MR0337-0339; Apx. Tab A)

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During the pendency of the mandamus action, the trial court has continued to order additional (seemingly unlimited) depositions and discovery, including: a second deposition of Donna Barrett (MR0332, 0335), production of financial records and a financial corporate representative, and the unsealing of previous deposition testimony, all without any relevance to the pending plea.

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SUMMARY OF THE ARGUMENT

Plaintiffs are attempting to depose the General Superintendent of GCAG, even though the undisputed evidence shows that he does not have any unique personal knowledge of discoverable information. Mr. Clay's only relation to the litigation is in his role as the General Superintendent of GCAG. Moreover, this deposition is sought under the guise of "jurisdictional discovery" without explaining why or how this deposition has any bearing on the jurisdictional issue pending before the trial court. It does not because no jurisdictional discovery is needed to resolve the pending plea.

Moreover, the testimony sought from Mr. Clay goes directly and only to information shielded by the First Amendment. *See NLRB v. Cath. Bishop of Chicago*, 440 U.S. 490, 502 (1979) (noting that the "very process of inquiry leading to findings and conclusions that may be reached" regarding a religious organization's internal affairs can "impinge on rights guaranteed by the Religion Clauses"); *see also McRaney v. N. Am. Mission Bd. of the S. Baptist Convention, Inc.*, 157 F.4th 627, 639 (5th Cir. 2025) ("The church autonomy doctrine also forbids courts from adjudicating matters of church governance, including church discipline . . . .").

When a party requests to depose a corporate president or other high-level corporate official such as Mr. Clay, *i.e.*, an "apex deposition," that corporate official

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may move for protection from the deposition and include an affidavit attesting to the official's lack of unique or superior knowledge. The burden then shifts to the party seeking the deposition. If the party seeking the deposition cannot meet its burden of showing that the official has any unique or superior personal knowledge of discoverable information, the motion for protection *must* be granted and the party seeking the apex deposition is required to obtain the discovery sought through less intrusive methods.

Plaintiffs have presented *no* evidence to support their allegations as to Mr. Clay's unique knowledge of or involvement in the underlying issues in this case. This is for good reason. Mr. Clay was not responsible for the daily supervision of the members of the divisions and entities whom Plaintiffs allege caused their injuries and damages. He did not participate in any decision related to Plaintiffs' relationships with or access to the accused abuser, Daniel Savala. And Mr. Clay did not personally participate in any investigation into Plaintiffs' allegations. Despite Plaintiffs' desire for it to be so, Mr. Clay has no superior or unique knowledge as is required under Texas law. In fact, the evidence to which Plaintiffs point underscores this very fact (not to mention that the evidence to which Plaintiffs point also deals with ecclesiastical matters over which Texas courts lack authority).

Thus, to the extent *any more* jurisdictional discovery is permissible at this point, Plaintiffs should be required to obtain the discovery sought through other less

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intrusive methods such as through a corporate representative deposition. To date, Plaintiffs plow forward—with the trial court's blessing—taking "fact witness" depositions of GCAG executive team members but not characterizing them as corporate representative depositions or providing topics in advance.

The trial court abused its discretion when ordering GCAG to provide dates and produce Mr. Clay for an apex deposition. Further, GCAG lacks an adequate appellate remedy from an order compelling discovery beyond what the rules allow for an apex deposition and purported jurisdictional discovery. As such, GCAG is entitled to mandamus relief. This Court should direct the trial court to vacate its Order Granting Plaintiffs' Motion to Compel Clay's deposition and denying GCAG's Motion for Protection.

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ARGUMENT

I. Mandamus Standard and Standard of Review

A writ of mandamus will issue when the trial court commits a clear abuse of discretion, and the relator has no adequate remedy by appeal. *In re Cerberus Cap. Mgmt., L.P.*, 164 S.W.3d 379, 382 (Tex. 2005) (orig. proceeding). A trial court has no discretion in determining what the law is or in applying the law to the facts. *In re Lapuerta*, 732 S.W.3d 548, 555 (Tex. 2026) (citing *Walker v. Packer*, 827 S.W.2d 833, 840 (Tex. 1992)). Thus, a clear failure by the trial court to analyze or apply the law correctly will constitute an abuse of discretion and may result in appellate reversal by extraordinary writ. *Id.*

This Court has already concluded that mandamus is appropriate to correct a trial court's improper discovery order. *In re Millwork*, 631 S.W.3d 706, 714–15 (Tex. 2021) (holding that a party "has a right to proper application of the discovery rules governing depositions, and if discovery takes place under an improper order, the error cannot be rectified on appeal"). And, more specifically, Texas courts have concluded that an improperly ordered apex deposition requires mandamus relief. *In re Baylor Univ.*, No. 01-20-00439-CV, 2020 WL 6878411, at *4 (Tex. App.—Houston [1st Dist.] Nov. 24, 2020, no pet.) (citing *In re Alcatel USA*, 11 S.W.3d 173, 175 (Tex. 2000) (orig. proceeding); *In re Miscavige*, 436 S.W.3d 430, 435 (Tex. App.—Austin 2014, orig. proceeding) ("Mandamus relief is appropriate when a trial

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court allows an apex deposition to go forward in violation of the standard governing such discovery.")).

II. The Trial Court Clearly Abused Its Discretion in Ordering the Apex Deposition

Again, Mr. Clay is the General Superintendent of GCAG. (MR0052) Because he is the head of GCAG, requesting his deposition is, without question, a request for an apex deposition. Yet he possesses no superior or unique knowledge of the information sought by Plaintiffs. And Plaintiffs' *only* evidence to support their allegations as to Mr. Clay's involvement support GCAG's position here. Plaintiffs failed to meet their burden, and thus the trial court abused its discretion when it failed to provide GCAG the protection to which it was entitled under the law. *See Am. Airlines*, 634 S.W.3d at 43 (granting mandamus relief where trial court ordered apex deposition even though plaintiff failed to show that the deponent possessed unique or superior knowledge or that the discovery sought could not be obtained by less intrusive means).

A. It is Plaintiffs' burden to show Mr. Clay has unique or superior knowledge of discoverable information.

Although the Texas Rules of Civil Procedure allow a party to take the deposition of "any person," the person noticed for deposition has a right of protection "from undue burden, unnecessary expenses, harassment or annoyance, or invasion of personal, constitutional, or property rights." *See* TEX. R. CIV. P. 166b(5); *Crown*

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Cent. Petroleum Corp. v. Garcia, 904 S.W.2d 125, 127 (Tex. 1995). Consequently, when a party requests an apex deposition, that corporate official may move for protection. *Crown Cent. Petroleum*, 904 S.W.2d at 128.

When, as here, the corporate official files a motion for protection accompanied by the official's affidavit denying knowledge of relevant facts, the trial court must first determine whether the party seeking the deposition has shown that the official has any unique or superior knowledge of discoverable information. *Id*. An individual has "unique or superior personal knowledge" if the individual is "the only person with personal knowledge of the information sought" or the individual "arguably possesses relevant knowledge greater in quality or quantity than other available sources." *In re Alcatel*, 11 S.W.3d at 175. If the party seeking the deposition cannot meet its burden of showing that the official has any unique or superior personal knowledge of discoverable information, the motion for protection must be granted. *Crown Cent. Petroleum*, 904 S.W.2d at 128.

Moreover, a corporate officer's mere knowledge of some of the subject matter of a dispute is not enough to compel an apex deposition. *In re Baylor Univ*., 2020 WL 6878411, at *6. As this Court has held, "[a]llowing apex depositions merely because a high-level corporate official possesses apex-level knowledge would eviscerate the very guidelines established in *Crown Central*." *Id*. (quoting *In re Alcatel*, 11 S.W.3d at 177).

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In addition to granting the motion for protective order, the trial court must "require the party seeking the deposition to attempt to obtain the discovery through less intrusive methods." *Id.* Those methods include seeking the deposition of the corporation itself through a corporate representative deposition and depositions of lower-level employees, interrogatories, and requests for production of documents directed to the corporation. *See id.*; *In re Daisy Mfg. Co.*, 17 S.W.3d 654, 659 (Tex. 2000) (noting that a "good example" of unreasonableness of plaintiffs' efforts is failing to take the corporation's deposition through a corporate representative prior to seeking the apex deposition); *In re TMX Fin.*, 472 S.W.3d 864, 873 (Tex. App.—Houston [1st Dist.] 2015, orig. proceeding); *In re Miscavige*, 436 S.W.3d at 437 (if the party seeking an apex deposition cannot show that the corporate official has any unique or superior personal knowledge of discoverable information, the trial court should grant the motion for protection and require the party seeking the deposition to attempt to obtain the discovery through less intrusive methods).

The trial court should modify or vacate the protective order only after the party seeks to obtain the discovery through less intrusive methods and shows the official's deposition is calculated to lead to the discovery of admissible evidence, and less intrusive methods of discovery are unsatisfactory, insufficient or inadequate. *Crown Cent. Petroleum*, 904 S.W.2d at 128. Absent this showing by the party seeking the deposition, the trial court should leave the protective order in place. *Id.*

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In sum, it was Plaintiffs' burden to show that Mr. Clay possesses unique or superior knowledge of discoverable information. As detailed below, they failed to meet that burden.

B. Plaintiffs failed to meet their burden of showing that Clay has unique or superior knowledge.

Plaintiffs' Motion to Compel alleges that "Doug Clay was actively involved with the Defendant's reaction to the Daniel Savala sex abuse scandal." (MR0179) Plaintiffs cite to *no* evidence to support or substantiate this allegation. But even if it were true, the First Amendment protects GCAG from invasive questioning from a plaintiff's attorney about the church disciplinary process and results. See *In re Lubbock*, 624 S.W.3d at 513 (prohibiting Texas courts from exercising jurisdiction that would "not require . . . meddling in church government"); *see also McRaney*, 157 F.4th at 639 ("The church autonomy doctrine also forbids courts from adjudicating matters of church governance, including church discipline . . . .").

Plaintiffs allege that "a whistleblower sent direct communications to Doug Clay about Daniel Savala." (MR0189) Yet Plaintiffs cite *no* evidence to support the claim that Mr. Clay has any unique or superior knowledge of this communication. As discussed further below, Mr. Clay specifically addressed this claim in his affidavit, explaining that the email in question was forwarded to the proper department to address that type of complaint and that if he saw the email he only would have forwarded it. (MR0053)

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Plaintiffs also allege that Mr. Clay "was actively involved in numerous meetings that resulted in ministers losing their certification because of their involvement with Daniel Savala." (MR0189) Plaintiffs cite *no* evidence to support the claim that Mr. Clay has any unique or superior knowledge of these alleged meetings. In fact, Plaintiffs implicitly acknowledge through their arguments that Mr. Clay does not possess unique knowledge of these matters since he was merely part of the meetings. Even worse, Plaintiffs are attempting to pry into ecclesiastical disciplinary meetings that took place after the fact and are not discoverable or actionable under the First Amendment and church autonomy doctrine. *See In re Lubbock*, 624 S.W.3d at 513; *McRaney*, 157 F.4th at 639; *see also Askew v. Trs. of Gen Assembly of Church of the Lord Jesus Christ of the Apostolic Faith Inc.*, 684 F.3d 413, 420 (3d Cir. 2012) (holding that the "First Amendment shields religious institutions from . . . intrusive inquiry [concerning] their compliance with internal excommunication procedures").

Plaintiffs allege that Mr. Clay "is the only one with the knowledge because Defendant chose not to memorialize any of these discussions." (MR0189) Plaintiffs cite to *no* evidence to support this allegation, nor could they. Indeed, they know that not to be true since they have already deposed Donna Barrett.

Plaintiffs finally allege that if these documents did exist, "Defendant is hiding these documents." (MR0189) Once again, Plaintiffs cite *no* evidence to support this

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inflammatory allegation or to link the alleged hiding of evidence to Mr. Clay.

In short, Plaintiffs' allegations as to Mr. Clay amount to nothing more than unsubstantiated argument of counsel. And under Texas law, it is a well-established that argument of counsel—whether made during opening statement, closing argument, during hearings, or in briefs and motions—does not constitute evidence. Statements made by attorneys are not evidence and cannot serve as a substitute for proof. *ODIN Demolition & Asset Recovery, LLC v. Marathon Petroleum Co., LP*, No. 01-17-00438-CV, 2018 WL 4131038, at *5 (Tex. App.—Houston [1st Dist.] Aug. 30, 2018, no pet.) ("Unsupported arguments in briefs or motions are not evidence."); *Cleveland v. Taylor*, 397 S.W.3d 683, 693 (Tex. App.—Houston [1st Dist.] 2012, pet. denied) ("Neither an attorney's argument nor the pleadings or motions of a party constitute evidence."); *Mata v. State*, 1 S.W.3d 226, 228 (Tex. App.—Corpus Christi–Edinburg 1999, no pet.) ("[I]t is axiomatic that argument of counsel is not evidence."); *Interest of M.M.*, No. 02-22-00279-CV, 2023 WL 2178403, at *6 (Tex. App.—Fort Worth Feb. 23, 2023, no pet.) ("Texas law makes clear that arguments of counsel, including arguments contained in briefs, are not evidence."); *Hurdsman v. Mayo*, No. 02-17-00099-CV, 2018 WL 3060116, at *4 (Tex. App.—Fort Worth June 21, 2018, no pet.) (mem. op.) ("[A]rguments are not evidence.").

For good reason, Plaintiffs have no evidence to support their allegations as to

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Mr. Clay. His only relation to the underlying litigation is in his role as the General Superintendent of GCAG. (MR0052) Indeed, he does not have any personal knowledge regarding the day-to-day operations of Chi Alpha Campus Ministries, U.S.A., South Texas District Council Assemblies of God, Inc., or Chi Alpha Campus Ministries Huntsville; nor does he have personal knowledge of the members' or leaders' involvement with Daniel Savala. (MR0053) Mr. Clay's affidavit is clear and direct:

> 5. I understand that Plaintiffs' petition in this lawsuit contends, among other things, that Plaintiffs were sexually abused by a non-Assemblies of God member—Daniel Savala.
>
> 6. I do not possess unique or superior personal knowledge of relevant facts or information about this case that cannot be obtained from other sources.
>
> 7. I did not personally participate in any decision related to Plaintiffs' relationships with or access to Daniel Savala, or any investigation into those allegations.

(MR0053)

Additionally, as mentioned above, Mr. Clay directly addressed Plaintiffs' allegation regarding email communications from a whistleblower in his affidavit:

> 8. Further, I am generally aware that Monica Roeger previously emailed our General Superintendent email address regarding Daniel Savala. As the response (produced at STXAG-00000035-36) notes, that email was forwarded to the General Secretary of The General Council of the Assemblies of God so her department could respond to it. I have no unique or special knowledge regarding any email sent from Monica Roeger and would have only forwarded it on to another department if I saw it and did anything at all.

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(MR0053)

Mr. Clay's affidavit shifts the burden to Plaintiffs. They did not, and cannot, meet their burden to show that Mr. Clay has any unique or superior knowledge of discoverable information. *Crown Cent. Petroleum*, 904 S.W.2d at 128. Plaintiffs' reliance on *In re Columbia Rio Grande Healthcare, L.P.*, 977 S.W.2d 433, 434 (Tex. App.—Corpus Christi–Edinburg 1998, no pet.), is misplaced. (MR0249-0250) Plaintiffs argue that because Mr. Clay's affidavit does not use the word "any" that it is insufficient and does not adequately deny knowledge of relevant facts. (MR0250) Plaintiffs are mistaken.

In *Columbia Rio Grande Healthcare*, a negligent credentialing case, Columbia identified its CEO in discovery as "the person most knowledgeable regarding [physician contracts]." 977 S.W.2d at 434. The plaintiffs then sought to depose the CEO, and Columbia filed a motion to quash the deposition notice. *Id.* The trial court denied this motion. *Id.* The appellate court denied Columbia's mandamus petition, concluding that, even though the CEO in his affidavit "denied personal knowledge of many aspects of the lawsuit," he did not deny knowledge of the hospital's physician contracts or of the hospital's credentialing practices, and he did not broadly deny "any" knowledge of relevant facts. *Id.*

Here, GCAG has never identified Mr. Clay as a person having any relevant knowledge as to the underlying litigation. Instead, as detailed above, Mr. Clay

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clearly attested that he does "not possess unique or superior personal knowledge of relevant facts or information about this case" and that he "did not personally participate in any decision related to Plaintiffs' relationships with or access to Daniel Savala, or any investigation into those allegations." (MR0053) Though the circumstances presented in *Columbia Rio Grande Healthcare* are distinguishable from those in this case, Plaintiffs rely on the broad holding requiring the use of "any" regardless of the particular facts and circumstances.

Indeed, the court in *In re Tex. Genco, LP*, 169 S.W.3d 764, 767 (Tex. App.—Waco 2005, no pet.) distinguished *Columbia Rio Grande Healthcare* when granting mandamus and ordering a trial court to vacate its order compelling production of a CEO for deposition. The *Texas Genco* court explained that the CEO was never identified previously by Genco as a person most knowledgeable about any of the underlying issues and stated, like Mr. Clay did, that he had no specialized or unique knowledge about the issues in dispute in the litigation. *Id.* The court also looked to a more recent case than *Columbia Rio Grande Healthcare*. *Id.* (citing *In re Burlington N. & Santa Fe Ry*., 99 S.W.3d 323 (Tex. App.—Fort Worth 2003, orig. proceeding)).

In *Burlington Northern*, the court concluded that the corporate executive's statements in his affidavit (1) that he had no knowledge of the facts of the suit, (2) that he had "no unique or superior knowledge or information regarding any aspect

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of this case," and (3) that he had "no personal knowledge of the condition of [the railroad] crossing at the time of the accident made the basis of this suit," were sufficient to invoke the apex deposition analysis, even though the executive did not generally deny knowledge of any relevant facts. 99 S.W.3d at 326 n. 3. The affidavit in *Burlington Northern* closely mirrors Mr. Clay's affidavit.

Finally, in *In re Baylor Univ*., the court granted mandamus relief after the trial court ordered the deposition of Baylor's president. 2020 WL 6878411, at *1. The Baylor President's affidavit, just like Mr. Clay's affidavit, denied unique personal knowledge regarding the events at issue and the investigation that followed. *Id.* at *2–3. The court reviewed the standards and analysis from *Genco* and *Burlington Northern* and held the affidavit sufficiently denied knowledge of relevant facts. *Id.* at *5. Just as with the affidavit of Baylor's President, Mr. Clay's affidavit sufficiently denies unique or superior knowledge of relevant facts.

As demonstrated, the weight of authority supports GCAG's position that Mr. Clay's affidavit was sufficient, and *Columbia Rio Grande Healthcare* is easily distinguishable from the facts here. However, the split in the cases regarding whether he was required to deny "any" knowledge, as arguably held by the Thirteenth Court of Appeals in *Columbia Rio Grande Healthcare*, presents a conflict on an important

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question of law that this Court should resolve.[3]

In resolving that conflict, the Court should rule that Plaintiffs cannot rely on the lack of a particular magic word such as "any" to circumvent their burden on obtaining an apex deposition—indeed, that would conflict with this Court's *Crown Central* guidelines that require a showing beyond "some knowledge" of the relevant facts before allowing an apex deposition. *In re American Airlines*, 634 S.W.3d at 41 (citing *In re Alcatel USA*, 11 S.W.3d at 179). Plaintiffs failed to meet their burden, showing *no* evidence to support their allegations regarding Mr. Clay's alleged unique or superior knowledge. Plaintiffs are not entitled to the noticed deposition of Mr. Clay and must obtain the discovery through less intrusive methods. *Crown Central Petroleum*, 904 S.W.2d at 128.

C. Jurisdictional discovery must be limited and targeted, meaning confined to facts directly bearing on the jurisdictional issue and not extending to merits discovery.

Finally, the deposition of Mr. Clay epitomizes the abuse taking place under the trial court's continuing discovery orders that ignore GCAG's ripe plea. The apex

[3] To the extent the Thirteenth Court was simply focused on the designation of the apex witness as the person most knowledgeable—rather than the precise standard for an apex declaration—any court relying on the presence of magic words disavowing "any" knowledge in an apex declaration is obviously wrong. *In re Alcatel USA*, 11 S.W.3d at 179 ("If 'some knowledge' were enough, the apex deposition guidelines would be meaningless; they would be virtually indistinguishable from the scope of general discovery. Although *Crown Central* did not elaborate on what character of knowledge makes it unique or superior, there must be some showing beyond mere relevance, such as evidence that a high-level executive is the *only* person with personal knowledge of the information sought or that the executive arguably possesses relevant knowledge *greater in quality or quantity* than other available sources." (emphases added)).

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deposition is purportedly sought by Plaintiffs under the guise of jurisdictional discovery. And the trial court has continued to reserve ruling on GCAG's pending Plea to the Jurisdiction pursuant to the ecclesiastical-abstention doctrine pending "some jurisdictional discovery." (MR0326) But Texas courts consistently hold that jurisdictional discovery must be limited and targeted—in other words, confined to facts directly bearing on the jurisdictional issue and not extending to broad merits discovery. *See In re Christianson Air Conditioning & Plumbing, LLC*, 639 S.W.3d 671, 676 (Tex. 2022) (stating that jurisdictional discovery is limited to matters directly relevant to the jurisdictional issue—not just reasonably calculated to lead to the discovery of admissible evidence—and that merits discovery on matters not directly relevant to jurisdiction should be taken only after the jurisdictional challenge is resolved); *In re Congregation B'Nai Zion of El Paso*, 657 S.W.3d 578, 584 (Tex. App.—El Paso 2022, no pet.); *In re Hoa Hao Buddhist Congregational Church Tex. Chapter*, No. 01-14-00059-CV, 2014 WL 7335188, at *5 (Tex. App.—Houston [1st Dist.] Dec. 23, 2014, no pet.) ("merits discovery should wait until a ruling on the jurisdictional plea"); *Diocese of Galveston-Houston v. Stone*, 892 S.W.2d 169, 177 (Tex. App.—Houston [14th Dist.] 1994, no writ). Plaintiffs have yet to explain how the deposition of Mr. Clay bears directly on any jurisdictional issue and not the underlying merits of their claims.

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GCAG's plea is based on the claims as alleged by the Plaintiffs and a declaration noting the lack of day-to-day oversight by the GCAG of independent ministers and ministries—no further factual development is needed before the plea is ruled on by the trial court. This is especially true considering that the declaration was provided by Donna Barrett, whom the Plaintiffs have already deposed. (MR0081-0088) The delay here is only subjecting GCAG to more intrusive and abusive discovery questions at depositions and document requests that do not even pretend to be aimed at "jurisdictional discovery" but are, instead, seeking to examine communications regarding church governance and discipline—the First Amendment protects GCAG from such intrusions. *See McRaney*, 157 F.4th at 640. That is in violation of this Court's jurisprudence holding that a court has a "duty to resolve challenges to its authority before exercising that authority." *Paxton*, 741 S.W.3d at 116.

It is undisputed that GCAG had no direct role in the alleged sexual abuse at issue here. Instead, Plaintiffs' claims stem from the basic allegations that GCAG had duties to supervise, investigate, warn, and control Districts, ministers, ministries and members of Chi Alpha ministries. To establish their negligence claims, Plaintiffs must show: (1) Defendants had a legal duty; (2) Defendants breached the duty; and (3) the breach proximately caused Plaintiffs' injuries. *Elephant Ins. Co. v. Kenyon*, 644 S.W.3d 137, 144 (Tex. 2022). But to examine these elements as to the alleged

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acts and omissions by GCAG, the trial court would have to evaluate matters of religious doctrine, church governance, and religious belief. That is, to find GCAG negligent, one would have to assume/find that GCAG should have acted differently than it did with regard to the supervisory structure (or lack thereof) established by the religious organization that lets individual ministers/ministries operate their own affairs without day-to-day control or supervision by the GCAG. Yet it would violate the First Amendment for a court to find that liability can be premised on a purely ecclesiastical matter of policy and to substitute—at Plaintiffs' urging—a conception of GCAG's structure different from the one already chosen. *See In re Lubbock,* 624 S.W.3d at 514.

None of Plaintiffs' proposed justifications for deposing GCAG's CEO—who lacks any unique or superior knowledge about the facts of this case—go to those ecclesiastical abstention questions. In fact, the opposite is true. In seeking to rationalize a deposition designed to harass and intrude into GCAG's ecclesiastical affairs, Plaintiffs' counsel has only confirmed that the information sought through the apex deposition (related to ecclesiastical investigations and church discipline) is outside the boundaries of what a Texas court has jurisdiction to decide and thus irrelevant for deciding the plea.

GCAG is still waiting for a ruling on its plea. During this ten-month wait, Plaintiffs continue to seek and the trial court continues to grant seemingly unlimited

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discovery completely untethered to what could at all be considered appropriate or reasonable "jurisdictional discovery." This is certainly causing the "loss of substantial rights" in the form of First Amendment guarantees that are, by court order, going by the wayside. *In re Kan. City S. Indus*., 139 S.W.3d 669, 670 (Tex. 2004). Additional discovery is unwarranted and improper. *See Paxton*, 741 S.W.3d at 117 (noting a trial court abuses its discretion in failing to rule on a plea). While this case does not involve the loss of a statutory right—as was the case in *Paxton*—it involves the loss of something far more valuable: First Amendment protection.

For all of these reasons, the trial court clearly abused its discretion in ordering GCAG to provide dates and produce Mr. Clay for a deposition and denying GCAG's Motion for Protection.

III. GCAG Lacks an Adequate Remedy by Appeal

To obtain mandamus relief, GCAG must also demonstrate that it has no adequate appellate remedy for the trial court's abuse of discretion. *Cerberus Capital Mgmt.*, 164 S.W.3d at 382. This issue is settled.

This Court has already determined that an improper discovery order warrants mandamus relief. GCAG "has a right to proper application of the discovery rules governing depositions, and if discovery takes place under an improper order, the error cannot be rectified on appeal." *In re Millwork*, 631 S.W.3d at 714–15 (citing *In re Berry*, 578 S.W.3d 173, 182 (Tex. App.—Corpus Christi–Edinburg 2019, orig.

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proceeding) ("Mandamus is proper here because the [deposition] order is not permitted by the Texas Rules of Civil Procedure and because any discovery undertaken pursuant to the order cannot be undone.")). This reasoning would include an order allowing jurisdictional discovery beyond what the discovery rules permit.

Simply put, "parties lack an adequate appellate remedy from orders compelling discovery beyond what the rules allow." *Id.* It goes without saying that "once the deposition has been taken, it cannot be untaken." *In re Liberty Cnty. Mut. Ins. Co.*, 557 S.W.3d 851, 858 (Tex. App.—Houston [14th Dist.] 2018, orig. proceeding).

The lack of an adequate appellate remedy is also established when it comes to improperly ordered apex depositions. *In re Baylor Univ.*, 2020 WL 6878411, at *4 (citing *In re Alcatel USA*, 11 S.W.3d at 175[4]; *In re Miscavige*, 436 S.W.3d at 435 ("Mandamus relief is appropriate when a trial court allows an apex deposition to go forward in violation of the standard governing such discovery.")).

For these same reasons, GCAG lacks an adequate appellate remedy and is entitled to mandamus relief.

[4] Though not directly addressing the adequacy of appellate remedy issue in its opinion, in *Alcatel USA* this Court implicitly acknowledged the inadequacy of the appellate remedy in the apex deposition context. Specifically, this Court denied the plaintiff's mandamus petition challenging the court of appeals' decision granting mandamus relief overturning the trial court's apex deposition order. *Id.* at 174.

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CONCLUSION AND PRAYER

The trial court abused its discretion when it ordered GCAG to produce Mr. Clay for a deposition even though he possesses no unique or superior knowledge of any discoverable information. GCAG lacks an adequate appellate remedy for the court's order compelling the deposition. The trial court also continues to abuse its discretion by ordering invasive (and unnecessary) discovery when it lacks jurisdiction according to the Plaintiffs' own pleadings.

GCAG therefore respectfully requests that the Court grant this mandamus petition and order the trial court to vacate its order granting Plaintiffs' Motion to Compel Doug Clay's Deposition and denying GCAG's Motion for Protection.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this Petition for Writ of Mandamus complies with Texas Rules of Appellate Procedure 9.4(i)(2)(D) and 52.3(a) because it contains 6,232 total words, not including the parts of the brief excluded by Rule 9.4(i)(1), and the Introduction contains 615 words.

/s/ John C. Sullivan.
John C. Sullivan

CERTIFICATION PURSUANT TO TEX. R. APP. 52.3(k)

I certify that I have reviewed this Petition for Writ of Mandamus and concluded that every factual statement in the petition is supported by competent evidence included in the mandamus record or appendix.

/s/ John C. Sullivan
John C. Sullivan

CERTIFICATE OF SERVICE

I certify that on November 5, 2026, a true and correct copy of this Petition for Writ of Mandamus was served by electronic case filing or e-mail or certified mail to the following counsel and parties:

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Respondent

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APPENDIX

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TAB A
FIRST COURT OF APPEALS' MEMORANDUM OPINION

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Opinion issued October 2, 2026

In The

Court of Appeals

For The

First District of Texas

NO. 01-26-00634-CV

IN RE THE GENERAL COUNCIL OF THE ASSEMBLIES OF GOD, Relator

Original Proceeding on Petition for Writ of Mandamus

MEMORANDUM OPINION

Relator, The General Council of the Assemblies of God, filed a petition for writ of mandamus challenging the trial court's May 27, 2026 order granting the motion to compel the deposition of Doug Clay, the General Superintendent of relator, filed by real parties in interest, John Doe 1 and John Doe 2, and further

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denying relator's motion for protection from the deposition.[1] Relator's petition for writ of mandamus requested that the Court grant the petition and order the trial court to vacate its order granting the motion to compel and denying relator's motion for protection.

In connection with its petition for writ of mandamus, relator also filed a "Motion for Temporary Relief and Stay." In the motion, relator requested that the Court stay enforcement of the trial court's May 27, 2026 order. On July 7, 2026, the Court granted relator's motion, stayed enforcement of the May 27, 2026 order, and requested a response to the petition for writ of mandamus from real parties in interest. Relator filed a second motion for temporary relief and stay in connection with a June 29, 2026 trial court order, also regarding Clay's deposition. The Court granted relator's second motion on July 29, 2026.

On July 24, 2026, real parties in interest filed a response to the petition for writ of mandamus. Relator filed a reply in support of its petition for writ of mandamus on August 10, 2026.

---

[1] The underlying case is *John Doe 1 and John Doe 2 v. The General Council of the Assemblies of God, South Texas District Council Assemblies of God, Inc., a/k/a South Texas District Council Assemblies of God, Chi Alpha Campus Ministries, U.S.A., and Chi Alpha Campus Ministries Huntsville*, Cause No. 2024-16380, in the 234th District Court of Harris County, Texas, the Honorable Lauren Reeder presiding.

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We conclude that relator has failed to establish it is entitled to mandamus relief, and therefore, the Court lifts the stay imposed by our July 7, 2026 and July 29, 2026 orders and denies relator's petition for writ of mandamus. We dismiss any pending motions as moot.

PER CURIAM

Panel consists of Justices Caughey, Morgan, and Dokupil.

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TAB B

ORDER GRANTING PLAINTIFFS' MOTION TO COMPEL AND DENYING DEFENDANT'S MOTION FOR PROTECTION

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NO. 2024-16380

PRDSY
CDEPX

JOHN DOE 1 AND JOHN DOE 2	§	**IN THE DISTRICT COURT OF**
	§	
v.	§	
	§	
THE GENERAL COUNCIL OF THE ASSEMBLIES OF GOD; SOUTH TEXAS DISTRICT COUNCIL ASSEMBLIES OF GOD, INC. A/K/A SOUTH TEXAS DISTRICT COUNCIL ASSEMBLIES OF GOD; CHI ALPHA CAMPUS MINISTRIES, U.S.A.; AND CHI ALPHA CAMPUS MINISTRIES HUNTSVILLE	§	**HARRIS COUNTY, TEXAS**
	§	
	§	**234TH JUDICIAL DISTRICT**

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ORDER

On this date came on to be heard Plaintiffs' Motion to Compel Defendant The General Council of The Assemblies of God's Fact Witness Doug Clay's Deposition and Response to Defendant The General Council of The Assemblies of God's Motion to Quash and Motion for Protection, and after review of same and all relevant pleadings, and hearing the argument of counsel, this Court finds that Plaintiffs' Motion is **GRANTED**.

The Court hereby **ORDERS** Defendant The General Council of The Assemblies of God to provide dates to Plaintiffs for the deposition of Doug Clay no later than five (5) days from this Court issuing its Order. ~~The proposed dates for this deposition must be in March 2026.~~

The Court further **DENIES** Defendant The General Council of The Assemblies of God's Motion for Protection.

Should Defendant The General Council of The Assemblies of God fail to comply with this Order, Defendant The General Council of The Assemblies of God will be subject to sanctions determined by this Court in accordance with Texas law and Texas Rule of Civil Procedure 21.

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Signed this _____ day of _____, 2026.

Signed:
5/27/2026

JUDGE PRESIDING

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