

*Judicial Council of The United Methodist Church Conseil  
Judiciaire De L'eglise Methodiste Unie  
Rechtshof Der Evangelisch-Methodistischen Kirche Conselho  
Judicial Da Igreja Metodista Unida  
Consejo De La Judicatura De La Iglesia Metodista Unida*

## Submission of Brief

Docket Number 1023-06

Name: Paul T. Stallsworth

Interested Party/Person X

Amicus Curiae

Address: 2400 Foxcroft Road NW

City: Wilson

State/Province: North Carolina Postal/Zip Code: 27896-1381 Country: USA

Phone Office: 252.640.2755 Home: 252.640.2755 Mobile: 252.290.4747

Fax: Not available

E-mail: paulstallsworth@nccumc.org

Annual Conference: North Carolina

Layperson

Local Pastor

Deacon

Elder X

**Authorities Cited in the Attached:**

**Brief: X**

**Reply Brief:**

If this is a Reply Brief, please set forth the **date** and **time** that your initial Brief was electronically transmitted.

My previously submitted Brief was transmitted on \_\_\_\_\_ at \_\_\_\_ [\_\_\_\_].

month/day/year      time zone

***Book of Discipline*** paragraphs: Preamble of The Constitution (p. 25), 51, 414.2, 419.4, 2549.3(b), 2553, 2609.6

Judicial Council Decisions/Memoranda Numbers: 689

Signature: Paul T. Stallsworth

Date: August 27, 2023

month    day    year

*In Re: Review of a Bishop's Ruling on Questions Raised during the North Carolina Annual Conference Relating to Paragraphs 2549 and 2553, 414 and 419, and the Annual Conference's Adoption of the "Resolution for Closure of Fifth Avenue United Methodist Church"*

### I. Summary of Argument

Responding to my five questions of law, which were read on June 15 during the 2023 Session of the North Carolina Annual Conference, the Judicial Council should:

- a. Rule that the bishop, district superintendents, and district board on church location and building, in closing Fifth Avenue United Methodist Church, used Par. 2549.3(b) to silence Par. 2553 and to erase the local church's General-Conference-given "limited right" to participate in the disaffiliation process.
- b. Rule that the bishop, district superintendents, and district board on church location and building, in closing Fifth Avenue United Methodist Church, misused the phrase "exigent circumstances" from Par. 2549.3(b), misapplied that phrase to the disaffiliating local church, and forcefully closed the local church, over the objection of the congregation. Par. 2553 understands a congregation that has entered the disaffiliation process to be a congregation in discernment -- not a target for takeover by conference officials.
- c. Rule that due process for Fifth Avenue United Methodist, which is promised by Par. 2549.3(b) by giving the annual conference the vote to close the local church once and for all, was not in fact fairly observed during the North Carolina Annual Conference in Greenville, NC on June 15-16, 2023.
- d. Rule that the bishop and district superintendent, by acting abruptly and forcefully to close Fifth Avenue United Methodist Church, violated their standards of ministry articulated by Pars. 414.2 and 419.4 of The Book of Discipline.
- e. Rule that, because the closing of Fifth Avenue United Methodist Church involved violating The Book of Discipline at Pars. 414.2, 419.4, 2549.3(b), and 2553, the closure of the local church should be reversed, and the local church should be allowed to re-enter the disaffiliation process by abiding by Par. 2553 and the conference board of trustees. Its decision on disaffiliation should be respected by the annual conference. Regarding this congregation, disaffiliation process deadlines set by the conference board of trustees would not be enforced.

### II. Statement of Facts

emanated from conference headquarters, from conference leadership. It is repeated and advanced by articles posted on the conference website, conference officials speaking to journalists and media outlets, and conference trustees in their annual report in the 2023 North Carolina Annual Conference Workbook ([nccumc.org](http://nccumc.org), pp. 89-90) and in their oral report to the annual conference. The conference narrative is the official narrative. It is offered from conference headquarters by current leadership.

But there is another narrative about Fifth Avenue United Methodist Church that must be told and become known. That narrative is from below, from the local church, from the pew.

What follows is an edited text of a three-minute speech that I wrote for the 2023 North Carolina Annual Conference debate on the closure of Fifth Avenue United Methodist Church. Not recognized to speak during the debate on that matter, I did not deliver this speech at annual conference. I offer it below to serve as this brief's "Statement of Facts."

"Fifth Avenue United Methodist Church. Located near downtown Wilmington. Founded 1847. Witnessed. Grew. Declined. Stabilized. Aged. Attempted outreach. Sunday after Sunday, for 176 years, the Word [was] preached, [the] Sacraments offered. They love one another.

"Last fall [2022], Fifth Avenue Church met to discuss disaffiliation.

"In January [2023], it formally inquired.

"In February [2023], the Church Council voted for [or to enter] the disaffiliation process.

[On March 24, 2023 a Resolution for Closure was adopted by the bishop, the district superintendents, and the Harbor District Board of Church Location and Building. On the same day, the Resolution was used to vest the congregation's property with the conference board of trustees.]

"On March 26, church members gathered [at their church] for a meeting with the DS [or district superintendent]. The DS and the bishop appeared.... Members were told the church was closed. Locks were soon changed....

"Also on March 26, the conference announced that this 'church closure [will bring] rebirth and opportunity.' '(E)xigent circumstances' required closure. Conference communications neglected [to mention] money, though the [local church's] property is valued over \$2,000,000 (over \$3,400,000, according to the 2022 North Carolina Conference Journal, [nccumc.org](http://nccumc.org), p. 509).

"The day after closure (March 27), the congregation released a statement or press release, which reads in part: 'Fifth Avenue never asked for, agreed to or wanted the closure...[we were not] given a chance to participate in the decision to close...[we are] devastated and brokenhearted by the closure...forced upon [us].'" (Exhibit A)

The undelivered speech concludes: "The United Methodist way. The United Methodist way is conversational and communal, collegial and collaborative, with give-and-take and checks-and-balances. The United Methodist

way limits the strong and lifts the weak.

“The closure of Fifth Avenue United Methodist Church violated the United Methodist way. It was a raw exercise of power.

“There is only one way we, as an annual conference, can [now] reject this coercive action: vote against closure. I challenge you: Vote...against... closure!

“Our Lord spoke of rulers lording it over the ruled. Then He said to His Church: ‘It will not be so among you...’ (Matthew 20:25, NRSV).”

Though the above speech went undelivered, six speeches and a couple of requests for additional information were heard. Then the 2023 North Carolina Annual Conference voted, in a public way (that is, without secret ballot), to close Fifth Avenue United Methodist Church.

Just before this debate and vote on Fifth Avenue United Methodist Church’s closure began, I read five Questions of Law, pertaining to the closure of the local church, to the bishop and the annual conference. Later, those questions were answered by the bishop. Hence, this brief.

### **III. Jurisdiction**

The Judicial Council has jurisdiction over this case under Pars. 51 and 2609.6. Because Par. 2549.3(*b*) instructs the “annual conference [to] decide whether to formally close the local church” [that has vested with the conference board of trustees], the annual conference votes to approve or disapprove the prior action taken by the bishop, district superintendents, and district board of church location and building. Therefore, such prior action, which requires the ratification of an annual-conference vote, also requires Disciplinary scrutiny by the Judicial Council. The actions taken to close temporarily Fifth Avenue United Methodist Church before the annual conference session met were an essential, integral part of what the annual conference was voting to approve (or disapprove) when we met in June.

### **IV. The Original Questions of Law, the Bishop’s Decisions of Law, and the Bishop’s Decisions’ Disciplinary Problems**

In the five sections that follow, I will consider, in order, the five Questions of Law that I posed to the bishop during the 2023 North Carolina Annual Conference. After each original question is quoted in full, the Bishop’s Decision of Law will be quoted in full; then my Response to the Bishop’s Decision will follow.

First Question of Law: “Does the initiation of the disaffiliation process by a local church under Par. 2553 prevent the bishop, district superintendents, and district board of church location and building from declaring exigent  
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circumstances for that church under Par. 2549.3(b)? That is, which takes precedence -- the local church's limited right to disaffiliate under Par. 2553 or the ability to declare exigent circumstances and seize church property under Par. 2549.3(b)?"

Bishop's Decision of Law: "The Effective Date of the Resolution for Closure of Fifth Avenue United Methodist Church (the 'Resolution,' a copy of which is included as an exhibit to this Decision) was March 24, 2023. At that time the Church had submitted its Disaffiliation Inquiry Form and was requesting a church council meeting to vote on disaffiliation, but no meeting had been scheduled or vote held. Paragraph 2549.3(b) of The Book of Discipline 2016 clearly states (*italics added*) that '*At any time* between sessions of annual conference, if the presiding bishop, the majority of the district superintendents, and the appropriate district board of church location and building all consent, they may, *in their sole discretion*, declare that exigent circumstances exist that require immediate protection of the local church's property...'. The Book of Discipline plainly establishes that the existence of exigent circumstances allows the presiding bishop, the Cabinet, and the appropriate district committee of church location and building to act at any time, regardless of what other circumstances or options a local church is addressing."

Response to the Bishop's Decision: There is an error in the Bishop's Decision. It states: "At that time [March 24, 2023] the Church...was requesting a church council meeting to vote on disaffiliation, but no meeting had been scheduled or vote held." That is false. According to the local church's March 27, 2023 statement or press release (Exhibit A), a vote had been held and taken by its church council: "After much prayer and consideration, Fifth Avenue UMC's Church Council voted in February 2023 to begin the disaffiliation process." Therefore, through a church council vote, Fifth Avenue United Methodist Church had decided to enter the disaffiliation process before March 24, 2023, "[t]he Effective Date of the Resolution for Closure of Fifth Avenue United Methodist Church" (Resolution). To review and reiterate, the church council voted in favor of entering the disaffiliation process; then, weeks later, conference officials acted to close the local church.

The Bishop's Decision quotes from Par. 2549.3(b) to justify the closing of the local church. Its quotation notes that the timing of the closure was indeed lawful (between two sessions of annual conference) and that this decision indeed involved the agents named in this particular sub-section of the Discipline (the bishop, the district superintendents, and the relevant district board on church location and building). Then, no longer quoting the Discipline, the Decision goes on to claim or speculate that there is closure authority for conference officials "to act at any time, regardless of what other circumstances or options a local church is addressing." According to the Bishop's Decision of Law, the interim closure authority of these authorities is absolute or nearly absolute.

Here, recent, denominational history must be recalled. The 2019 General Conference adopted Par. 2553. *Disaffiliation of a Local Church Over Issues Related to Human Sexuality*. Par. 2553 clearly declares: "a local church shall have a limited right, under the provisions of this paragraph, to disaffiliate from the denomination for

reasons of conscience" related to homosexuality, marriage, and ordination. This "right" is "limited," because it is not an ongoing right, because it expires on December 31, 2023.

So The Book of Discipline contains two paragraphs -- 2549.3(b) (which recognizes the relatively broad authority of conference officials and an annual conference to close a local church) and 2553 (which, in relatively narrower circumstances, grants a "limited right" to a congregation to disaffiliate from the denomination) -- that can conflict with each other. In the case of Fifth Avenue United Methodist Church, possible conflict between laws becomes real conflict between laws. Resolving this conflict, the Bishop's Decision leans exclusively on and quotes only from Par. 2549.3(b), and neglects totally Par. 2553's "limited right" to disaffiliate. The Bishop's Decision of Law does not even admit that Par. 2553 exists.

However, Par. 2553 does exist; and it will continue to exist until its expiration on December 31, 2023. Par. 2553 grants a "limited right" to a congregation to disaffiliate, if the congregation follows the established disaffiliation process. This "limited right" is granted to "a local church." No other paragraph in The Book of Discipline prohibits a congregation from having or exercising that "limited right." So Par. 2553's "limited right" is granted to *all* local churches -- including Fifth Avenue United Methodist Church.

Finally, it should be noted that language of Par. 2553 is strong: "a local church shall have a limited right...to disaffiliate." *Shall have* a limited right. Not *does have*. Not *may have*. Not *can have*. But *shall have*. That "limited right" is given universally, without exception, to each and every local church; it is not a matter of a congregation's merit or choice or condition or circumstance. It is a legislative gift to every local church.

So, when the Wilmington congregation's church council voted to enter the disaffiliation process, the congregation was simply acting on the "limited right" it had been given by the 2019 General Conference. But when conference officials vested the local church's property with the conference board of trustees and two days later announced to the local church its closing, against the will of its members, and when the annual conference voted to approve the local church's closing -- conference officials and the annual conference were denying the local church the exercise of its "limited right." If there had been no interference from conference officials, this local church would have been allowed to hold, and to continue to exercise, its limited right to disaffiliate.

Three generally accepted legal principles support this conclusion.

First, a more specific paragraph in law (e.g., Par. 2553) is often seen to limit a more general paragraph in law (e.g., Par. 2549.3(b)). Here, the congregation's "limited right" to disaffiliate functions as an exception to conference officials' authority to declare exigent circumstances, vest property with the conference trustees, and temporarily close a local church.

Second, a more recently adopted law (e.g., Par. 2553, which was adopted by the special called 2019 General Conference) is usually understood to limit a law that has been on the books for a longer period of time (e.g., Par.

2549.3(b), which was revised and adopted by the 2016 General Conference). Since Par. 2553 is “younger” than Par. 2549.3(b), Par. 2553’s “limited right” for a congregation to disaffiliate should override Par. 2549.3(b)’s authority to close a congregation.

(Points one and two above are articulated in “Commonly Applied Rules of Statutory Construction,” which is from the Colorado General Assembly’s Office of Legislative Legal Services, a non-partisan legal counsel [<https://leg.colorado.gov/agencies/office-of-legislative-legal-services>].)

Third, in legal disputes, a verb comparison can be helpful. Par. 2549.3(b) says that conference officials “may...declare that exigent circumstances exist” that would lead to a congregation’s closure. The verb phrase “may...declare” suggests that such a declaration from conference leaders is possible or optional -- not necessary. In contrast, Par. 2553 states that “a local church shall have a limited right...to disaffiliate.” The verb phrase “shall have” involves something that is mandated to be held by all, without exception, without question. Again, the verb phrase “shall have” articulates a right, a right given to all congregations, a right received and held by all congregations -- but only some will decide to exercise and to act on this right. Therefore, the declaration of exigent circumstances is based on a choice by conference officials; while the “limited right” to disaffiliate is a universal gift (that disappears on December 31, 2023) given to and held by all local churches. According to verb comparison, Par. 2549.3(b)’s “may...declare...exigent circumstances” would be less determinative than Par. 2553’s “shall have a limited right...to disaffiliate.” So when these two paragraphs are pitted against each other, conference leaders who stand on Par. 2549.3(b) to close temporarily the disaffiliating Fifth Avenue United Methodist Church, which is trying to follow Par. 2553, would be in error. Par. 2549.3(b) cannot override Par. 2553.

To summarize, the Bishop’s Decision relies only on Par. 2549.3(b), and simply ignores Par. 2553, to justify the actions of conference leaders in closing the local church. However, if Par. 2553 is introduced to these deliberations, as it must be, the Bishop’s First Decision of Law cannot justify the closing of Fifth Avenue United Methodist Church. Its legal justification fails.

Second Question of Law: “Can the local church’s intent to initiate, or initiation of, the process of disaffiliation under Par. 2553 be considered an exigent circumstance under Par. 2549.3(b)?”

Bishop’s Decision of Law: “The question is moot and hypothetical as the annual conference delegates were tasked with deciding whether to close the church, not whether the interim decision to declare exigent circumstances was correct.”

Response to the Bishop’s Decision: The Bishop’s Decision attempts to separate the correctness of conference officials declaring exigent circumstances from “annual conference delegates...deciding whether to close the Church.” However, common sense indicates that annual conference delegates would probably vote to close the

local church only if they deem the declaration of "exigent circumstances was correct." That is, voting for closure would be based on supporting the declaration of exigent circumstances.

The Question of Law is indeed "moot and hypothetical" when it asks, "Can the local church's intent to initiate...the process of disaffiliation...?" That question can be set aside. After all, Fifth Avenue United Methodist Church did not have an "*intent* to initiate...the process of disaffiliation" (emphasis added). The local church had *already* initiated its disaffiliation process.

The question, "Can the local church's...initiation of...the process of disaffiliation...?," is not "moot and hypothetical." That question is relevant to the events of March 26, 2023. On that day, knowing full well that Fifth Avenue United Methodist Church had already initiated or entered the disaffiliation process (by its church council vote in February 2023), conference officials appeared at a congregational meeting and announced to the assembled that their local church was closed. Locks on the church building were changed the next morning. In their words and deeds, conference officials appeared to treat this disaffiliating local church (that is, this local church probably working to leave the annual conference) as if it, in itself, was an "exigent circumstance" -- as if it, in itself, was an emergency that "require(d) immediate protection." (Par. 2549.3(b))

But why exactly did conference leaders seem to consider this particular disaffiliating local church an exigent circumstance that "require[d] immediate protection of the local church's property" (Par. 2549.3.(b))? What was the imminent danger that necessitated such extreme action by conference leaders? (In fact, the Bishop's Decision of Law does not articulate an imminent, probable harm that could be inflicted on others, if action is not taken.) Perhaps because this particular local church, as opposed to other disaffiliating congregations, had property valued over \$2,000,000 (or over \$3,400,000, according to the 2022 North Carolina Annual Conference Journal, [nccumc.org](http://nccumc.org), p. 509), it was singled out for closure. Perhaps its actual property value, more than an alleged missional deficit, made conference officials act like this local church itself was an exigent circumstance -- especially as the local church seemed to headed, through the disaffiliation process, for departure from The United Methodist Church.

The Bishop's Decision, which dismisses this entire Question of Law as "moot and hypothetical," is incorrect in part. The situation mentioned in the Question -- which deals with a local church having initiated the disaffiliation process -- deserves a decision from the bishop, but does not receive one. Strangely, the bishop does not use this opportunity to defend conference officials in declaring exigent circumstances to keep the property of Fifth Avenue United Methodist in the hands of the annual conference, so that it could be used by the conference for its preferred missional purposes -- rather than the missional purposes for which congregational members wished to use their property.

Please allow one more comment. If missional purposes (and not property value) truly motivated this



declaration of exigent circumstances in this case, it seems the bishop, district superintendents, conference trustees, and others would have provided evidence -- such as committee-meeting minutes, many emails between conference leaders and congregational leaders, relevant memorialized conversations, plans and proposals for new missions, a time line (or chronological chart) indicating conference attempts to stimulate new congregational missions, and so on. But no evidence was forthcoming. This Question of Law was, in large part, avoided by the Bishop's Decision.

The Bishop's Decision of Law, in response to the Second Question of Law, is insufficient. It lacks substance.

Third Question of Law: "Where title to local church property vests in the conference board of trustees under Par. 2549.3(b), because of a declaration of exigent circumstances, does due process require that the local church be given the opportunity to challenge the declaration of exigent circumstances in an appropriate forum?"

Bishop's Decision of Law: "The Church has been afforded all process that is due under United Methodist polity. Title to the Church's property vested *temporarily* in the Conference Board of Trustees upon issuance of the Resolution in order to protect the Church property for the benefit of the denomination before the pending session of annual conference. Thereafter, supporters of the Church exercised the opportunity at annual conference to present arguments that assembled delegates should vote against formally closing the Church. The Church also had the opportunity to challenge the declaration of exigent circumstances by working with a supporter to request the present ruling of law, which is subject to review by the Judicial Council."

Response to the Bishop's Decision: The Bishop's Decision indicates the ways, described by The Book of Discipline, Fifth Avenue United Methodist Church could challenge the vesting of its property in the conference board of trustees. In an April 7, 2023 letter, Mr. Eric Stevens, the North Carolina Conference Chancellor, first stated the same two means of recourse: posing Questions of Law to the bishop during the 2023 North Carolina Annual Conference and opposing the congregation's closure during the annual conference's debate of and vote on its closure.

As this brief indicates, I posed five Questions of Law to the bishop during annual conference. Just before the Fifth Avenue United Methodist Church-closure debate was to begin, I raised my paddle, was recognized by the bishop, stood at a microphone, and read my Questions of Law. Now, through this brief, the legal concerns behind those five Questions of Law are given a hearing. So Disciplinary due process is here accompanied by fairness. So far, so good.

However, during the debate about and vote on the closure of the local church, fairness was far less evident. I claim fair due process was lacking for four reasons.

First, once the annual conference debate on the closure of the Fifth Avenue Church began, when my paddle

was raised to be recognized by the bishop (who was presiding over session), I was not called on. In reading the Questions of Law before the debate began, I had demonstrated to the bishop and to the annual conference that I was adequately prepared to speak on matters related to Fifth Avenue United Methodist Church. By not recognizing me to speak, was the bishop trying to avoid a well prepared speech that would have challenged the closing of the local church? Was the bishop prone not to call on me to stand and deliver -- especially after hearing during the closure debate an outspoken lay delegate, who has been public in disagreeing with me on many occasions, voice support for my Questions of Law? Was it unfair for the bishop to exclude the one who asked Questions of Law on closure from the annual conference debate on closure? To all those questions, I reply: I think so.

Second, the annual conference debate on this matter covered the end of Thursday afternoon and early Friday morning. Late Thursday, a strong speech against closure, by a lay delegate, was made. Immediately thereafter, calling a halt to the critique of and debate on closure, a motion to adjourn the meeting was offered, seconded, and approved. Resuming the debate on the local church's closure on Friday morning, Rev. Tara Lain (the district superintendent who participated in the March 26 closing of the congregation), was the first to be recognized by the bishop. (Was this planned in advance and then enacted according to plan?) Rev. Lain spoke in favor of permanently closing the local church. Not surprisingly, she presented what sounded like a well prepared, officially approved narrative.

Then, Mr. Henry Jarrett, a member of Fairmont UMC (Raleigh, NC), was recognized by the bishop. He said: "...Before I...vote, I would like a clear sequence of events of what happened, just exactly. Was there disaffiliation first? Or did the church agree to close first? I would just like more clarity about just exactly the sequence of events [was], what led to what." (Again, Mr. Jarrett, one of the better informed and most active laypersons of the annual conference, asked, "did the church agree to close first?" In fact, the congregation never agreed to close. That was a sign of the lack of reliable information about the local church's closing.) (See the 2023 NC Annual Conference video at [nccumc.org](http://nccumc.org), Friday morning, 48:10) In response, Mr. David Peele, the president of the conference board of trustees, hurriedly reread much of the oral report that he had read earlier; most of what he recited came directly from the 2023 North Carolina Annual Conference Workbook ([nccumc.org](http://nccumc.org), pp. 89-90). Toward the end of his reply, Mr. Peele spontaneously, off the cuff, said: "The Fifth Avenue Church did make an attempt to do disaffiliation and did the official disaffiliation inquiry on January 25, 2023 -- so, two months before the Resolution to close the church." (See 50:40.) In his response to Mr. Jarrett, Mr. Peele neglected to mention that, in February of 2023, the month before the submission of the closure Resolution, the local church's church council had voted to enter the disaffiliation process. Therefore, Mr. Peele did not concisely and fully respond to Mr. Jarrett's request for "a clear sequence of events." Reciting many words of a published report, Mr. Peele

obscured the fact that the congregation had entered the disaffiliation process *before* it was shut down -- that is, conference leaders closed a disaffiliating church. That information, well presented, might well have had a strong impact on the final vote of the North Carolina Conference on the closure of the local church.

Third, the longer the speeches and the questions went on, the more the bishop and the conference trustees president appeared to become uneasy and impatient. So, after the sixth speech concluded, the bishop abruptly announced to the assembly, "Alright. We have had three speeches against and three speeches for. It is time for us to vote. The motion [for closure of the local church] is before you...I trust...or will be before you...on a slide [screen]. It is down on page 89 in your Workbook..." ([nccumc.org](http://nccumc.org),1:09:45) Those words seem harmless enough. However, consider them closely. The Standing Rules for In-Person Annual Conference (at I.C.1 in the 2023 North Carolina Annual Conference Workbook, [nccumc.org](http://nccumc.org), p. 15) limit speeches to three minutes. **However, our annual conference rules do not limit the number of speeches that can be made.** According to the Standing Rules and Robert's Rules of Order, only calling the question -- that is, only a motion from the floor, a second, and a vote to proceed to a vote -- can end debate on a matter. Therefore, the bishop's quoted words, at the conclusion of six speeches, were biased and out of order; more likely than not, they prematurely, unfairly, and unlawfully ended the annual conference's debate on closure, in which the opposition to closure appeared to be gaining ground. After the bishop improperly called the annual conference to vote, it voted to approve the closure of the local church.

Fourth, what is being alleged in this paragraph is a complicated and an unfortunate reality. The bishop appears to be a prime agent -- if not the prime agent -- who pushed to close the local church. Yet, at the same time, the bishop is leading the very processes -- presiding over annual conference sessions in a democratic process and answering the Questions of Law in a judicial process -- that are testing the bishop's actions and judgments by Disciplinary standards. In other words, the bishop has a serious conflict of interest in the due-process challenges related to the closing of the local church. This unfortunate situation should be admitted and lamented, even if nothing can be done to remedy it.

In conclusion, while Fifth Avenue United Methodist Church is most certainly promised due process by paragraphs printed on the pages of The Book of Discipline, the actual, due-process challenge to conference officials -- during the annual conference debate of and vote on the local church's closure -- was not impartially welcomed. During the entire annual conference debate on the closing of the local church, Fifth Avenue United Methodist Church was never given the opportunity to make its case to the annual conference. So due process with fairness, through annual conference debate and vote, was promised by the Discipline but not in fact granted. The Bishop's Decision of Law overlooks unfairness, in due process, that should have been admitted.

Fourth Question of Law: "Did the bishop violate Par. 414.2, and the district superintendent violate Par. 419.4, by

the way they announced exigent circumstances at, and seized the property of, Fifth Avenue United Methodist Church under Par. 2549.3(b)? If so, does such violation render the declaration of exigent circumstances null and void?"

Bishop's Decision of Law: "Neither the bishop nor the district superintendent violated the requirements in the respective disciplinary paragraphs named. Par. 414.2 requires a bishop to build relationships with people of local congregations and to strengthen the local church. Relationship building has been at the heart of my work since I began my ministry here in January 2023, including several visits to Wilmington and the Harbor District. Par. 419.4 requires a district superintendent to 'establish working relationships' and to 'seek to form creative and effective connections with the local congregations on his or her district.' That work is precisely what the current district superintendent, and her predecessors, have been attempting through contact with this local church. There is no violation of Pars. 414.2 or 419.4."

Response to the Bishop's Decision: This Question of Law asks if the actions of the bishop and the district superintendent, in closing Fifth Avenue United Methodist Church, violated Pars. 414.2 and 419.4, respectively. That means the actions of the bishop and the district superintendent, in this case, must be judged by the Disciplinary standards found in Pars. 414.2 and 419.4.

The Bishop's Decision of Law simply denies that disciplinary violations took place. According to the Bishop's Decision, "Relationship building has been at the heart of [the bishop's] work since [the bishop] began [the bishop's] ministry here in January 2023, including several visits to Wilmington and the Harbor District." The bishop's general ministry throughout the North Carolina Conference, in Wilmington, and in the Harbor District is to be commended. However, the relevant matter at hand is how the bishop related only to Fifth Avenue United Methodist Church.

On the evening of March 26, 2023, uninvited and unexpected, the bishop entered a meeting of that particular local church. Church members memorialized the meeting, more or less, in a press release dated March 27, 2023 (Exhibit A). It reads, in part: "The local church's members were led to believe the informational session Sunday evening had been scheduled by the District Superintendent as part of an authorized disaffiliation process sanctioned by the United Methodist Church. Instead, the members were informed that the local church was closed, effectively ending Fifth Avenue's opportunity to disaffiliate. Interestingly, the District Superintendent was accompanied by the UMC Bishop of the North Carolina Conference at the Sunday night session.

"Fifth Avenue never asked for, agreed to or wanted the closure, nor were its members ever given a chance to participate in the decision to close the church down. Its members are devastated and brokenhearted by the closure which has been forced upon them." The statement also uses the words "completely blindsided" and "in shock" to describe the local church during and soon after the March 26 meeting.

The bishop's attendance and action on March 26 disrespected Fifth Avenue United Methodist Church and its members. It was a power play by the strongest person in the North Carolina Conference over against a small local church. The Discipline (Par. 414.2, here and following) says the bishop should "strengthen the local church." On March 26, the bishop instead demoralized and disempowered and actually ended the Christian community known as Fifth Avenue United Methodist Church. The Discipline says the bishop should "[give] spiritual leadership to both laity and clergy." On that evening, the bishop instead eliminated the possibility of giving "spiritual leadership" to the local church. The Discipline says that the bishop should "[build] relationships with people of local congregations of the area." On that evening, the bishop instead made such relationships more difficult or even impossible. The United Methodist Church, through its consecration of bishops worship service, asks the new bishop to "encourage and support all baptized people" (The United Methodist Book of Worship, #704). The bishop replies to this challenge, "I will, in the name of Christ, the Shepherd and Bishop of our souls." On that March evening in Wilmington, the bishop instead discouraged and sowed distrust among members of the local church and many baptized people outside the congregation. On that evening, the actions of the bishop violated standards for episcopal ministry set by the larger Church.

Now consider the district superintendent. The Bishop's Decision assures that, with regard to the Fifth Avenue United Methodist Church, the district superintendent abided by 419.4. According to the Bishop's Decision, that paragraph "requires a district superintendent to 'establish working relationships' and to 'seek to form creative and effective connections with the local congregations on his or her district.' That work is precisely what the current district superintendent, and her predecessors, have been attempting through contact with this local church." And yet, the district superintendent changed the purpose of the March 26 congregational meeting and, before the meeting, did not inform the congregation of the change. Moreover, the district superintendent secretly changed the local church meeting from an informational meeting about a possible future decision on disaffiliation to an announcement meeting about an already-decided closure. The Discipline calls the district superintendent to "establish working relationships." On March 26, 2023, by shutting down the local church, the district superintendent instead strained and broke "working relationships." The Discipline calls the district superintendent "to seek to form creative and effective connections with the local congregations on his or her district." On that evening, without respect and love toward brothers and sisters in Christ, the district superintendent instead unilaterally disconnected and removed herself from these members of the local church.

Those who participated in and supported the shutdown of Fifth Avenue United Methodist Church might respond like this: "We admit that the actions of the bishop and district superintendent at Fifth Avenue United Methodist Church were a bit unusual, but look at the greater good that will result. New ministries will be born. New people will be reached and helped. New disciples of Jesus Christ will be birthed and matured. New areas of

Wilmington will be transformed." In response, one must acknowledge that Christians and particularly clergy should never do what is questionable, suspect, tainted, bad, or evil -- so that good may result. In other words, Christians and particularly clergy should never order their lives or ministries according to utilitarian calculation. Christians and particularly clergy are first, last, and always to be, to live as, and to minister as disciples of Jesus Christ. Christians and clergy follow Jesus Christ -- not the principle: the greatest good for the greatest number.

By participating in the premeditated, surprise shut down of Fifth Avenue United Methodist Church -- and by not perseveringly working with its members, by not speaking the truth in love with them, by not consulting directly with them, by not warning them about possible closure, and by abruptly ending relationships and connections with them -- the bishop and the district superintendent violated standards of ministry established for their clerical offices by The Book of Discipline (Pars. 414.2 and 419.4). In their words and deeds toward this local church, where is the grace? Where is the love? The Bishop's Decision of Law, in response to the Fourth Question of Law, does not adequately defend the ministries of the bishop and the district superintendent with regard to Fifth Avenue United Methodist Church.

Fifth Question of Law: "Does the seizure of Fifth Avenue United Methodist Church's property under Par. 2549.3.b and that congregation's closure violate the plain reading of Pars. 414.2, 419.4, 2549.3.b, and 2553 of The Book of Discipline?"

Bishop's Decision of Law: "The actions of the NC Annual Conference are completely consistent with all disciplinary mandates, including to spread the Gospel and strengthen our witness. There is no violation of the cited paragraphs."

"There are no violations of The Book of Discipline."

Response to the Bishop's Decision: This response from the bishop is brief, perhaps casual. It maintains that, in the case of Fifth Avenue United Methodist Church, the North Carolina Annual Conference abided by "all disciplinary mandates" -- which include "spread[ing] the Gospel," "strengthen[ing] our witness," and not violating the paragraphs cited in the fifth Question of Law.

What conference leaders did to Fifth Avenue United Methodist Church -- how they surreptitiously filed for the title of church property on March 24, 2023, surprisingly attended a church meeting two days later, shockingly announced the closure of the church to its leaders, and disturbingly used all available resources of the annual conference (communications, conference chancellor, presiding authority during annual conference sessions, and so on) to assume control of the church's property and to convince the 2023 North Carolina Annual Conference to approve their actions -- both initiated and completed the annual conference's takeover of the Fifth Avenue United Methodist Church. In this situation, North Carolina Annual Conference leaders tore at the unity of The

United Methodist Church in eastern North Carolina and beyond.

The Constitution of The United Methodist Church has a Preamble. The Preamble reveals particular concern for the Church's unity: "The church of Jesus Christ exists in and for the world, and its very dividedness is a hindrance to its mission in that world." (The Book of Discipline, p. 25) In their questionable, forceful handling of Fifth Avenue United Methodist Church, conference leaders -- during a difficult time of denominational division -- participated in further dividing "[t]he church of Jesus Christ" and therefore compromising its mission in the world (in Wilmington, NC and beyond).

(Those who participated in and supported conference leaders in their takeover of the local church are sure to push back against this constitutional concern about unity. They might say: "It was Fifth Avenue United Methodist Church, by entering the disaffiliation process, that diminished unity in The United Methodist Church." In response, one must acknowledge that, by entering the disaffiliation process, the local church was simply following The Book of Discipline, simply exercising its 2019-General-Conference-adopted "limited right" to disaffiliate. In contrast, those who closed the congregation were acting in ways that violated The Book of Discipline time and again, as indicated above. Their closing of the local church and their actions that saw the closure to completion will long be a source of disunity in the Wilmington area, throughout the North Carolina Conference, and beyond.)

By participating in the closure of Fifth Avenue United Methodist Church, the bishop *erased* a local church (contrary to the Discipline's call for *strengthening* the local church [Par. 414.2]), denied that local church "spiritual leadership" (contrary to the Discipline's call for *giving* "spiritual leadership" [Par. 414.2]), and *tore apart* relationships with "people of local congregations" near that local church (contrary to the Discipline's call for *building* such relationships [Par. 414.2]). This divisive action clearly violated Par. 414.2.

By participating in the closure of Fifth Avenue United Methodist Church, the district superintendent *undermined* "working relationships" (while the Discipline calls for *establishing* such relationships [Par. 419.4]) and *stifled* "creative and effective connections" (while the Discipline calls for *seeking to form* such bonds [Par. 419.4]) This divisive action clearly violated Par. 419.4.

By using Par. 2549.3(b) in the closure of Fifth Avenue United Methodist Church, conference leaders claimed they had the disciplinary authority to seize the property of the local church. They believed Par. 2549.3(b) gave them superabundant authority: to treat the process of congregational disaffiliation as an exigent circumstance (Par. 2549.3(b)), and to overlook or overrule Par. 2553 on disaffiliation. Their divisive action relied on violations of The Book of Discipline at Paragraphs 414.2, 419.4, 2549.3(b), and 2553.

In the case of Fifth Avenue United Methodist Church, North Carolina Conference leaders exercised extraordinary force against one of their own congregations. To do this, they stood on Par. 2549.3(b) and its phrases "exigent circumstances" and "sole discretion," and they underperformed on its implicit promise of due

process. Their action resulted in increased division in Wilmington's Christian community, in the Harbor District (UMC), in the North Carolina Conference (UMC), and beyond. Such division has surely undermined current ministries in the area and would most probably harm new ministries that may be attempted by United Methodists there.

Violations of these paragraphs of The Book of Discipline -- Pars. 414.2, 419.4, 2549.3(b), and 2553 -- are noted above. In spreading and deepening division, these violations have harmed United Methodist ministries, and their "spreading of the Gospel," in Wilmington and beyond. The Bishop's Decision of Law does not acknowledge the serious Disciplinary and Constitutional breaches caused by the closing of Fifth Avenue United Methodist Church.

### **V. Relief Requested**

For the reasons stated above, the Judicial Council should:

>> Rule that, while conference officials can indeed sometimes close churches on the basis of Par. 2549.3(b), they cannot use this Disciplinary paragraph to silence and disempower other paragraphs of The Book of Discipline (e.g., Par. 2553).

>>Rule that the potential closing of a church (according to Par. 2549.3(b)) requires that the conference officials involved, and particularly the bishop and the appropriate district superintendent, be firmly committed to fairness in due process in the church (especially when presiding and speaking at annual conference sessions) and to abiding by the standards of ministerial office (Pars. 414.2 and 419.4) Even in closing a local church, they should "[do] no harm," as John Wesley taught (The General Rules, The Book of Discipline, Par. 104, p. 78), to congregations considered for closing, to their members, and to those who oppose such closings.

>>Rule that the potential closing of a church (by Par. 2549.3(b)), against the membership's will, involves the exercise of great authority that must be checked and balanced by the rule of law (including, but not limited to Pars. 414.2, 419.4, and 2553), by due process, and by the goal of unity in The United Methodist Church (Preamble of The Constitution).

>>Rule that, since the closing of Fifth Avenue United Methodist Church violated The Book of Discipline (at Pars. 414.2, 419.4, 2549.3(b), and 2553), the closure of the congregation should be reversed, and the local church should be allowed to enter anew into the disaffiliation process that its church council had voted to begin. Its decision on disaffiliation should be respected by the annual conference. The deadlines set by the conference board of trustees should not apply to this congregation, so that it will have time to disaffiliate and be approved by the annual conference before the end of 2023, as this local church would have been able to do if the bishop and others had not taken action in March to interfere with the congregation following the proper procedures to exercise its right to disaffiliate.



Please allow a concluding comment on power in The United Methodist Church. My undelivered speech, which is quoted above, ends with these words: "The United Methodist way. The United Methodist way is conversational and communal, collegial and collaborative, with give-and-take and checks-and-balances. The United Methodist way limits the strong and lifts the weak." That is to say, The United Methodist Church limits power, separates power (Judicial Council Decision #689), checks and balances power, maintains the rule of law over power. The United Methodist Church, at its best, does not allow power to accumulate and grow in one person, position, or place. If the Judicial Council permits the bishop to use Par. 2549.3(b) in broad and unlimited ways, the office of bishop will accumulate more and more power to act arbitrarily.

In acting to close a local church against its will (which is possibly unconstitutional, because that cancels a charge conference, which The Constitution clearly establishes in Pars. 43-44) on the basis of Par. 2549.3(b), the bishop will seldom meet formidable opposition. District superintendents will seldom oppose the bishop who appointed them. Members of the district board on church location and building will seldom resist the bishop who nominated them. Clergy, during annual conference sessions, will seldom speak or vote against the bishop who appoints them to their congregations. Laity, during annual conference sessions, will seldom speak or vote in public against the bishop who determines who will be their pastors. Most clergy and laity, during annual conference sessions, are hesitant even to speak into a microphone, let alone challenge a bishop. So, relatively unchallenged at annual conference, between annual conferences the bishop is mostly free to close a local church against its will, seize its property, and obtain the annual conference's approval. Unfortunately, when this happens, fear and distrust proliferate and deepen across the annual conference and beyond.

As the case of Fifth Avenue United Methodist Church demonstrates, that is the status quo. Bishops can now use Par. 2549.3(b) arbitrarily to get and do what they want with respect to local churches. Only the Judicial Council can stand in their way, limit their power, cause them to be more considerate of and patient with their congregations, and direct them toward a more faithful episcopal ministry.

Thank you for reading and considering the claims and the substance of this brief.

Respectfully submitted,  
Paul T. Stallsworth  
Elder (retired), North Carolina Conference  
The United Methodist Church

EXHIBIT A`

Fifth Avenue United Methodist Church – Congregation

409 S. 5<sup>th</sup> Avenue  
Wilmington, NC 28401

For Immediate Release – Wilmington, NC –

On Monday March 27, 2023 – The NC conference arm of the United Methodist Church denomination announced through various local media, the closure of Wilmington’s Historic Fifth Avenue United Methodist Church. What was not made clear or shared was that the local church leaders and parishioners of Fifth Avenue were completely blindsided by the closure, having only been informed the night before during what was expected to be an informational session scheduled by the District Superintendent. The local church’s members were led to believe the informational session Sunday evening had been scheduled by the District Superintendent as part of an authorized disaffiliation process sanctioned by the United Methodist Church. Instead, the members were informed that the local church was closed, effectively ending Fifth Avenue’s opportunity to disaffiliate. Interestingly, the District

Superintendent was accompanied by the UMC Bishop of the North Carolina Conference at the Sunday night session.

Fifth Avenue never asked for, agreed to or wanted the closure, nor were its members ever given a chance to participate in the decision to close the church down. Its members are devastated and brokenhearted by the closure which has been forced upon them.

In 2022, the North Carolina Conference of the United Methodist Church provided a set of rules and guidelines, by which local churches who apply and follow the rules, are given the opportunity to disaffiliate by the end of 2023. After much prayer and consideration, Fifth Avenue UMC's Church Council voted in February 2023 to begin the disaffiliation process. In following the guidelines provided by the conference, church members trusted conference officials to schedule a congregational vote by the end of March to carry out the disaffiliation process. Instead, the conference broke that trust and shut down the local church. In a written resolution delivered to the congregation on Sunday evening, the conference Bishop and others declared that “exigent circumstances exist” requiring immediate protection of the Fifth Avenue Church property. From whom the property needs protection against, the congregation is at a loss to understand or know. The resolution goes on to state, “the Church no longer serves the purpose for which it was organized and incorporated”. Nothing could be further from the truth and the congregation at Fifth Avenue wants all those who are willing to listen -- to know.

Church leaders were completely blindsided by the United Methodist Church’s decision to close the church after almost 176 years of ministry in Wilmington. The church is a vibrant, closely knit congregation of devout Methodist Christians,- made up of mostly senior citizens who have attended this church their whole lives and have now been told their final service will be Easter Sunday.

The UMC went as far as to change the locks on the church building Monday, 3/27.

Founded in 1847, remains self-sustaining and celebrated its 175<sup>th</sup> anniversary in 2022 with a year long celebration.

We at Fifth Avenue are all still in shock over the matter. We are in the process of gathering together to discuss a way forward. The church asks that the Bishop reconsider this ill made decision and return the church to it's congregation who have loved and supported the church for many decades and allow them to move forward with the disaffiliation process that the United Methodist Church itself put in place. Allow us to move forward along with all the other local churches throughout North Carolina and across the USA seeking to disaffiliate by following the rules set forth in the Book of Discipline, the Disaffiliation Agreement and the rules published by the NC Annual Conference on its website. We are playing by the conference's own rules, but now appear to have been completely shut down. Its sad and it breaks our heart to be treated this way.

The Church Congregation

Contact: Susan Godwin Long