

CAUSE NO. 141 237105 09

THE EPISCOPAL DIOCESE OF)
FORT WORTH, THE CORPORATION OF)
THE EPISCOPAL DIOCESE OF FORT)
WORTH, and THE EPISCOPAL CHURCH,)
Plaintiffs,)

v.)
FRANKLIN SALAZAR, JO ANN PATTON,)
WALTER VIRDEN III, ROD BARBER,)
CHAD BATES, JACK LEO IKER, and THE)
ANGLICAN PROVINCE OF THE)
SOUTHERN CONE'S "DIOCESE OF FORT)
WORTH," holding itself out as "THE)
EPISCOPAL DIOCESE OF FORT WORTH,")
Defendants.)

IN THE DISTRICT COURT OF

TARRANT COUNTY, TEXAS

FILED
TARRANT COUNTY
2009 APR 14 PM 3:20
THOMAS A. WILDE
DISTRICT CLERK

_____ JUDICIAL DISTRICT

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE COURT:

THE EPISCOPAL DIOCESE OF FORT WORTH, THE CORPORATION OF THE EPISCOPAL DIOCESE OF FORT WORTH, and THE EPISCOPAL CHURCH, plaintiffs, hereby file this petition for a declaratory judgment pursuant to Chapter 37, Civil Practice and Remedies Code of Texas, and for other related claims, and in support of this petition, would show the Court the following:

**I.
DISCOVERY CONTROL PLAN**

1. Plaintiffs plead that the discovery in this matter be conducted pursuant to Texas Rule of Civil Procedure 190.3.

II. PARTIES

2. Plaintiff Episcopal Diocese of Fort Worth (the “Diocese of Fort Worth” or “Diocese”) is a non-profit unincorporated association that was formed effective January 1, 1983, and that at all relevant times has been a constituent and subordinate unit of the Episcopal Church. The Diocese has its principal office in Fort Worth, Texas, and is comprised of the Episcopal worshipping congregations located in all or part of 23 Texas counties, including Tarrant County.

3. Plaintiff The Corporation of The Episcopal Diocese of Fort Worth (“Diocesan Corporation” or “Corporation”) is a Texas non-profit corporation with its principal office in Fort Worth, Texas, formed on or about February 23, 1983, pursuant to the provisions of the Constitution and canons of the Diocese and subject to the provisions of the Constitutions and canons of the Diocese and The Episcopal Church.

4. Plaintiff The Episcopal Church, also known as the Protestant Episcopal Church in the United States of America (“The Episcopal Church” or “the Church”), is a religious denomination and a non-profit unincorporated association formed between 1785 and 1789 with its principal office in New York, New York.

5. Plaintiffs are informed and believe that defendants Franklin Salazar, Jo Ann Patton, Walter Virden, III, Rod Barber, and Chad Bates reside in Tarrant County, Texas, and are holding themselves out as Trustees of plaintiff Diocesan Corporation. Each of these defendants may be served with citation at his or her residence:

Dr. Franklin Salazar
1505 Wright Street
Arlington, Texas 76012

Mrs. Jo Ann Patton
3309 Marquette Court
Fort Worth, Texas 76109

Mr. Walter Virden III
1803 Bois d' Arc Drive
Arlington, Texas 76013

Mr. Rod Barber
7924 Vista Ridge North
Fort Worth, Texas 76132

Mr. Chad Bates
1114 Monteau Court
Arlington, Texas 76012

6. Defendant Jack Leo Iker is a resident of Tarrant County, Texas, and was formerly an ordained member of the clergy of The Episcopal Church and Bishop of the Diocese. Defendant Iker is no longer a bishop of the Episcopal Church, but continues to hold himself out as the Bishop of the "Episcopal Diocese of Fort Worth" and as a Trustee of plaintiff Diocesan Corporation. Defendant Iker may be served with citation by serving him where he is regularly conducting business, at 2900 Alameda Street, Fort Worth, Tarrant County, Texas 76108.

7. Defendant The Anglican Province of the Southern Cone's "Diocese of Fort Worth" (hereinafter the "Southern Cone Diocese") is an entity of unknown form which has no relation to the plaintiffs Church or Diocese and purports to be affiliated with the Anglican Province of the Southern Cone. The Southern Cone Diocese holds itself out and is doing business as "The Episcopal Diocese of Fort Worth." The Southern Cone Diocese can be served with citation by serving its purported bishop, Jack Leo Iker, at 2900 Alameda Street, Fort Worth, Tarrant County, Texas 76108.

III.
JURISDICTION AND VENUE

8. This Court has jurisdiction over this matter because it involves real property located in part in Tarrant County, Texas, and because the matter in controversy is within the jurisdictional limits of this Court. Venue is appropriate because one or more of the defendants resides in Tarrant County, Texas.

IV.
FIRST CAUSE OF ACTION
(Declaratory and Injunctive Relief)

The Structure and Governance of the Episcopal Church

9. The Episcopal Church, which adopted its first Constitution in 1789, is an international hierarchical religious denomination whose governing documents - - its Constitution, bylaws called "canons," and its Book of Common Prayer ("Prayer Book"), as they are amended over time by the Church's governing body - - are binding on every subordinate unit and member of the Church. The Church is comprised of 111 geographically-defined, subordinate entities known as "dioceses" and more than 7,600 worshipping congregations, usually "parishes" or "missions," in the United States and other countries.

10. The Church has a three-tiered, democratic form of governance that is prescribed by its Constitution and canons, under which dioceses belong to, are subordinate to, and are under the jurisdiction of the international body, and under which local worshipping congregations, belong to, are subordinate to, and are under the jurisdiction of the Church and the individual dioceses in which the congregations are located.

11. At the international level, the Church is governed by a legislative body called its "General Convention," which generally meets once every three years to establish the general policies, rules, and programs of the Church. The General Convention is comprised of a House of

Bishops, consisting of most of the Church's active and retired bishops, and a House of Deputies, consisting of lay and clergy representatives elected by each of the Church's dioceses. The General Convention has adopted and from time to time amends the Church's Constitution, canons, and Prayer Book.

12. The "Presiding Bishop" is the "Chief Pastor and Primate" of the Church. The Presiding Bishop is elected by the General Convention and is charged with responsibility for leadership in initiating and developing policy and strategy in the Church and speaking for the Church as to the policies, strategies, and programs authorized by the General Convention.

13. The Church has an Executive Council comprised of elected bishops, priests, and lay persons who, under the leadership of the Presiding Bishop, manage the fiscal and programmatic affairs of the Church between meetings of the General Convention.

14. The Church is a member of the Anglican Communion, a worldwide fellowship of 38 autonomous regional churches generally known as "Provinces." The historic tradition of the Anglican Communion is that each Province forms its own constituent units and exercises jurisdiction within its own geographic territory, and not within the geographic territory of any other Province.

15. The next level of the Church's organization and governance is the diocese. A diocese may be formed only by action of the General Convention, and only with an unqualified accession to the Church's Constitution and canons. Each diocese exercises jurisdiction over the parishes and other congregations within its geographical area. The governing body of each diocese, generally called its "Convention," is a legislative body comprised of clergy of the diocese and laity elected by their congregations. The governing body of plaintiff Diocese is its "Convention." Each diocesan Convention adopts and from time to time amends its own

diocesan Constitution and canons that supplement and may not conflict with the Church's Constitution or canons.

16. Each diocese is under the authority of a bishop elected by the diocesan Convention and "ordained" and installed with the consent of the leadership of a majority of the other dioceses. The Bishop is in charge of both ecclesiastical and temporal affairs within that diocese. The Bishop is advised by and as to certain matters shares authority with a "Standing Committee" of clergy and lay persons elected by the diocesan Convention.

17. At the third level of governance, the Church's nearly 7,700 parishes and other worshipping congregations are located in and are under the ecclesiastical and temporal authority of the Church and the diocese thereof in which such congregation is located.

18. Each Episcopal parish generally has an ordained priest as its "rector," who has charge of the spiritual and certain temporal affairs of the parish. The rector is elected by the parish's governing body, called a "vestry," which is comprised of the rector and lay persons elected by the parish.

19. The Church's hierarchical structure provides for representative participation in each level of governance. Parishes and other congregations send representatives to the diocesan Convention, and dioceses send bishops, other clergy, and lay representatives to the Church's General Convention.

20. Canon I.17(8) of the Church, "Fiduciary Responsibility," applies to all officers at each level of the Church's governance and provides that "[a]ny person accepting any office in this Church shall well and faithfully perform the duties of that office in accordance with the Constitution and Canons of [the] Church and of the Diocese in which the office is being exercised."

21. Article VIII of the Church's Constitution and the Ordination services of its Prayer Book require all clergy of the Church, as a condition of ordination, to subscribe to the following written declaration:

“I do believe the Holy Scriptures of the Old and New Testaments to be the Word of God, and to contain all things necessary to salvation; and I do solemnly engage to conform to the Doctrine, Discipline, and Worship of the Episcopal Church.”

This oath is generally referred to as the “Declaration of Conformity.”

22. Under the Church's Constitution, canons, and polity, no diocese or parish may unilaterally divide or separate or otherwise disaffiliate from the Church.

Dioceses of The Episcopal Church

23. The Church's Constitution and canons prescribe the methods by which a new diocese of the Church may be formed. Since its founding, the Church has required that a diocese of the Church be formed only with the consent of the General Convention and only if the new diocese accedes to the legislative authority of the General Convention as expressed in the Church's Constitution, canons, or both.

24. Once formed, a diocese is a subordinate unit of the Church, bound by the provisions of the Church's Constitution, canons, and Prayer Book, which govern both temporal and ecclesiastical matters. The Constitution and canons, as well as in some instances the Prayer Book, in part:

- a. govern the ordination, installation, spiritual and temporal duties, discipline, and retirement of bishops;
- b. require dioceses and parishes to adopt prescribed business methods, including submission of annual reports to the Church's Executive Council, annual audits

by certified public accountants, and adequate insurance of all buildings and their contents;

c. set forth requirements and conditions for the formation and operation of parishes and other worshipping congregations under the oversight of the dioceses;

d. provide requirements for the care, control, use, and disposition of church property; and

e. provide rules under which dioceses may select, train, ordain, deploy, and supervise the clergy of parishes and other worshipping congregations.

25. The Church's canons permit and set forth the process by which a "Missionary Diocese" of the Church, with the consent of the General Convention, may leave the jurisdiction of the Church and join another Province of the Anglican Communion. A "Missionary Diocese" is a defined geographic area outside of any of the Church's established dioceses that is entrusted to the pastoral care of a bishop elected by the Church's House of Bishops under Article VI of the Church's Constitution.

26. The Episcopal Diocese of Fort Worth is not a Missionary Diocese. The Constitution and canons of the Church do not provide for or permit the release, withdrawal, or transfer of any diocese that is not a Missionary Diocese.

Ordination and Discipline of Bishops by The Episcopal Church

27. Article VIII of the Church's Constitution and the Ordination services of the Prayer Book provide that an individual may not be ordained deacon, priest, or bishop unless he or she subscribes to the Declaration of Conformity described in Paragraph 21 above. The Ordination Service for a bishop in the Prayer Book also requires that an individual being ordained as a

bishop of the Church promise to “guard the faith, unity, and discipline of the Church” and to “share with [his or her] fellow bishops in the government of the whole Church.”

28. Article II.2 of the Church’s Constitution provides that a bishop may be ordained and take office in a diocese only after obtaining the consent of the leadership of a majority of the other dioceses of the Church.

29. Article II.6 of the Church’s Constitution and Church Canon III.12(8) provide that a bishop may not resign his or her office and remain a bishop in good standing in the Church without the consent of a majority of the House of Bishops.

30. Church Canons IV.1 and IV.9 provide that grounds for the discipline, including the involuntary removal or “deposition,” of a bishop include a violation of the Constitutions or canons of the Church or of the diocese in which he or she is resident, violations of the vows required of a bishop by the Church at ordination, and “abandonment of the Communion” of the Church.

History of the Episcopal Diocese of Fort Worth

31. Since the mid-19th century, long before the plaintiff Diocese was formed, its geographic territory was part of other missionary districts or dioceses of the Episcopal Church. The plaintiff Diocese was organized and established effective January 1, 1983, after the Episcopal Diocese of Dallas in 1982 sought the division of its own territory into two dioceses and the Church’s General Convention consented to that division. In 1982, Article V.1 of the Church’s Constitution provided that a “new Diocese may be formed, with the consent of the General Convention and under such conditions as the General Convention shall prescribe by General Canon or canons” and when the Convention is satisfied that the new diocese “has acceded to the Constitution and canons of [the] Church.” Effective January 1, 1983, Article V provided, as it

does today, that “[a]fter consent of the General Convention,” the Constitution of the New Diocese” must “include[e] an unqualified accession to the Constitution and canons of [the] Church.”

32. At its September 1982 meeting, the Church’s General Convention approved the division of the Diocese of Dallas into two dioceses, with all or part of 23 counties in Texas, including Tarrant County, to become the “Western Diocese,” conditioned upon receipt of assurances “that all of the appropriate and pertinent provisions of the Constitution and canons of the General Convention ... have been fully complied with....” The name ultimately selected for the “Western Diocese” was the “Episcopal Diocese of Fort Worth.”

33. The Bishop of the Episcopal Diocese of Dallas called a “Primary Convention” for November 13, 1982, to permit the new Episcopal Diocese of Fort Worth to organize. At that meeting, the Convention unanimously adopted a resolution stating that the “Diocese of Fort Worth . . . , pursuant to approval of the 67th General Convention of the Episcopal Church, does hereby subscribe to and accedes to the Constitution and Canons of the Episcopal Church.” The Convention at that meeting adopted its first diocesan Constitution and canons, to be effective on January 1, 1983. To comply with Article V.1 of the Church’s Constitution and with the General Convention’s September 1982 action conditionally approving the new diocese, Article I of the new diocesan Constitution, “Authority of the General Convention,” provided:

“The Church in this Diocese accedes to the Constitution and Canons of the Episcopal Church in the United States of America, and recognizes the authority of the General Convention of said Church.”

34. Article 18 of the first diocesan Constitution provided that canons “may be adopted, altered, amended, or repealed” only if they were “not inconsistent with [the diocesan] Constitution, or the Constitution and Canons of the General Convention.”

35. Canon 22 of the new Diocese provided that every new parish shall “promise to abide by and conform to the Constitution and Canons of the General Convention and of the Diocese of Fort Worth.”

36. At its formation, the Diocese of Fort Worth received from the Episcopal Diocese of Dallas 30 parishes and 24 missions, along with all of their associated real and personal property; an apportioned share of numerous funds and accounts of the Diocese of Dallas; and the right to the joint use of other real property, assets, and programs of the Diocese of Dallas. The Diocese of Dallas pledged to support and, upon information and belief, did support the new Diocese with additional funds in the amount of \$100,000 from the Diocese of Dallas’ own operating funds, paid in installments over first three years of the new Diocese’s existence.

37. Article 13 of the Diocese’s first Constitution (now Article 14) provided that title to all real estate acquired “for the use of the Church in this Diocese, including the real property of all parishes and missions as well as Diocesan Institutions, shall be held subject to control of the Church in the Episcopal Diocese of Fort Worth acting by and through [the Diocesan Corporation].” The Diocesan Corporation was also to hold title to “[a]ll other property belonging to the Diocese, as such,” including trust and endowment accounts.

38. Diocesan Canon 11 (now Canon 17) provided that the Diocesan Corporation would be governed by a “Board of Trustees of five elected members, all of whom are either Lay persons in good standing of a parish or mission in the Diocese, or members of the Clergy canonically resident in the Diocese, in addition to the Bishop of the Diocese who shall serve as Chairman of the Board or may designate the President or other officer of the corporation to serve as such.”

39. In February 1983, the Bishop and two lay members in good standing of the Diocese formed the plaintiff Corporation in accordance with these constitutional and canonical

requirements. On August 22, 1984, the District Court of Dallas County, Texas, issued a declaratory judgment approving the transfer of substantial assets of the Episcopal Diocese of Dallas to the plaintiff Diocesan Corporation. The Court noted that “Plaintiff, The Episcopal Diocese of Fort Worth . . . is a duly constituted religious organization, organized pursuant to the Constitution and Canons of the Protestant Episcopal Church in the United States of America,” and that “Plaintiff, Corporation of the Episcopal Diocese of Fort Worth . . . is a Texas non-profit corporation, duly organized under the Constitution and Canons of the Episcopal Diocese of Fort Worth.”

40. The Diocesan Corporation holds title to substantial real and personal property of the Diocese acquired as an instrument and constituent part of the Church, pursuant to the judgment described in paragraph 39 and subsequently, including but not limited to: numerous parcels of real property, the Fund for the Endowment of the Episcopate, the Diocesan Fund, the E.D. Farmer Fund, the Anne S. and John S. Brown Trust, the Betty Ann Montgomery Farley Fund, and the Reverend Efrain Huerta Fund benefiting Hispanic Ministries, Memorial Scholarship Fund out of Common Trust (Growth Fund and Income Fund), St. Paul’s Memorial Fund, E.D. Farmer Foundation, and the Revolving Fund.

41. Throughout its history and at least until the present dispute arose, the Diocese has consistently participated in the life of the Church as a subordinate unit and has generally complied with the requirements imposed on it by the Church’s Constitution, canons, and Prayer Book.

a. The Diocese has consistently sent representatives to meetings of both houses of the Church’s General Convention, including to its most recent meeting in 2006;

b. The Diocese and the clergy of the Diocese, including defendant Iker, have participated in and accepted the valuable benefits of the Church Pension Fund, reserved solely for clergy and institutions of the Church, as required by Church's canons;

c. All Bishops of the Diocese have been elected, ordained, and installed pursuant to the requirements of the Church's Constitution, canons, and Prayer Book;

d. The clergy of the Diocese have been ordained or received, and parish rectors and other ordained clergy have been elected or installed, pursuant to requirements of the Church's Constitution, canons, and Prayer Book;

e. The Diocese has adopted and implemented business methods prescribed by the Church's canons, submitted annual reports to the Church's Executive Council, conducted audits, and maintained adequate insurance of buildings and their contents, in compliance with the Church's requirements;

f. The Diocese has overseen the formation and operation of parishes and other worshipping congregations of the Diocese according to the Church's requirements; and

g. The Diocese has provided for the care, control, use, and disposition of property according to the Church's requirements.

42. Prior to his ordination as deacon, priest, and bishop of the Church, defendant Iker signed the Declaration of Conformity described in Paragraph 21 above, as required by the Church's Constitution and Prayer Book, was ordained Bishop Coadjutor of the Diocese in 1993 with the consents of the leadership of a majority of the other dioceses of the Church, and became Bishop of the Diocese in 1994, all pursuant to the constitutional, canonical, and liturgical requirements of the Church.

43. The Diocesan Bishop, the members of the Standing Committee, the members of the Executive Council, the deputies to the Diocesan Convention, and the members of the Board of Trustees of the Diocesan Corporation are bound by Church Canon I.17(8) to faithfully execute their offices in accordance with the Constitutions and canons of the Church and the Diocese as described in Paragraph 20 above; and the clergy, including the Diocesan Bishop, are bound to obey the Constitution and canons of the Church by the Declaration of Conformity, as described in Paragraph 21 above, that each signed prior to and as a condition of ordination.

The Current Dispute

44. On or about September 5, 2006, in anticipation of the current dispute, the individual defendants caused to be filed with the Secretary of State purported “Amended and Restated Articles of Incorporation of [the] Corporation of the Episcopal Diocese of Fort Worth.” The “Amended and Restated Articles” purported to:

- a. delete provisions of the 1983 Articles describing the property held by the Diocesan Corporation as property “acquired for the use of the Episcopal Diocese of Fort Worth”;
- b. delete provisions of the 1983 Article stating that the aforesaid property “shall be administered in accordance with the Constitution and Canons of the Episcopal Diocese of Fort Worth”;
- c. insert provisions purporting to give the Trustees of the Diocesan Corporation the “sole authority to determine the identity and authority of the Bishop [of the Episcopal Diocese of Fort Worth]” and, in the event of a vacancy in the office of Diocesan Bishop, “appoint . . . a Chairman of the Board” for the Diocesan Corporation; and

- d. provide for election of Trustees by the Board itself, instead of by the Annual Diocesan Convention as required by Diocesan Canon 17.3;

45. The actions described in paragraph 44 violated the individual defendants' constitutional and canonical obligations described in paragraphs 20 and 21 above; conflict with the Church's requirements and authority regarding the recognition of a Diocesan Bishop; and could not and did not affect the status of the Diocesan Corporation as an instrument of the Diocese subject to the Constitutions and Canons of the Church and the Diocese, the legal and canonical obligations of the Trustees to the Diocese and the Church, or the status of and restrictions on the use and control of the property acquired by the Diocesan Corporation as an instrument of the Diocese.

46. At the November 2008 meeting of the Convention of the Diocese, with the support and leadership of defendant Iker, a majority of delegates present voted for various resolutions that purported to amend the Diocese's Constitution and canons to remove references to the Church and permit the Diocese to affiliate with the Anglican Province of the Southern Cone, a denomination located in South America.

47. The actions described in paragraph 46 violated the respective constitutional and canonical obligations and prior commitments of the Diocese and of the members of Convention, were invalid, and did not affect the status or continuing existence of the Church's Diocese of Fort Worth.

48. Following the November 2008 meeting of the Diocesan Convention, under the Constitution and canons of the Church, defendant Iker was certified by a disciplinary Review Committee of the Church to have "abandoned the communion of [the] Church," within the meaning of Church Canon IV.9, "by an open renunciation of the Doctrine, Discipline, or Worship of the Church."

49. On November 21, 2008, the Presiding Bishop of the Church issued an “inhibition” to Bishop Iker, ordering him to “cease from exercising the gifts of ordination in the ordained ministry of [the] Church.”

50. On December 5, 2008, following a public statement by defendant Iker on November 24, 2008, that he no longer had any connection with the Church, the Presiding Bishop of the Church declared that defendant Iker had voluntarily renounced his ordained ministry in the Church and that he was “therefore, removed from the Ordained Ministry of [the] Church and released from the obligations of Ministerial offices” in the Church. Defendant Iker thereby ceased to be a bishop of the Church or the Diocese.

51. Those individuals comprising the former leadership of the Diocese, including each of the individual defendants, who supported the purported withdrawal of the Diocese from the Church and the purported affiliation of the Diocese with the Anglican Province of the Southern Cone by those acts left the Church, violated their obligations under the Church’s Declaration of Conformity and/or Church Canon I.17(8), and ceased to be eligible to hold any office in the Church, the Diocese, or any of the Church’s or the Diocese’s other subordinate units, including but not limited to the Diocesan Corporation; and their offices became vacant.

52. Church Canon III.13 provides that “[a] Diocese without a Bishop may, by an act of its Convention, and in consultation with the Presiding Bishop, be placed under the provisional charge and authority of a Bishop of another diocese or of a resigned Bishop, who shall by that act be authorized to exercise all the duties and offices of the Bishop of the Diocese”

53. The Diocese held a special meeting of its Convention on February 7, 2009. At that meeting, a provisional bishop of the Diocese was elected pursuant to Church Canon III.13; other vacant offices in the Diocese, including the Standing Committee, the Executive Council, and the

Trustees of the Diocesan Corporation, were filled; resolutions declaring the constitutional and canonical amendments described in Paragraph 46 above void and of no effect were passed; and the Diocese's clergy and lay deputies to the Church's forthcoming 2009 meeting of the General Convention were elected.

54. The Church recognizes the plaintiff Diocese as the continuing Episcopal Diocese of Fort Worth. The Church and the Diocese recognize the bishop described in Paragraph 53 above as the bishop with Episcopal oversight of the Diocese, the persons elected to the Standing Committee described in Paragraph 53 above as the Standing Committee of the Diocese, the persons described in Paragraph 53 above as the Trustees of the Diocesan Corporation; and the persons described in Paragraph 53 above as the elected deputies or representatives of the Diocese to the Church's General Convention.

55. Although the individual defendants have left the Church and the Diocese and although the defendant Southern Cone Diocese has no relation to the Church, defendants continue to use the names, seal, and other symbols of the Diocese and the Diocesan Corporation, and hold the Southern Cone Diocese out as the continuing Episcopal Diocese of Fort Worth. The defendants have asserted authority over Episcopal parishes, congregations, and other organizations in the Diocese and are asserting exclusive possession and control of the Diocesan Corporation and substantially all of the real and personal property, including funds, of the Diocese.

56. Plaintiffs have demanded that defendants relinquish control of and return the foregoing property, but the demand has been refused.

57. Plaintiffs contend in part that the actions described in Paragraphs 44, 46, and 55 above are contrary to the Constitutions and canons of the Church and the Diocese and to the Prayer Book of the Church and are otherwise contrary to law and without any effect; that all property

held by or for the Diocese is held and may only be used for the mission and benefit of the Church and its subordinate Diocese, subject to the Constitutions and canons of the Church and the Diocese; that the Diocese remains a subordinate part of the Church for all purposes; that well-established Texas law recognizes that a constituent part of a hierarchical church is represented by those individuals who remain part of the hierarchical church; and that the persons now in the leadership of the Diocese and the Diocesan Corporation, as recognized by the Church, are the proper authorities entitled to the use and control of the real and personal property of the Diocese.

58. Plaintiffs are informed and believe that defendants take the position that they are properly in control of the governance of the Diocese and the Diocesan Corporation; that they have withdrawn the Diocese from the Church to join the Anglican Province of the Southern Cone; that they are entitled to the use and control of the real and personal property of the Diocese; and that their actions are not in conflict with the Constitutions and canons of the Church or the Diocese or Texas law.

59. An actual controversy exists, therefore, between the parties regarding the legal issues identified in Paragraphs 57 and 58 above. A declaratory judgment is therefore necessary and proper to determine the parties' rights and duties with respect to those issues.

60. As a result of the defendants' continued use, possession, and control of the property of the Diocese for purposes other than the mission of the Church and the Diocese, in derogation of the Constitutions and canons of the Church and the Diocese, and in disregard of the rights of the Church and the Diocese, plaintiffs have suffered and will continue to suffer irreparable injury. Injunctive relief is therefore necessary and proper to enforce the parties' rights and duties with respect to the issues described above.

V.
SECOND CAUSE OF ACTION
(Conversion)

61. Plaintiffs incorporate by reference the allegations of paragraphs 9 - 60.

62. Plaintiff Diocese owns or has the duty to administer valuable property, including but not limited to personal property, sacramental and liturgical instruments and materials, bank and brokerage accounts, monies, valuable chattels, personnel records, financial records, real property records and deeds, and historical records of the Diocese, some of which is titled in the name of and controlled by the Diocesan Corporation.

63. Defendants have converted the foregoing property of the Diocese by wrongfully claiming it, wrongfully asserting control over it, wrongfully transferring it or using it in the name of non-Episcopal Church entities, and wrongfully applying it for their own uses and purposes.

64. Plaintiffs have demanded that defendants relinquish control of and return the foregoing property, but the demand has been refused.

VI.
THIRD CAUSE OF ACTION
(Texas Bus. & Commerce Code § 16.29)

65. Plaintiffs incorporate by reference the allegations of paragraphs 9 - 60.

66. The trade names “Episcopal Diocese of Fort Worth” and “The Corporation of the Episcopal Diocese of Fort Worth” and the distinctive shield of the Episcopal Diocese of Fort Worth have been in continuous use by the Diocese and the Diocesan Corporation since 1983 to carry out the mission of The Episcopal Church in the Diocese, and are valid trade names and marks under the common law.

67. Defendants are using the foregoing trade names and marks in connection with an entity unrelated to the plaintiffs and without their permission, and in a manner likely to dilute the distinctive quality of the foregoing trade names and marks.

VI.
RELIEF REQUESTED

68. Plaintiffs respectfully request that this Court issue the following:

- a. A declaration that the persons in the leadership of plaintiff Diocese, as recognized by the Church and the Diocese, are the proper authorities entitled to the use and control of the real and personal property of the Diocese, including the property held by the Diocesan Corporation, and that defendants are not entitled to the use or control of said property;
- b. A declaration that the Trustees selected at the Diocese's Special Convention of February 7, 2009, or their successors as recognized by the plaintiffs, are the trustees of the Diocesan Corporation, and that the individual defendants are not trustees of the Diocesan Corporation;
- c. A declaration that the plaintiff Diocese is entitled to the exclusive use of the name, seal, and other intellectual property of the Diocese, including the name of the Diocesan Corporation, and that defendants may not use said name, seal, and other intellectual property;
- d. A declaration that all property held by or for the Diocese is held for and may be used only for the mission of the Church and the Diocese, subject to the Constitutions and canons of the Church and the Diocese;
- e. An order requiring defendants to vacate the real property of the Diocese and/or the Diocesan Corporation, including but not limited to property located at 2900

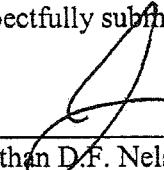
Alemeda Street, Fort Worth, Tarrant County, Texas, and at Camp Crucis in Hood County, Texas, and to relinquish to the proper authorities of the Diocese, as recognized by the Church, possession and control of all real and personal property of the Diocese;

- f. An order prohibiting defendants from holding the Southern Cone Diocese out as the Episcopal Diocese of Fort Worth or using the name, seal, symbols, and other trademarks of the Diocese;
- g. An order requiring defendants to provide an accounting of all real and personal property held by the Diocese on August 15, 2006;
- h. A judgment awarding all damages to which plaintiffs are entitled against defendants; and
- i. A judgment awarding plaintiffs their reasonable and necessary attorney fees, costs and expenses.

WHEREFORE, plaintiffs respectfully request that defendants be cited to appear and answer herein, that the Court enter the declarations specified above; that the Court issue the orders requested above; that plaintiffs have judgment against defendants for actual damages, for reasonable attorney fees, costs and expenses, for pre-judgment and post-judgment interest as allowed by law and for any and all other relief to which plaintiffs may show themselves justly entitled.

Dated: April 14, 2009

Respectfully submitted,

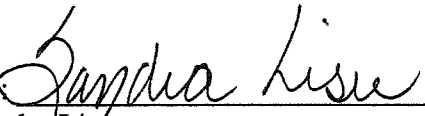
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