

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

EPISCOPAL DIOCESE OF FORT WORTH

Plaintiff,

VS.

THE RT. REV. JACK LEO IKER

Defendant.

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NO. 4:10-cv-00700-Y

**PLAINTIFF’S RESPONSE TO DEFENDANT’S  
DECEMBER 16, 2010 EMERGENCY MOTION TO STAY**

Plaintiff the Episcopal Diocese of Fort Worth (“the Episcopal Diocese”) files this Response to Defendant Iker’s December 16, 2010 “Emergency Motion of Defendant to Stay Plaintiff’s Motion for Partial Summary Judgment and All Other Proceedings Pending a Ruling On Motion to Intervene” and would respectfully show:

1. Iker’s motion fails to meet *or even state* the requirements for emergency stays. Iker misleadingly cites case law to this Court, using ellipses to omit reference to the controlling rule that he cannot satisfy. Iker ignores that rule’s express requirements, including **sworn affidavit evidence** supporting **specific rather than vague** descriptions of necessary facts. Iker provides none of this. His motion is fatally defective. It should be denied.

2. Worse still, Defendant Iker’s motion is a transparent attempt to delay partial summary judgment against actions that he cannot defend on the merits. Here, Iker is taking the unlawful position that he represents a religious entity when the highest authorities of that religion say he does not. Iker violates 100 years of unchanging First Amendment law and contradicts his own testimony and pleadings to prior courts. His only option is to delay judgment.

3. But Iker’s two grounds for stay prove the real intent of the motion. Iker urges this

Court to resolve his faction's Motion to Intervene, while claiming it is too soon to respond to his opposition's partial summary judgment motion. But the motions turn on the same question: which party is the Episcopal Diocese? Calling one motion ripe and the other premature is unpersuasive.

4. Every day that Iker delays partial summary judgment prolongs his unauthorized use of the Episcopal Diocese's marks and his siphoning of its goodwill. There is no legal basis for Iker's requested delay, and his motion should be denied.

5. Because his motion does not meet the procedural or substantive requirements of the controlling Federal Rule of Civil Procedure 56(f) and the heavy burden established in the relevant case law, Defendant Iker's Motion for Emergency Stay should be denied.

6. The legal bases for this conclusion are set forth in Plaintiff the Episcopal Diocese of Fort Worth's Brief in Support of this Response, filed herewith and incorporated as if fully set forth herein.

7. For the reasons set forth above and more fully in Plaintiff's Brief in Support, filed herewith, Plaintiff the Episcopal Diocese of Fort Worth respectfully moves that this Court DENY Defendant Iker's December 16, 2010 "Emergency Motion of Defendant to Stay Plaintiff's Motion for Partial Summary Judgment and All Other Proceedings Pending a Ruling on Motion to Intervene of The Episcopal Diocese of Fort Worth" and grant all further and other relief to which it may be justly entitled.

Dated: December 17, 2010

Respectfully submitted,

/s Jonathan D. F. Nelson

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***ATTORNEYS FOR PLAINTIFF  
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**CERTIFICATE OF SERVICE**

I hereby certify that on December 17, 2010, I electronically filed Plaintiff The Episcopal Diocese of Fort Worth's Response to Defendant's Emergency Motion to Stay with the clerk of the court for the United States District Court, Northern District of Texas, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to those attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means.

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