

CAUSE NO. 141-237105-09

THE EPISCOPAL CHURCH, et al.) IN THE DISTRICT COURT OF
)
VS.) TARRANT COUNTY, TEXAS
)
FRANKLIN SALAZAR, et al.) 141ST DISTRICT COURT

**FIRST AMENDED ORIGINAL PLEA IN INTERVENTION
OF EPISCOPAL CONGREGATIONS**

FILED
TARRANT COUNTY
2010 NOV 15 PM 4:55
THOMAS A. WOODEN
DISTRICT CLERK

TO THE HONORABLE JUDGE OF SAID COURT:

Now come The Rev. Christopher Jambor and Stephanie Burk, individually and as representatives of All Saints' Episcopal Church (Fort Worth); The Rev. ClayOla Gitane and Cynthia Eichenberger as representatives of All Saints' Episcopal Church (Weatherford); The Rev. ClayOla Gitane and Harold Parkey as representatives of Christ the King Episcopal Church (Fort Worth); Bill McKay and Ian Moore as representatives of Episcopal Church of the Good Shepherd (Granbury); Ann Coleman as a representative of Episcopal Church of the Good Shepherd (Wichita Falls); Constant Roberts Marks, IV and William Davis as representatives of St. Alban's Episcopal Church (Arlington); Vernon Gotcher and Ken Hood as representatives of St. Stephen's Episcopal Church (Hurst); Sandra Shockley as a representative of St. Mary's Episcopal Church (Hamilton); Sarah Walker as representative of Episcopal Church of the Holy Apostles (Fort Worth); Linda Johnson as a representative of St. Anne's Episcopal Church (Ft. Worth); the Rev. Susan Slaughter and Larry Hathaway individually and as representatives of St. Luke-in-the-Meadow Episcopal Church (Fort Worth); David Skelton as a representative of St. Mary's Episcopal Church (Hillsboro); All Saints' Episcopal Church (Fort Worth); All Saints' Episcopal Church (Wichita Falls); All Saints' Episcopal Church (Weatherford); Christ the King Episcopal Church (Fort Worth); Episcopal

Church of the Good Shepherd (Granbury); St. Alban's Episcopal Church (Arlington); St. Simon of Cyrene Episcopal Church (Fort Worth); St. Stephen's Episcopal Church (Hurst); St. Mary's Episcopal Church (Hamilton); St. Anne's Episcopal Church (Ft. Worth); St. Luke-in-the-Meadow Episcopal Church (Fort Worth); St. Mary's Episcopal Church (Hillsboro); Episcopal Church of the Ascension & St. Mark (Bridgeport); Episcopal Church of the Good Shepherd (Brownwood); Holy Comforter Episcopal Church (Cleburne); St. Elisabeth's Episcopal Church (Fort Worth); Holy Spirit Episcopal Church (Graham); Holy Trinity Episcopal Church (Eastland); Our Lady of the Lake Episcopal Church (Laguna Park); Trinity Episcopal Church (Dublin); Trinity Episcopal Church (Henrietta); Iglesia San Juan Apostol (Fort Worth); Iglesia San Miguel (Fort Worth); St. Anthony of Padua Episcopal Church (Alvarado); St. Alban's Episcopal Church (Hubbard); St. Andrew's Episcopal Church (Fort Worth); St. Andrew's Episcopal Church (Breckenridge); St. Andrew's Episcopal Church (Grand Prairie); St. Barnabas the Apostle Episcopal Church (Keller); St. Gregory's Episcopal Church (Mansfield); St. John's Episcopal Church (Fort Worth); St. John's Episcopal Church (Brownwood); St. John the Divine Episcopal Church (Burkburnett); St. Joseph's Episcopal Church (Grand Prairie); St. Laurence's Episcopal Church (Southlake); St. Luke's Episcopal Church (Mineral Wells); St. Mark's Episcopal Church (Arlington); St. Matthew's Episcopal Church (Comanche); St. Michael's Episcopal Church (Richland Hills); St. Paul's Episcopal Church (Gainesville); St. Patrick's Episcopal Church (Bowie); St. Peter-by-the-Lake Episcopal Church (Graford); St. Peter and St. Paul Episcopal Church (Arlington); St. Phillip the Apostle Episcopal Church (Arlington); St. Thomas the Apostle Episcopal Church (Jacksboro); St. Timothy's Episcopal Church (Fort Worth); and St. Vincent's Episcopal Church (Bedford); St. Stephen's Episcopal Church (Wichita Falls); Holy Apostles (Fort Worth); Episcopal Church of the Good Shepherd (Wichita Falls)

(collectively, the “Episcopal Congregations”)¹ and—subject to and without waiving any motion to strike, motion to sever and abate, and any motion to show authority under Texas Rule of Civil Procedure 12, as well as their right to amend—file this First Amended Original Plea in Intervention as Plaintiffs, and would respectfully show the Court the following:

OVERVIEW

1. This dispute revolves around the wrongful taking and use of the property of the individual parishes and missions within the Fort Worth Diocese by members of the congregations loyal to Rt. Rev. Jack Iker (referred to herein as “The Southern Cone Congregations”), in concert with Iker himself, and their purported withdrawal from The Episcopal Church and realignment with the Southern Cone. Bishop Iker, as well as those vestries, wardens, and rectors from individual parishes who have chosen to follow him, maintain that although they have left The Episcopal Church, they nevertheless should be able to keep all the church property.

2. Intervenors seek in this suit a number of remedies aimed at, among other things, forcing the return of church property to its rightful owners and trustees.

DISCOVERY CONTROL PLAN

3. Discovery in this matter is requested to be conducted under Level 3 pursuant to Texas Rule of Civil Procedure 190.4.

PARTIES

4. The Episcopal Congregations are the continuing parishes and missions of The Episcopal Church (also referred to as “the Church”), duly formed and existing pursuant to the Constitution and Canons of the Episcopal Diocese of Fort Worth (also referred to as “the

¹ Each of these Episcopal Congregations continues to be part of The Episcopal Church and its Episcopal Diocese of Fort Worth.

Diocese”). The Episcopal Congregations currently are in union with the Convention of the Episcopal Diocese of Fort Worth and are under the episcopal oversight of The Rt. Rev. C. Wallis Ohl, the current provisional bishop and a Plaintiff in this lawsuit. The Episcopal Congregations are unincorporated religious associations. The Episcopal Congregations are entitled to the use and possession of real property that is held in trust for their benefit by the Corporation of the Episcopal Diocese of Ft. Worth, a nonprofit corporation with The Rt. Rev. C. Wallis serving as Chairman of the Board of Trustees. The rightful ownership and control of this real property, along with other property in which the Episcopal Congregations have an interest, is at issue in this lawsuit.

5. Defendant the Rt. Rev. Jack Leo Iker was formerly an ordained member of the clergy of the Church and formerly Bishop of the Diocese. Defendant Bishop Iker continues to hold himself out as the Bishop of the Diocese and as a Trustee and Chair of the Diocesan Corporation, even though he has left The Episcopal Church. The Episcopal Congregations assert claims against Defendant Bishop Iker in his individual capacity and in his purported official capacity as bishop of the Diocese and Chairman of the Board of the Diocesan Corporation.

6. Defendants Judy Mayo, Franklin Salazar, Julia Smead, the Rev. Christopher Cantrell, the Rev. Timothy Perkins, the Rev. Ryan Reed, and the Rev. Thomas Hightower are former members of the Church and are wrongfully holding themselves out as being current or former members of the Standing Committee of the Diocese. The Episcopal Congregations assert claims against these Defendants in their individual capacities and in their purported official capacities as members of the Standing Committee of the Diocese. Defendants Mayo, Salazar, Smead, Cantrell, Perkins, and Reed have already appeared in this case. Episcopal Congregations

are informed and believe that Defendant Hightower may be served at his residence or place of employment in Tarrant County as follows:

The Rev. Thomas Hightower
3900 Morris Lane
Arlington, TX 76016

7. Defendants Franklin Salazar, Jo Ann Patton, Walter Virden, III, Rod Barber, and Chad Bates are former members of the Church and are wrongfully holding themselves out as Trustees of the Diocesan Corporation and as Trustees of the Fund for the Endowment of the Episcopate. The Episcopal Congregations assert claims against these Defendants, respectively, in their individual capacities and in their purported official capacities as Trustees of the Diocesan Corporation and as Trustees of the Endowment Fund.

8. The Episcopal Congregations are informed and believe that the party that has attempted to intervene as “The Corporation of the Episcopal Diocese of Fort Worth”—but that has no affiliation with The Episcopal Church—is either a faction not recognized by the Church or an entity of unknown form that is purportedly led by former members and clergy of the Church and the Diocese and whose leaders purport to be affiliated with the Anglican Province of the Southern Cone (hereinafter the “Southern Cone Corporation”). These purported leaders wrongfully hold themselves out to be the leaders of “The Corporation of The Episcopal Diocese of Fort Worth” and are wrongfully doing business as the Diocesan Corporation. The Episcopal Congregations do not, by any means, concede that these purported leaders have the capacity to appear or cause this party, entity, or faction to appear as the “Corporation of the Episcopal Diocese of Fort Worth.” The only legitimate and recognized corporation by this name is governed by trustees the Rt. Rev. C. Wallis Ohl, Robert M. Bass, Cherie Shipp, Dr. Trace Worrell, the Rev. James Hazel, and the Rev. John Stanley, a Texas non-profit corporation with

its principal office in Fort Worth, Texas, formed in 1983 pursuant to the Constitution and Canons of the Diocese to hold and manage the property of the Diocese subject to the Constitutions and Canons of the Church and the Diocese.

9. The Episcopal Congregations are informed and believe that the party defendant that has appeared as “The Episcopal Diocese of Fort Worth”—but which has no affiliation with The Episcopal Church—is either a faction not recognized by the Church or an entity of unknown form that is purportedly led by former members and clergy of the Church and the Diocese and whose leaders purport to be affiliated with the Anglican Province of the Southern Cone (hereinafter the “Southern Cone Diocese”). These purported leaders wrongfully hold themselves out to be the leaders of the historical Episcopal Diocese of Fort Worth and are wrongfully doing business as the Diocese. The Episcopal Congregations do not, by any means, concede that these purported leaders have the capacity to appear or cause this party, entity, or faction to appear as the “Episcopal Diocese of Fort Worth.” The only legitimate and recognized entity by this name is led by the Rt. Rev. C. Wallis Ohl.

10. The Episcopal Congregations are informed and believe that the following Intervenor and Counter-Defendants are either factions within those congregations, parishes, or missions or entities of unknown form purportedly led by former members and clergy of the Church and the Diocese who purport to be affiliated with the Anglican Province of the Southern Cone and the Southern Cone Diocese: the purported ST. ANTHONY OF PADUA CHURCH (Alvarado), St. ALBAN’S CHURCH (Arlington), ST. MARK’S CHURCH (Arlington), CHURCH OF ST. PETER AND ST. PAUL (Arlington), CHURCH OF ST. PHILIP THE APOSTLE (Arlington), ST. VINCENT’S CATHEDRAL (Bedford), ST. PATRICK’S CHURCH (Bowie), ST. ANDREW’S CHURCH (Breckenridge), GOOD SHEPHERD CHURCH

(Brownwood), ST. JOHN'S CHURCH (Brownwood), CHURCH OF ST. JOHN THE DIVINE (Burkburnett), HOLY COMFORTER CHURCH (Cleburne), ST. MATTHEW'S CHURCH (Comanche), TRINITY CHURCH (Dublin), HOLY TRINITY CHURCH (Eastland), CHRIST THE KING CHURCH (Fort Worth), IGLESIA SAN JUAN APOSTOL (Fort Worth), IGLESIA SAN MIGUEL (Fort Worth), ST. ANDREW'S CHURCH (Fort Worth), ST. ANNE'S CHURCH (Fort Worth), CHURCH OF ST. BARNABAS THE APOSTLE (Fort Worth), ST. JOHN'S CHURCH (Fort Worth), ST. MICHAEL'S CHURCH (Richland Hills), CHURCH OF ST. SIMON OF CYRENE (Fort Worth), ST. TIMOTHY'S CHURCH (Fort Worth), ST. PAUL'S CHURCH (Gainesville), GOOD SHEPHERD CHURCH (Granbury), CHURCH OF THE HOLY SPIRIT (Graham), ST. ANDREW'S CHURCH (Grand Prairie), ST. JOSEPH'S CHURCH (Grand Prairie), ST. LAURENCE'S CHURCH (Southlake), ST. MARY'S CHURCH (Hamilton), TRINITY CHURCH (Henrietta), ST. MARY'S CHURCH (Hillsboro), ST. ALBAN'S CHURCH (Hubbard), ST. STEPHEN'S CHURCH (Hurst), CHURCH OF ST. THOMAS THE APOSTLE (Jacksboro), CHURCH OF OUR LADY OF THE LAKE (Laguna Park), ST. GREGORY'S CHURCH (Mansfield), ST. LUKE'S CHURCH (Mineral Wells), CHURCH OF ST. PETER BY THE LAKE (Graford), ALL SAINT'S CHURCH (Weatherford), ALL SAINT'S CHURCH (Wichita Falls), CHURCH OF THE GOOD SHEPHERD (Wichita Falls), and CHURCH OF THE ASCENSION & ST. MARK (Bridgeport), (hereinafter the "Southern Cone Congregations" including Southern Cone All Saints' Episcopal Church as set forth below). These purported leaders of these factions or entities wrongfully hold themselves out as being the leaders of the Episcopal Congregations and are wrongfully doing business in the name of and as the Episcopal Congregations. The Episcopal Congregations are informed and believe that an entity calling itself All Saints' Episcopal Church is a faction which purports to be

affiliated with the Anglican Province of the Southern Cone and the Southern Cone Diocese. The Rector of the Southern Cone All Saints' Episcopal Church is the Rev. Darryl Pigeon who may be served at his place of employment as follows:

4629 Bryce Avenue
Fort Worth, Texas 76107

11. All parties to this cause of action may be served with this Plea in Intervention by and through their respective attorneys of record. Defendants and Intervenors/Third-Party Plaintiffs/Counter-Defendants the Southern Cone Congregations have already appeared in this suit.

JURISDICTION AND VENUE

12. This Court has jurisdiction over this matter, because it involves real property located in part in Tarrant County, Texas, and 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.

BACKGROUND

The Congregations

13. As shown in the Plea in Intervention of the putative Southern Cone Congregations, those putative intervenors still occupy and use the real and personal property, records, funds and other property of many of these continuing Episcopal parishes and missions of the Diocese and continue to use their names, property, and programs for the use of a church other than The Episcopal Church.

14. The Southern Cone Congregations, respectively, have judicially admitted that they are “under the episcopal oversight of the Rt. Rev. Jack Leo Iker, a defendant in this cause.” *See* Plea in Intervention, paragraph II. They claim not to be “a part of, and subject to, [The

Episcopal Church] and its Constitution and Canons” as required under the Dennis Canon in order for a congregation to maintain control of property held by it or for its benefit. Thus even if any of the Episcopal congregations ceased to exist (which the Episcopal Congregations do not allege), then under the Dennis Canon and Diocesan Canon 18, any real and personal property held for the use and benefit of that congregation would revert to the Diocese recognized by the Church for the use of the mission of the Church. Thus, under no scenario can a congregation purport to leave The Episcopal Church and its Diocese and still occupy and use—for another church—the real and personal property it had held in trust for the mission of the Episcopal Church.

15. Although the Defendants and leaders of the Southern Cone Congregations have left the Church and the Diocese for a different denomination, they continue to use the names, seals, and other symbols of the Diocese and the Diocesan Corporation and many of the parishes and/or missions of the Diocese, and hold the entities or factions affiliated with that denomination out as the continuing Episcopal Diocese of Fort Worth and many of the parishes and missions of the Diocese.

16. Intervening Plaintiffs hereby incorporate by this reference all the allegations and factual recitations set out in paragraphs 14-70 of Individual Plaintiffs’ Fifth Amended Original Petition.

FIRST CAUSE OF ACTION
(Declaratory and Injunctive Relief and Accounting)

17. The Episcopal Congregations, individually and collectively, bring this claim against Defendants Bishop Iker, Judy Mayo, Franklin Salazar, Julia Smead, the Rev. Christopher Cantrell, the Rev. Timothy Perkins, the Rev. Ryan Reed, the Rev. Thomas Hightower, Jo Ann Patton, Walter Virden, III, Rod Barber, Chad Bates, and—to the extent necessary and possible—

against the Southern Cone Diocese and the Southern Cone Corporation. Additionally, the Episcopal Congregations also bring this claim against the Southern Cone Congregations.

18. The Episcopal Congregations take the position that the actions described 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, parishes, and missions, subject to the Constitutions and Canons of the Church and the Diocese; that the Diocese and its parishes and missions remain a subordinate part of the Church for all purposes; and that well-established Texas law recognizes that a constituent part of a hierarchical church is represented by those individuals who remain part of and loyal to the hierarchical church.

19. The Defendants and leaders of the Southern Cone Congregations apparently take the position that they have the right to govern the Diocese, the Diocesan Corporation, and the Endowment Fund and possess and use all the parishes and missions and property within the Diocese, even though the Defendants are not connected with The Episcopal Church.

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

21. As a result of the Defendants' and leaders' of the Southern Cone Congregations continued use and possession of the property of the Diocese, parishes, and missions 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, the Episcopal Congregations have suffered and will continue to suffer irreparable

injury. Injunctive relief is necessary and proper to enforce the parties' rights and duties with respect to the issues described above.

22. The exact nature and extent of the Diocesan and congregational accounts, including endowed funds, income, and disbursements, and other contractual and other interests are unknown to the Episcopal Congregations and cannot be determined without an accounting of the transactions and transfers of Diocesan property and an investigation of all financial accounts and funds in the name of or for the benefit of the Diocese and its parishes and/or missions, which accounts and funds have been used and depleted by the Defendants and leaders of the Southern Cone Congregations.

SECOND CAUSE OF ACTION
(Conversion)

23. The Episcopal Congregations, individually and collectively, bring this claim against Defendants Bishop Iker, Judy Mayo, Franklin Salazar, Julia Smead, the Rev. Christopher Cantrell, the Rev. Timothy Perkins, the Rev. Ryan Reed, the Rev. Thomas Hightower, Jo Ann Patton, Walter Virden, III, Rod Barber, Chad Bates, and—to the extent necessary—against the Southern Cone Diocese and the Southern Cone Corporation. The Episcopal Congregations also bring this claim against the Southern Cone Congregations.

24. The Episcopal Congregations own or have the duty to administer valuable real and 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.

25. Defendants and the leaders of the Southern Cone Congregations have converted the foregoing property of the Episcopal Congregations by wrongfully claiming it, wrongfully

possessing and using 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.

26. In or after November 2008, the Southern Cone Congregations, under Iker's leadership, unlawfully retained possession of and converted the foregoing property by wrongfully claiming it, wrongfully possessing and using 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

27. A number of members of the diocese and their attorneys have demanded the return of the foregoing property, but the demands have been refused.

THIRD CAUSE OF ACTION
(Texas Business & Commerce Code § 16.29)
(15 U.S.C. § 1125(a) – The Lanham Act)²

28. The Episcopal Congregations, individually and collectively, bring this claim against Defendants Bishop Iker, Judy Mayo, Franklin Salazar, Julia Smead, the Rev. Christopher Cantrell, the Rev. Timothy Perkins, the Rev. Ryan Reed, the Rev. Thomas Hightower, Jo Ann Patton, Walter Virden, III, Rod Barber, Chad Bates, and—to the extent necessary—against the Southern Cone Diocese and the Southern Cone Corporation.

29. The Episcopal Congregations also bring this claim against the Southern Cone Congregations.

30. The names and service marks of the Episcopal Congregations have been used continuously and exclusively by the Episcopal Congregations to carry out the mission of the Church in the Diocese and are valid trade and service names and marks under the common law as well as under the Lanham Act.

² This cause of action does not apply to the Southern Cone entity calling itself All Saints' Episcopal Church.

31. Defendants are using the foregoing trade names and marks in commerce in connection with an entity or entities or faction or factions unrelated to the Episcopal Congregations and without their permission. Defendants are thereby falsely designating the origin of the services, misleading the public and misrepresenting the authority by which the congregations are operating. This has and will continue to cause a likelihood of confusion and harm Intervening Plaintiffs. Further, such use is likely to dilute and distinctive quality of the foregoing trade and service names and marks.

32. As a result, Defendants have violated both Texas Business & Commerce Code § 16.29 and The Lanham Act.

FOURTH CAUSE OF ACTION
(Breach of Fiduciary Duty)

33. The Episcopal Congregations, individually and in their other stated capacities, bring this claim against Defendants Bishop Iker, Judy Mayo, Franklin Salazar, Julia Smead, the Rev. Christopher Cantrell, the Rev. Timothy Perkins, the Rev. Ryan Reed, the Rev. Thomas Hightower, Jo Ann Patton, Walter Virden, III, Rod Barber, Chad Bates, the Southern Cone Congregations, and—to the extent necessary—against the Southern Cone Diocese and the Southern Cone Corporation.

34. The Episcopal Congregations also bring this claim against the Southern Cone Congregations.

35. Defendants and the purported leaders of the Southern Cone Congregations owe fiduciary duties to the Episcopal Congregations, the Diocese, its Diocesan Corporation, and The Episcopal Church. The actions of Defendants and the purported leaders of the Southern Cone Congregations—including violating their constitutional and canonical obligations, purporting to affiliate with an unrelated entity while taking parish property, and misappropriating funds and

the trade name and distinctive marks of the Diocese and Episcopal Congregations—constitute breaches of fiduciary duty. Defendants benefited from these acts. The Episcopal Congregations have been injured by these acts and seek equitable and legal relief. To the extent the Southern Cone Corporation or the Southern Cone Diocese or the leaders of the Southern Cone Congregations aided and abetted, knowingly participated in, or received the benefits of these breaches of fiduciary duty, the Episcopal Congregations also seek this relief from these Southern Cone entities or factions as well.

36. To the extent that the Southern Cone Corporation, the Southern Cone Diocese, and/or the Southern Cone Congregations aided and abetted or knowingly participated in the breaches of fiduciary duties of the other Defendants and/or the purported leaders of the Southern Cone Congregations, the Episcopal Congregations seek the same relief against the Southern Cone Corporation, the Southern Cone Diocese, and/or the Southern Cone Congregations, subject to and without waiving any motions to strike and any Rule 12 motions to be filed.

FIFTH CAUSE OF ACTION
(Action to Quiet Title)

37. The Episcopal Congregations, individually and collectively, bring this claim against Defendants Bishop Iker, Judy Mayo, Franklin Salazar, Julia Smead, the Rev. Christopher Cantrell, the Rev. Timothy Perkins, the Rev. Ryan Reed, the Rev. Thomas Hightower, Jo Ann Patton, Walter Virden, III, Rod Barber, Chad Bates and—to the extent necessary—against the Southern Cone Diocese and the Southern Cone Corporation. The Episcopal Congregations also bring this claim against the Southern Cone Congregations.

38. The Episcopal Congregations have an interest in the disputed property, substantially all of which is being improperly held by Defendants; title to this property is

affected by a claim by the Defendants, and that claim is *ultra vires*, void, invalid, and unenforceable.

SIXTH CAUSE OF ACTION
(Trespass to Try Title)

39. The Episcopal Congregations, individually and collectively, bring this claim against Defendants Bishop Iker, Judy Mayo, Franklin Salazar, Julia Smead, the Rev. Christopher Cantrell, the Rev. Timothy Perkins, the Rev. Ryan Reed, the Rev. Thomas Hightower, Jo Ann Patton, Walter Virden, III, Rod Barber, Chad Bates and—to the extent necessary and possible—against the Southern Cone Diocese and the Southern Cone Corporation. The Episcopal Congregations also bring this claim against the Southern Cone Congregations (except Southern Cone All Saints).

40. The Episcopal Congregations seek to recover by proof of title the property unlawfully possessed by Defendants. The Episcopal Congregations have a regular chain of conveyances from the sovereignty of the soil; a superior title out of a common source; and/or title by prior possession that has not been abandoned. The Episcopal Congregations were in possession of this property prior to Defendants' improper and unlawful actions, and the Episcopal Congregations are entitled to possession. Defendants unlawfully entered upon and dispossessed the Episcopal Congregations of such premises in or after November 2008 and withhold from the Episcopal Congregations the possession thereof.

RELIEF REQUESTED

41. The Episcopal Congregations respectfully request that this Court issue the following as to Defendants, including all of the named individuals, the Southern Cone Diocese, the Southern Cone Corporation, and the Southern Cone Congregations:

a. A declaration that the Episcopal Congregations are the continuing congregations of the Episcopal Diocese of Fort Worth entitled to the use, possession, and control of the real, personal, and intellectual property claimed by the Southern Cone Congregations and that the Southern Cone Congregations are not congregations of the Episcopal Diocese of Fort Worth..

b. A declaration that the current leadership of the Episcopal Congregations and their duly elected or appointed successors, not the current leadership of the Southern Cone Congregations or their successors, are the rightful leaders of the Episcopal Congregations, as recognized by The Episcopal Church, and are entitled to the use and control of the real, personal, and intellectual property of the Episcopal Congregations, including the property held by the Diocesan Corporation and the Endowment Fund, and that the Southern Cone Congregations and the leaders of the Southern Cone Congregations are not entitled to the use or control of said property;

c. A declaration that the Diocese that oversees the Episcopal Congregations is the continuing Episcopal Diocese of Fort Worth that has been a constituent entity of The Episcopal Church since its formation effective January 1, 1983 and continuing to the present day;

d. A declaration that the The Episcopal Church, its Fort Worth Diocese, and the respective Episcopal Congregations are entitled to the exclusive use of the name, seal, and other intellectual property of the Episcopal Congregations and that the Defendants and the Southern Cone Congregations may not use said name, seal, and other intellectual property;

e. A declaration that all property held by or for the Diocese and its parishes and missions 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;

f. A declaration that the September 5, 2006 and April 21, 2009 attempted changes to the articles and bylaws of the Diocesan Corporation were *ultra vires*, unauthorized, void, and without effect;

g. A declaration that the Defendants' and Southern Cone Congregations' actions seeking to withdraw the Episcopal Diocese of Fort Worth and all of its property from The Episcopal Church were and are unauthorized, void, and without effect.

h. An injunction requiring Defendants and the Southern Cone Congregations to vacate and surrender possession of the real property held in trust for the benefit of the Episcopal Congregations, and to relinquish to the Episcopal Congregations the possession of all real, personal, and intellectual property, including funds and records, of the Episcopal Congregations;

i. An injunction prohibiting Defendants and the Southern Cone Congregations from holding themselves out as the Episcopal Congregations or their officers and other leaders or using the names, seals, symbols, and other trademarks and intellectual property of the Episcopal Congregations;

j. An order requiring Defendants and the Southern Cone Congregations to provide an accounting of all real and personal property used or possessed by Defendants or the Southern Cone Congregations in the name of or purportedly on behalf of any of the Episcopal Congregations on and after August 15, 2006 to the present day;

k. A judgment against the Defendants and the Southern Cone Congregations awarding all damages to which the Episcopal Congregations are entitled, with prejudgment and post-judgment interest as allowed by law;

l. A judgment awarding title to the Corporation of the Episcopal Diocese of Fort Worth and possession to the proper officials of the Episcopal Congregations of the real property prayed for, as well as rents and profits;

m. Declaratory judgment invalidating Defendants' and/or the Southern Cone Congregations' claims to property and quieting title of property in the Corporation of the Episcopal Diocese of Fort Worth as governed by the Plaintiffs and associated with Third-Party Defendants;

n. A judgment awarding the Episcopal Congregations their reasonable and necessary attorney's fees, costs and expenses;

o. Other and further relief to which the Episcopal Congregations may be entitled.

WHEREFORE, the Episcopal Congregations respectfully request that the Court enter the declarations specified above; that the Court issue the orders requested above; that the Episcopal Congregations have judgment against Defendants as prayed for above, including against all of the named individuals, the Southern Cone Corporation, the Southern Cone Diocese, and the Southern Cone Congregations, and for any and all other relief to which the Episcopal Congregations may show themselves justly entitled.

Respectfully submitted,



Frank Hill	09632000
Anne Michels	18863600
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ATTORNEYS FOR EPISCOPAL CONGREGATIONS

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing First Amended Original Plea in Intervention of Episcopal Congregations has been sent this 15th day of November, 2010, by certified mail return receipt requested to:

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