

18. In a hierarchical church structure, such as the Diocese, the civil courts should defer to the actions of the ecclesiastical authorities determining the identity of the loyal group of members, officers and clergy. Where a division occurs in a parish affiliated with the Diocese, and a dispute arises as to the ownership or control of the parish's property, the members entitled to ownership and control are those parishioners adhering to and sanctioned by the Diocese.

19. In addition to being the beneficial owner of the Real Property, Holy Apostles also owns improvements located thereon, together with furnishings and fixtures thereon, and in addition bank accounts and other funds, investments and assets, having a total value in excess of the minimum jurisdictional amount of this Court. In view of the calculated way in which Defendants have proceeded, Plaintiffs have reason to believe and do believe that Defendants may attempt to convey, assign or give title, possession or use of such real personal property and records to some person, corporation or entity other than Church of the Holy Apostles. The loyal and true parishioners of Holy Apostles will be deprived of their right to use and enjoy the Real Property, the unique memorials and other property of Holy Apostles. If Defendants do so convey, assign, spend or give away any or all of Holy Apostles' Real Property, or other assets or records, Plaintiffs and the loyal members of Holy Apostles have no adequate remedy at law.

20. Plaintiff seek declaration, pursuant to Section 37.01, et seq., Tex. Civ. Prac. & Rem. Code, that they are entitled to ownership and possession of the real and personal property sought in this case and for reasonable attorney's fees pursuant to the statute for bringing this action.

21. A temporary injunction should be issued, upon notice and hearing, temporarily enjoining the Defendants, their officers, agents, servants, employees and attorneys and those in active concert or participating with them from conveying, hypothecating, encumbering or otherwise clouding the title to the Real Property and all improvements and fixtures thereto; from removing, selling, assigning, damaging or in any way interfering with Plaintiffs' right to possession and use of the Real Property and the furnishings, fixtures and memorials pertaining to the Real Property; from withdrawing funds in all bank accounts, savings accounts, certificates of deposit, money market accounts and all other repositories for funds and from spending any funds already converted into cash or cash equivalent which were contributed originally or which contain funds originally contributed to Church of the Holy Apostles; from removing, damaging, destroying or in any other way interfering with the books, records, files and documents of all types belonging or in any way pertaining to Church of the Holy Apostles; and from purporting to exercise the authority and responsibility of any office of Church of the Holy Apostles. Upon trial on the merits, a permanent injunction should issue to the

same effect and, in addition, require Defendants to deliver to Plaintiffs the remainder of the personal property, funds, books, records and files and all other assets of Church of the Holy Apostles and to return to it all and any properties, funds, books, records, files and other assets previously removed from it by them.

22. As a result of the actions of the Defendants, Plaintiffs have incurred damages and should be entitled to recover from the Defendants damages in the form of reasonable rental recovery, the loss of use of the funds which were on hand when Plaintiffs were dispossessed of their property and other damages as may demonstrated at the time of trial, all of which Plaintiffs seek from Defendants in a sum in excess of the jurisdictional limits of the Court.


23. In the event of a trial on the merits and Defendants' remaining in possession of the property during the pendency of an appeal, Plaintiffs request that the Court appoint an individual to periodically inspect the real and personal property to insure that said property is properly maintained and protected. Should the Defendants fail to properly maintain and/or protect the property, Plaintiffs request that the Court retain the power and so order that Defendants either be dispossessed of the property and Plaintiffs be given possession or, in the alternative, that Defendants make the necessary repairs or maintenance within a reasonable amount of time; that the Court further retain the power and so order that should such repairs or maintenance not be made

that Defendants shall be liable for all costs of the maintenance and/or repairs and that they be dispossessed and that Plaintiffs be given possession.


WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that, upon notice, the Court hear this cause upon Plaintiffs' application for temporary injunction and that, upon such hearing, the Court issue its temporary injunction enjoining Defendants, their officers, agents, servants, employees and attorneys and those in active concert or participating with them from conveying, hypothecating, or otherwise clouding the title to the Real Property and all improvements and fixtures thereto; from removing, selling, assigning, damaging or in any way interfering with Plaintiffs' right to possession and use of the Real Property and the furnishings, fixtures and memorial pertaining to the Real Property; from purporting to exercise the authority and responsibility of any office of Church of the Holy Apostles; to deliver to Plaintiff all funds in all bank accounts, savings accounts, certificates of deposit, money market accounts and all other repositories for funds and all funds already converted into cash or cash equivalent which were contributed originally or which contain funds originally contributed to Church of the Holy Apostles; to deliver all books, records, files and documents of all types belonging or in any way pertaining to Church of the Holy Apostles; and to return to Plaintiffs all such properties, funds, books, records, files and other assets of Church of the Holy Apostles previously removed from

it by them; that upon trial on the merits, a permanent injunction for issue to the same effect and, in addition, require Defendants to deliver to Plaintiffs the remainder of the personal property, funds, books, records and files and all other assets of Church of the Holy Apostles and to return to it all and any properties, funds, books, records, files and other assets previously removed from it by them, for a declaration, pursuant to Section 37.01, et seq., Tex. Civ. Prac. & Rem. Code that Plaintiffs are entitled to the property, both real and personal, and other assets, for damages, reasonable attorney's fees, prejudgment and post-judgment interest as provided by law, for costs of courts and such other relief to which Plaintiffs may show themselves justly entitled.

Respectfully submitted,

  
N. MICHAEL KENSEL # 11316000  
FERRARA & KENSEL  
217 Overton Park Bank Building  
4200 South Hulen Street  
Fort Worth, TX 76109  
(817) 738-7000  
(817) 738-3344 (FAX)

ATTORNEY FOR PLAINTIFF  
CORPORATION OF THE EPISCOPAL DIOCESE  
OF FORT WORTH

A CERTIFIED COPY  
ATTEST. 12/13/10  
THOMAS A. WILDER  
DISTRICT CLERK  
TARRANT COUNTY, TEXAS  
BY:   
CAMERON WARDLOW

PLAINTIFFS' FIRST AMENDED ORIGINAL PETITION AND APPLICATION FOR  
TEMPORARY INJUNCTION AND PERMANENT INJUNCTION - Page 15 of 16

HOLY/1-1A/PSL



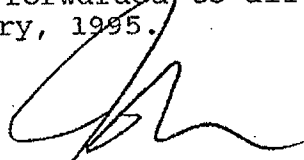
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JONATHAN NELSON - # 14900700  
BROUDE, NELSON & HARRINGTON, P.C.  
1000 Commerce Bldg.  
307 West Seventh Street  
Fort Worth, TX 76102  
(817) 335-1615  
(817) 335-1603 (FAX)

ATTORNEYS FOR PLAINTIFF  
CHURCH OF THE HOLY APOSTLES

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing document was forwarded to all counsel of record on this the 15th day of February, 1995.

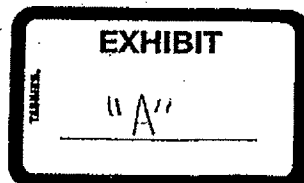


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JONATHAN NELSON

Lot 2-R, Block 1, Kin Acres, Addition to the City of Fort Worth, Tarrant County, Texas being a revision of Lots 3, 8, 4, a portion of Lots 2, 5, 6, 8, 9, 10, 11 and Block 12, Block 1 and a portion of Lots 1, 2 and 3, Block 2, Kin Acres Addition as Recorded in Vol. 388-5, page 79, Deed Records, Tarrant County, Texas and a part of the Nancy Casteel Survey, Abstract #349 and a portion of Eura Street adjacent to Blocks 1, 8, 2.

H:\DOCS\SUM\RIE32041001182505.1

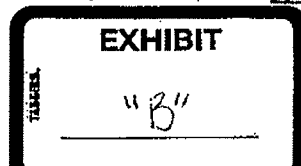


STANDING COMMITTEE

WE, THE UNDERSIGNED MEMBERS OF THE STANDING COMMITTEE OF THE EPISCOPAL DIOCESE OF FORT WORTH, FIND THAT THE REV. M.L. MCCAULEY OF THIS DIOCESE HAS OPENLY RENOUNCED THE DOCTRINE, DISCIPLINE, AND WORSHIP OF THIS CHURCH BY ATTEMPTING TO TAKE HIMSELF AND THE PEOPLE AND PROPERTY OF HOLY APOSTLES EPISCOPAL CHURCH TO THE JURISDICTION OF THE ANTIOCHIAN ORTHODOX CHRISTIAN ARCHDIOCESE OF NORTH AMERICA, A RELIGIOUS BODY NOT IN COMMUNION WITH THE EPISCOPAL CHURCH. AFFIDAVITS HAVE BEEN PRESENTED TO US ON THE ACTIONS OF THE REV. M.L. MCCAULEY AND THE VESTRY OF HOLY APOSTLES ON SUNDAY, 4 OCTOBER 1992, ABANDONING THE COMMUNION OF THIS CHURCH AND ON OTHER RELATED ACTIONS AT DIFFERENT TIMES BY THE REV. M.L. MCCAULEY, WHO IS A PRESBYTER CANONICALLY RESIDENT IN THIS DIOCESE. UNDER NATIONAL CANON IV. 10. WE RECOMMEND THAT OUR BISHOP INHIBIT THE REV. M.L. MCCAULEY FROM OFFICIATING, AFTER AFFIRMING OUR DETERMINATION.

DATED THIS 5TH DAY OF OCTOBER, 1992.

Chas. H. H. H. + [Signature]  
Greg. K. K. + [Signature]





*[Handwritten Signature]*

THE STATE OF TEXAS )  
COUNTY OF TARRANT )

BEFORE ME, THE UNDERSIGNED AUTHORITY, THIS DAY PERSONALLY APPEARED THE ABOVE NAMED PERSONS \_\_\_\_\_ KNOWN TO ME TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME FOR THE PURPOSES THEREIN EXPRESSED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 5<sup>th</sup> DAY OF April 1992.

*[Handwritten Signature]*  
NOTARY PUBLIC IN AND FOR TARRANT COUNTY, TEXAS

MY COMMISSION EXPIRES  
2-25-95



# THE EPISCOPAL DIOCESE OF FORT WORTH

October 5, 1992

Rev. M. L. McCauley  
Holy Apostles  
3900 Longvue Avenue  
Fort Worth, TX 76126

Dear Father McCauley:

Under National Canon IV. 10, you are inhibited for six months from officiating. Attached to this letter is a copy of the Standing Committee's action. Unless you within six months retract the acts charged or declare that the facts alleged in the certificate are false, a sentence of deposition from the ministry will be imposed.

Faithfully yours,

Bishop of Fort Worth



THE RT. REV. CLARENCE C. POPE, JR., D.D.  
BISHOP

4300 ROGUEA PLACE, SUITE 1100  
FORT WORTH, TEXAS 76116  
817/732-4422

ELTON J. MURPHY  
EXECUTIVE FOR ADMINISTRATION  
ASSISTANT TO THE BISHOP

**TAB 2**

CAUSE NO. 153-144833-92

CORPORATION OF THE EPISCOPAL	§	IN THE DISTRICT COURT
DIOCESE OF FORT WORTH,	§	
CHURCH OF THE HOLY APOSTLES	§	
	§	
VS.	§	TARRANT COUNTY, TEXAS
	§	
THE REVEREND M.L. MCCAULEY,	§	
SOMETIME RECTOR AND CHAIRMAN	§	
OF THE VESTRY OF CHURCH OF	§	
THE HOLY APOSTLES; ALBON	§	
HEAD, SOMETIME SENIOR WARDEN	§	
AND STEVE BLACKMAN, SOMETIME	§	
JUNIOR WARDEN OF CHURCH OF	§	
THE HOLY APOSTLES; HORACE	§	
BOOTH, HOMER COX, BECKY	§	
HEAD, ROBERT MILLER, ROBERT	§	
PALMER, JEAN RICHARDSON,	§	
DON SHIPE, PAUL SNELL,	§	
AND JAMES CHARBONNET, SOMETIME	§	
MEMBER OF THE VESTRY OF CHURCH	§	
OF THE HOLY APOSTLES; AND THE	§	
SCHISMATIC AND PURPORTED CHURCH	§	
OF THE HOLY APOSTLES	§	153RD JUDICIAL DISTRICT

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES the CORPORATION OF THE EPISCOPAL DIOCESE OF FORT WORTH and CHURCH OF THE HOLY APOSTLES, Plaintiffs herein, and files this their Motion for Summary Judgment and would show the Court as follows:

1. There is no genuine issue as to any material fact and, therefore, Plaintiffs are entitled to summary judgment as a matter of law.

2. The Affidavits of Bishop Jack Iker, Reverend Canon Billie Boyd, Reverend Canon James P. DeWolfe, Jr., Robert J. Rigdon, and George J. Komechak, attached as Exhibits "A" through "E" establish

NOTED & RECORDED  
 SERIALIZED & INDEXED  
 DEC 13 8 21 AM '10  
 [Signature]

the following facts.

I.

**FACTS**

1. The Episcopal Diocese of Fort Worth is situated in all or parts of twenty-four counties in North Central Texas, including all of Tarrant County, Texas. It is a diocese of The Protestant Episcopal Church in the United States of America ("The Episcopal Church"), which is a confederation of dioceses situated primarily in the United States, but also in Latin America and Europe. The Bishops of The Episcopal Church are members of the Anglican Communion, which is composed of Bishops of the Church of England and numerous other Anglican churches world-wide. The Anglican Communion is itself in communion, reciprocally acknowledging validity of each others Orders and Sacraments, with certain other Anglican churches around the world. The Anglican Communion, the Episcopal Church and the Episcopal Diocese of Fort Worth are not in communion with the various Orthodox Churches, including the Antiochean Orthodox Church. Consequently, no member of the Antiochean Orthodox Church is in communion with the Episcopal Bishop of Fort Worth.

2. The Episcopal Church, originating in the North American colonies as a part of the Church of England, is an historic Reformation church. It separated from the Roman Catholic Church in the sixteenth century but preserved catholic faith and order, including the Apostolic succession of its Bishops and the three-

fold Orders of Bishops, Priests and Deacons. The Diocese is an hierarchial church, meaning: 1) each parish consists of members of The Episcopal Church confirmed in or transferred to that parish, who are in communion with the Bishop and the parish being in union with the diocesan convention; 2) each parish exists by virtue of its creation by the Bishop and the diocesan convention; 3) each parish is subject to the jurisdiction of the Bishop and the constitution of the diocese; 4) the government of the parish is subject to review and control of the Bishop and diocesan institutions in various important particulars, including the use of real property used for religious purposes, including those pursuant to Canon 30; 5) legal title to such real property is reposed in the Diocesan Corporation rather than in the parish; and 6) priests and deacons serving in the parish either are ordained pursuant to approval of diocesan bodies and the Bishop or, having been ordained in another diocese of The Episcopal Church or other church with which the Diocese is in communion, may become canonically resident and serve in the Diocese as a priest or deacon only with the consent of the Bishop. Under the Constitution of the Diocese and under Canon law, no person may be a member of a parish who is not a member of The Episcopal Church, and no person may serve on the vestry of a parish who is not a member, canonically resident, in that parish. Further, no parish which is affiliated with the Antiochian Orthodox Church can be in union with the Convention of the Diocese.

3. Holy Apostles was initially organized as a non-self-supporting mission of the Diocese on June 12, 1964. Both the Diocese and All Saints' Church, a parish of the Diocese for many years, gave Holy Apostles financial assistance both for its operating budget and for the acquisition of real property on which to build a church. The funds provided by the Diocese and by All Saints' Church were gifts to Holy Apostles, rather than loans, and were never repaid. Holy Apostles has also received financial assistance in the form of a loan from the Crump Fund for construction of improvements on the Real Property, said loan being made at a below-market interest rate of 2% per annum. The Crump Fund by its trust indenture may lend only to Episcopal parishes, and such below-market loan conveyed a substantial benefit for which Holy Apostles would not qualify otherwise and used Crump moneys which would have otherwise been available to some other Episcopal parish. Holy Apostles was admitted to the diocesan convention as a parish on October 6, 1979.

4. Defendant McCauley gradually acquired a Vestry uncanonically and unlawfully elected by plurality rather than majority vote, which assisted his enterprise. In early 1992, Defendant McCauley began a public campaign to lead parishioners of Holy Apostles into the Antiochian Orthodox Church. Efforts by the Bishop and by other members of the Diocese to dissuade Defendant McCauley and the unlawfully constituted Vestry, were unsuccessful. At the conclusion of two services on Sunday, October 4, 1992, the

Senior Warden announced to the parishioners that at 7:00 that morning, the Vestry had unanimously voted to leave The Episcopal Church and to petition to affiliate with the Antiochian Orthodox Church. At one service on October 4, 1992, Defendant McCauley made such announcement. Defendants McCauley and eleven of the twelve members of the Vestry thereby abandoned the communion of The Episcopal Church and ceased to be qualified to serve as a priest or as a member of the Vestry under the Constitution and Canons of the Diocese and of The Episcopal Church and canon law. Defendant McCauley has subsequently, on November 29, 1992, been reordained as a deacon, and the eleven vestry members and the members of the parish were chrismated as members of the Antiochian Orthodox Church on December 13, 1992.

5. On October 5, 1992, pursuant to canon law, the Bishop reported these events to the Standing Committee of the Diocese. The Standing Committee, having ascertained and considered the facts, determined by a vote of at least three-fourths of its members that Defendant McCauley had abandoned the communion of The Episcopal Church and of this Diocese. The Bishop thereupon affirmed such determination by the Standing Committee and inhibited Defendant McCauley from officiating in the Diocese. Upon such inhibition the office of the Rector of Holy Apostles became vacant, and the Bishop became Rector ex officio.

6. Having been informed that the unlawfully constituted Vestry of Holy Apostles had abandoned communion with The Episcopal



Church, on October 5, 1992, the Bishop sorrowfully accepted and acquiesced in their abandonment of communion with him and thereupon pronounced each lay member of the Vestry excommunicate. The Bishop thereupon further pronounced that all vestry offices of Holy Apostles are vacant, since all members of the Vestry had abandoned their qualification to hold such office under canon law. Subsequently it was learned that one member of the Vestry, Robert Rigdon had not participated in such actions, and the pronouncement of excommunication was ineffective as to him. Canonical procedure commenced to accept Defendant McCauley's abandonment of communion and to depose him as priest. Pending such proceeding, Defendant McCauley resigned his ministry as priest on November 26, 1992, which resignation was accepted on December 7, 1992.

7. On October 5, 1992, the Bishop called a special meeting of the parishioners of Holy Apostles for Sunday, October 11, 1992, to fill the vacancies on the Vestry and to call an interim Rector. At such election, Robert Rigdon, Ann Heinz, Helen Magnusson, Dave Huebner, Ivan Shadwick, and Charra Wright were elected to the Vestry and continue to serve as such. The Senior Warden is Robert Rigdon and the Junior Warden is George Komechek. Subsequently, at their yearly meeting on January 10, 1993, George Komechek, Ted Roe and Doris Boyd were also elected to the Vestry. The Rev. Canon James P. DeWolfe, Jr. has accepted a call as Interim Rector.

8. On October 5, 1992, demand was made on Defendants for uncontested possession of the Real Property and improvements of Holy Apostles. Such demand was refused.

9. Many of the loyal parishioners of Holy Apostles have pointed out their financial contributions and in addition the special, unique furnishings and fixtures given by them as memorials to Holy Apostles and have noted that it was never their intent that such gifts and memorials be converted to the use of the Antiochean Orthodox Church.

## II.

### ARGUMENT

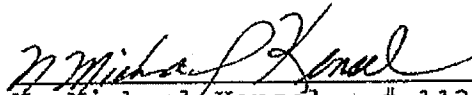
1. Those persons acting in concord with the Defendants have constituted themselves as the Schismatic and Purported Church of the Holy Apostles. Such persons are not members of the true Church of the Holy Apostles because they have joined the Antiochean Orthodox Church and thereby have abandoned communion with The Episcopal Church, and such Schismatic and Purported Holy Apostles is not in union with the Diocese, all as required by canon law. The Schismatic and Purported Church of the Holy Apostles is a new creation, having no relation to Holy Apostles and no right to its property.

2. In a hierarchical church structure, such as the Diocese, the civil courts should defer to the actions of the ecclesiastical authorities determining the identity of the loyal group of members,

officers and clergy. Where a division occurs in a parish affiliated with the Diocese, and a dispute arises as to the ownership or control of the parish's property, the members entitled to ownership and control are those parishioners adhering to and sanctioned by the Diocese. Therefore, Plaintiffs are entitled to legal and equitable ownership of the property in question as a matter of law.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs, CORPORATION OF THE EPISCOPAL DIOCESE OF FORT WORTH and CHURCH OF THE HOLY APOSTLES pray that their Motion for Summary Judgment be granted; that Defendants be ordered to vacate the property in question and return all personal property and other assets belonging to the Plaintiffs; that Plaintiffs recover their costs; and that they have such other and further relief to which they may show themselves to be justly entitled.

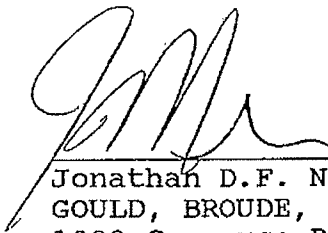
Respectfully submitted,



---

N. Michael Kensel - # 11316000  
FERRARA & KENSEL  
217 Overton Park Bank Building  
4200 South Hulen Street  
Fort Worth, TX 76109  
(817) 738-7000  
(817) 738-3344 (FAX)

ATTORNEY FOR PLAINTIFF  
CORPORATION OF THE EPISCOPAL DIOCESE  
OF FORT WORTH



Jonathan D.F. Nelson - # 14900700  
GOULD, BROUDE, & NELSON  
1000 Commerce Bank Bldg.  
307 West Seventh Street  
Fort Worth, TX 76102  
(817) 335-1615  
(817) 335-1603 (FAX)

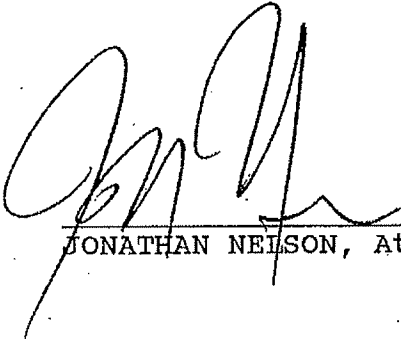
ATTORNEY FOR PLAINTIFF  
CHURCH OF THE HOLY APOSTLES

**CERTIFICATE OF SERVICE**

This is to certify that on the 8<sup>th</sup> day of December, 1993 a true and correct copy of the above and foregoing Plaintiffs' Motion for Summary Judgment has been mailed to:

Robert S. Travis  
CANTEY & HANGER  
2100 Burnett Plaza  
801 Cherry Street  
Fort Worth, TX 76102

VIA CM - P 909 063 301



JONATHAN NELSON, Attorney

A CERTIFIED COPY  
ATTEST. 10/18/10  
THOMAS A. WILDER  
DISTRICT CLERK  
TARRANT COUNTY, TEXAS  
BY: Cameron Wardlow  
CAMERON WARDLOW

A

CAUSE NO. 153-144833-92

CORPORATION OF THE EPISCOPAL	§	IN THE DISTRICT COURT
DIOCESE OF FORT WORTH,	§	
CHURCH OF THE HOLY APOSTLES	§	
VS.	§	TARRANT COUNTY, TEXAS
	§	
THE REVEREND M.L. MCCAULEY, et al.	§	153RD JUDICIAL DISTRICT

AFFIDAVIT OF  
BISHOP JACK IKER

STATE OF TEXAS	§
	§
COUNTY OF TARRANT	§

BEFORE ME THE UNDERSIGNED AUTHORITY, on this day personally appeared BISHOP JACK IKER, who, being by me duly sworn upon his oath deposed and stated as follows:

"My name is Bishop Jack Iker and I am the Bishop Coadjutor of Fort Worth. I am over the age of eighteen years and am in all respects competent to make this affidavit. I have personal knowledge of the facts stated herein and they are true and correct.

"The Diocese is an hierarchial church, meaning: 1) each parish consists of members of The Episcopal Church confirmed in or transferred to that parish, who are in communion with the Bishop and the parish being in union with the diocesan convention; 2) each parish exists by virtue of its creation by the Bishop and the diocesan convention; 3) each parish is subject to the jurisdiction of the Bishop and the constitution of the diocese; 4) the government of the parish is subject to review and control of the Bishop and diocesan institutions in various important particulars,

**EXHIBIT A**

including the use of real property used for religious purposes, including those pursuant to Canon 30; 5) legal title to such real property is reposed in the Diocesan Corporation rather than in the parish; and 6) priests and deacons serving in the parish either are ordained pursuant to approval of diocesan bodies and the Bishop or, having been ordained in another diocese of The Episcopal Church or other church with which the Diocese is in communion, may become canonically resident and serve in the Diocese as a priest or deacon only with the consent of the Bishop.

"The Bishops of The Episcopal Church are members of the Anglican Communion, which is composed of Bishops of the Church of England and numerous other Anglican churches world-wide.

"The Anglican Communion is itself in communion, reciprocally acknowledging validity of each others Orders and Sacraments, with certain other Anglican churches around the world.

"The Anglican Communion, The Episcopal Church and the Episcopal diocese of Fort Worth are not in communion with the various Orthodox Churches, including the Antiochean Orthodox Church.

"Under the Constitution of the Diocese and under Canon law, no person may be a member of a parish who is not a member of The Episcopal Church, and no person may serve on the vestry of a parish who is not a member, canonically resident, in that parish. Further, no parish which is affiliated with the Antiochean Orthodox Church can be in union with the Convention of the Diocese.

"Consequently, no member of the Antiochean Orthodox church is in communion with the Episcopal Bishop of Fort Worth.

"The Schismatic and Purported Church of the Holy Apostles is an unincorporated association or not-for-profit corporation organized for religious purposes as a member of the Antiochean Orthodox Church. It is composed in part of those persons who have heretofore been parishioners of Church of the Holy Apostles but have become members in the Antiochean Orthodox Church in accordance with action of the Sometime Vestry on or about October 4, 1992.

"On October 5, 1992, pursuant to canon law, the Bishop reported these events to the Standing Committee of the Diocese.

"Upon such inhibition the office of the Rector of Holy Apostles became vacant, and the Bishop became Rector ex officio.

"Having been informed that the unlawfully constituted Vestry of Holy Apostles had abandoned communion with The Episcopal Church, on October 5, 1992, the Bishop sorrowfully accepted and acquiesced in their abandonment of communion with him and thereupon pronounced each lay member of the Vestry excommunicate.

"The Bishop thereupon further pronounced that all vestry offices of Holy Apostles are vacant, since all members of the Vestry had abandoned their qualification to hold such office under canon law. Subsequently it was learned that one member of the Vestry, Robert Rigdon, had not participated in such actions, and the pronouncement of excommunication was ineffective as to him.



"On October 5, 1992, the Bishop called a special meeting of the parishioners of Holy apostles for Sunday, October 11, 1992, to fill the vacancies on the Vestry and to call an interim Rector.

"On October 5, 1992, demand was made on Defendants for uncontested possession of the Real Property and improvements of Holy Apostles. Such demand was refused.

"Canonical procedure was commenced to accept the Reverend M. L. McCauley's abandonment of communion and to depose him as priest.

"Pending such proceeding Defendant McCauley resigned his ministry as priest on November 26, 1992, which resignation was accepted on December 7, 1992.

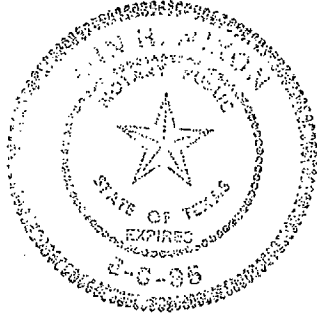
"Defendant McCauley has subsequently, on November 29, 1992, been reordained as a deacon, and the eleven vestry members and members of the Parish were chrismated as members of the Antiochean Orthodox Church on December 13, 1992.

"Those persons acting in concord with the Defendants have constituted themselves as the Schismatic and Purported Church of the Holy Apostles. Such persons are not members of the true Church of the Holy Apostles because they have joined the Antiochean Orthodox Church and thereby have abandoned communion with The Episcopal Church, and such Schismatic and Purported Holy Apostles is not in union with the Diocese, all as required by canon law. The Schismatic and Purported Church of the Holy Apostles is a new creation, having no relation to Holy Apostles and no right to its property.

"Further Affiant sayeth not."

*Jack Iker*  
BISHOP JACK IKER, Affiant

SWORN TO AND SUBSCRIBED before me on this 3<sup>rd</sup> day of  
November, 1993.



*David H. Wilson*  
NOTARY PUBLIC IN AND FOR  
THE STATE OF TEXAS

B

CAUSE NO. 153-144833-92

CORPORATION OF THE EPISCOPAL	§	IN THE DISTRICT COURT
DIOCESE OF FORT WORTH,	§	
CHURCH OF THE HOLY APOSTLES	§	
	§	
VS.	§	TARRANT COUNTY, TEXAS
	§	
THE REVEREND M.L. MCCAULEY, et al.	§	153RD JUDICIAL DISTRICT

AFFIDAVIT OF  
REVEREND CANON BILLIE BOYD

STATE OF TEXAS	§
	§
COUNTY OF TARRANT	§

BEFORE ME THE UNDERSIGNED AUTHORITY, on this day personally appeared the REVEREND CANON BILLIE BOYD, who, being by me duly sworn upon his oath deposed and stated as follows:

"My name is the Reverend Canon Billie Boyd, Assistant to the Bishop of Fort Worth. I am over the age of eighteen years and am in all respects competent to make this affidavit. I have personal knowledge of the facts stated herein and they are true and correct.

"The Episcopal Diocese of Fort Worth is situated in all or parts of twenty-four counties in North Central Texas, including all of Tarrant County, Texas.

"It is a diocese of The Protestant Episcopal Church in the United States of America ("The Episcopal Church"), which is a confederation of dioceses situated primarily in the United States, but also in Latin America and Europe.

AFFIDAVIT OF REVEREND CANON BILLIE BOYD - Page 1 of 3

HOLY/AFF3/PKR

**EXHIBIT B**

"Under the Constitution of the Diocese and under Canon law, no person may be a member of a parish who is not a member of The Episcopal Church, and no person may serve on the vestry of a parish who is not a member, canonically resident, in that parish.

"Holy Apostles was initially organized as a non-self-supporting mission of the Diocese on June 12, 1964.

"The Crump fund by its trust indenture may lend only to Episcopal parishes, and such below-market loan conveyed a substantial benefit for which Holy Apostles would not qualify otherwise and used Crump moneys which would have otherwise been available to some other episcopal parish.

"Holy Apostles was admitted to the diocesan convention as a parish on October 6, 1979.

"The Reverend McCauley and eleven of the twelve members of the Vestry by their actions of Sunday October 4, 1992 thereby abandoned the communion of the Episcopal Church and ceased to be qualified to serve as a priest or as a member of the Vestry under the Constitution and Canons of the Episcopal Diocese of Fort Worth and of the Episcopal Church and Canon Law.

"The Bishop informed the Standing Committee that the Reverend M. McCauley had lead the then Vestry to vote to leave the Episcopal Church and become affiliated with the Antiochean Orthodox Church and that they had abandoned the communion of the Episcopal Church and he had ceased to be qualified to serve as a priest or as a member of the Vestry under the Constitution and Canons of the

Diocese in the Episcopal Church in canon law.

"The Standing Committee, having ascertained and considered the facts, determined by a vote of at least three-fourths of its members that Reverend McCauley had abandoned the communion of The Episcopal Church and of this Diocese. A copy of such determination by the Standing Committee is attached hereto as Exhibit "A" and is hereby incorporated by reference.

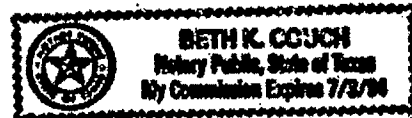
"The Bishop thereupon affirmed such determination by the Standing Committee and inhibited Reverend McCauley from officiating in the Diocese. A copy of such inhibition is attached hereto as Exhibit "B" and is hereby incorporated by reference.

"Further Affiant sayeth not."

*Billie L. Boyd*  
REVEREND CANON BILLIE BOYD,  
Affiant

SWORN TO AND SUBSCRIBED before me on this 19th day of November, 1993.

*Beth K. Couch*  
NOTARY PUBLIC IN AND FOR  
THE STATE OF TEXAS



STANDING COMMITTEE

WE, THE UNDERSIGNED MEMBERS OF THE STANDING COMMITTEE OF THE EPISCOPAL DIOCESE OF FORT WORTH, FIND THAT THE REV. M.L. MCCAULEY OF THIS DIOCESE HAS OPENLY RENOUNCED THE DOCTRINE, DISCIPLINE, AND WORSHIP OF THIS CHURCH BY ATTEMPTING TO TAKE HIMSELF AND THE PEOPLE AND PROPERTY OF HOLY APOSTLES EPISCOPAL CHURCH TO THE JURISDICTION OF THE ANTIOCHIAN ORTHODOX CHRISTIAN ARCHDIOCESE OF NORTH AMERICA, A RELIGIOUS BODY NOT IN COMMUNION WITH THE EPISCOPAL CHURCH. AFFIDAVITS HAVE BEEN PRESENTED TO US ON THE ACTIONS OF THE REV. M.L. MCCAULEY AND THE VESTRY OF HOLY APOSTLES ON SUNDAY, 4 OCTOBER 1992, ABANDONING THE COMMUNION OF THIS CHURCH AND ON OTHER RELATED ACTIONS AT DIFFERENT TIMES BY THE REV. M.L. MCCAULEY, WHO IS A PRESBYTER CANONICALLY RESIDENT IN THIS DIOCESE. UNDER NATIONAL CANON IV. 10. WE RECOMMEND THAT OUR BISHOP INHIBIT THE REV. M.L. MCCAULEY FROM OFFICIATING, AFTER AFFIRMING OUR DETERMINATION.

DATED THIS 5TH DAY OF OCTOBER, 1992.

Chas. H. Hays +  
Walter K. Obermann +

John T. ...  
Robert D. Patton

EXHIBIT A

*[Handwritten Signature]*

\_\_\_\_\_

THE STATE OF TEXAS )

COUNTY OF TARRANT )

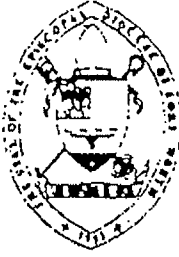
BEFORE ME, THE UNDERSIGNED AUTHORITY, THIS DAY PERSONALLY APPEARED THE ABOVE NAMED PERSONS \_\_\_\_\_ KNOWN TO ME TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME FOR THE PURPOSES THEREIN EXPRESSED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 5<sup>th</sup> DAY OF October, 1992.

*[Handwritten Signature]*  
NOTARY PUBLIC IN AND FOR TARRANT COUNTY, TEXAS

MY COMMISSION EXPIRES  
2-25-95





# THE EPISCOPAL DIOCESE OF FORT WORTH

October 5, 1992

Rev. M. L. McCauley  
Holy Apostles  
3900 Longvue Avenue  
Fort Worth, TX 76126

Dear Father McCauley:

Under National Canon IV. 10, you are inhibited for six months from officiating. Attached to this letter is a copy of the Standing Committee's action. Unless you within six months retract the acts charged or declare that the facts alleged in the certificate are false, a sentence of deposition from the ministry will be imposed.

Faithfully yours,

A handwritten signature in cursive script, appearing to read "Clarence C. Pope Jr.", written in dark ink.

Bishop of Fort Worth

## EXHIBIT B

C

CAUSE NO. 153-144833-92

CORPORATION OF THE EPISCOPAL	§	IN THE DISTRICT COURT
DIOCESE OF FORT WORTH,	§	
CHURCH OF THE HOLY APOSTLES	§	
	§	
VS.	§	TARRANT COUNTY, TEXAS
	§	
THE REVEREND M.L. MCCAULEY, et al.	§	153RD JUDICIAL DISTRICT

AFFIDAVIT OF  
REVEREND CANON JAMES P. DeWOLFE, JR.

STATE OF TEXAS §  
§  
COUNTY OF TARRANT §

BEFORE ME THE UNDERSIGNED AUTHORITY, on this day personally appeared the REVEREND CANON JAMES P. DeWOLFE, JR., who, being by me duly sworn upon his oath deposed and stated as follows:

"My name is Reverend Canon James P. DeWolfe, Jr., Interim Rector of Episcopal Church of Holy Apostles. I am over the age of eighteen years and am in all respects competent to make this affidavit. I have personal knowledge of the facts stated herein and they are true and correct.

"Holy Apostles acts through its Rector, Wardens and Vestry.

"Both the Episcopal Diocese of Fort Worth and All Saints' Church, a parish of the Diocese, for many years gave Holy Apostles financial assistance both for its operating budget and for the acquisition of real property on which to build a church.

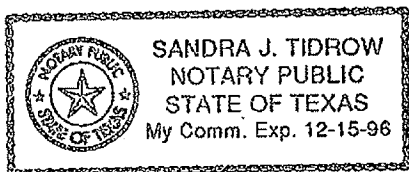
"The funds provided by the Diocese and by All Saints' Church were gifts to Holy Apostles, rather than loans, and were never repaid. All Saints' Church also guaranteed a loan with a mortgage

**EXHIBIT C**

company that was required to build the church on Chapin Road. Inasmuch as Holy Apostles made all mortgage payments on schedule, All Saints Church was not required to make a single payment on this loan.

"A Curate on the staff of All Saints' Church did much of the work to start Holy Apostles as a Mission in 1964. His salary was paid by All Saints' Church and the Diocese. I was the first Vicar of Holy Apostles Mission and remained in that position until the Curate, The Reverend Paul B. Clayton, Jr., was ordained to the priesthood, when he became the second Vicar. During that time, my salary was paid by All Saints' Church.

"Further Affiant sayeth not."



*James P. DeWolfe, Jr.*  
REVEREND CANON JAMES P. DEWOLFE, JR., Affiant

SWORN TO AND SUBSCRIBED before me on this 19 day of NOVEMBER, 1993.

*Sandra J. Tidrow*  
NOTARY PUBLIC IN AND FOR  
THE STATE OF TEXAS

D

CAUSE NO. 153-144833-92

CORPORATION OF THE EPISCOPAL	§	IN THE DISTRICT COURT
DIOCESE OF FORT WORTH,	§	
CHURCH OF THE HOLY APOSTLES	§	
	§	
VS.	§	TARRANT COUNTY, TEXAS
	§	
THE REVEREND M.L. MCCAULEY, et al.	§	153RD JUDICIAL DISTRICT

AFFIDAVIT OF  
ROBERT J. RIGDON

STATE OF TEXAS §  
§  
COUNTY OF TARRANT §

BEFORE ME THE UNDERSIGNED AUTHORITY, on this day personally appeared the ROBERT J. RIGDON, who, being by me duly sworn upon his oath deposed and stated as follows:

"My name is Robert J. Rigdon and I am a member of the Vestry of the Episcopal Church of Holy Apostles. I am over the age of eighteen years and am in all respects competent to make this affidavit. I have personal knowledge of the facts stated herein and they are true and correct.

"Many of the loyal parishioners of the Episcopal Church of Holy apostles have pointed out their financial contributions and in addition the special, unique furnishings and fixtures given by them as memorials to Holy Apostles and have noted that it was never their intent that such gifts and memorials be converted to the use of the Antiochian Orthodox Church. I personally have made financial contributions to Holy apostles and it was never my intention that any of those contributions would be converted to the

AFFIDAVIT OF ROBERT J. RIGDON - Page 1 of 3

HOLY/AFF4/PKR

**EXHIBIT D**

use of the Antiochian Orthodox Church.

"Reverend McCauley gradually acquired a Vestry uncanonically and unlawfully elected by plurality rather than majority vote, which assisted his enterprise. In early 1992, Reverend McCauley began a public campaign to lead parishioners of Holy Apostles into the Antiochean Orthodox Church. Efforts by the Bishop and other members of the Episcopal Diocese of Fort Worth to dissuade him and the unlawfully constituted Vestry, were unsuccessful. At the conclusion of two services on Sunday, October 4, 1992, the Senior Warden announced to the Parishioners that at 7:00 that morning, the Vestry had voted to leave the Episcopal Church and to petition to affiliate with the Antiochean Orthodox Church. At one service on October 4, 1992, the Reverend McCauley also made such announcement.

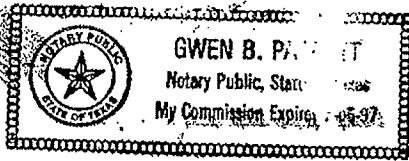
"On October 5, 1992, the Bishop called a special meeting of the loyal parishioners of Holy Apostles for Sunday, October 11, 1992, to fill the vacancies on the Vestry and to call an Interim Rector. At such meeting, duly convened, Robert Rigdon, Ann Heinz, Helen Magnusson, Dave Huebner, Ivan Shadwick, and Charra Wright were elected to the Vestry and continue to serve as such. Subsequently, at the yearly meeting on January 10, 1993, George Komechak, Ted Roe and Doris Boyd were also elected to the Vestry. I am the Senior Warden and George Komechak is the Junior Warden.


"The Reverend Canon James P. DeWolfe, Jr. is serving Holy Apostles as the Interim Rector.

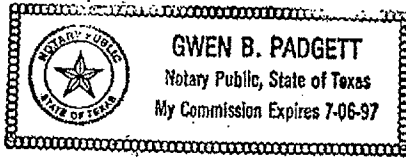
"Further Affiant sayeth not."

  
ROBERT J. RIGDON, Affiant

SWORN TO AND SUBSCRIBED before me on this 17<sup>th</sup> day of November, 1993.



  
NOTARY PUBLIC IN AND FOR  
THE STATE OF TEXAS





E

CAUSE NO. 153-144833-92

CORPORATION OF THE EPISCOPAL	§	IN THE DISTRICT COURT
DIOCESE OF FORT WORTH,	§	
CHURCH OF THE HOLY APOSTLES	§	
	§	
VS.	§	TARRANT COUNTY, TEXAS
	§	
THE REVEREND M.L. MCCAULEY, et al.	§	153RD JUDICIAL DISTRICT

AFFIDAVIT OF  
GEORGE J. KOMECHAK

STATE OF TEXAS	§
	§
COUNTY OF TARRANT	§

BEFORE ME THE UNDERSIGNED AUTHORITY, on this day personally appeared the GEORGE J. KOMECHAK, who, being by me duly sworn upon his oath deposed and stated as follows:

"My name is George J. Komechak and I am a member of the Vestry of the Episcopal Church of Holy Apostles. I am over the age of eighteen years and am in all respects competent to make this affidavit. I have personal knowledge of the facts stated herein and they are true and correct.

"The real property belonging to Holy Apostles on Chapin Road was sold on March 15, 1986 and the sale proceeds were used in the acquisition of the Real Property described on Exhibit "A" on which the parish's improvement are presently located.

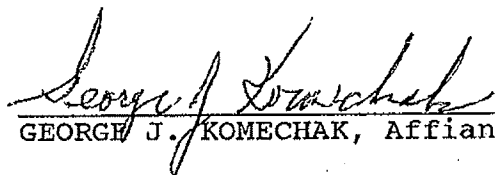
"In constructing the Holy Apostles Church on Longvue Avenue, financial assistance was received in the form of a loan from the Crump Fund, said loan being made at below market interest rate of 2% per annum.

AFFIDAVIT OF GEORGE J. KOMECHAK - Page 1 of 2

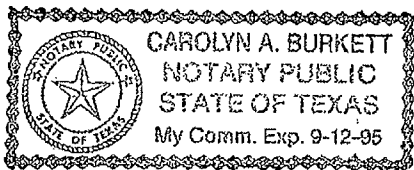
HOLY/AFF5/PKR


**EXHIBIT E**

"Further Affiant sayeth not."

  
GEORGE J. KOMECHAK, Affiant

SWORN TO AND SUBSCRIBED before me on this 7 day of  
December, 1993.



  
NOTARY PUBLIC IN AND FOR  
THE STATE OF TEXAS

**TAB 3**

RHS

CPA 1/24

RECORD NO. 01-2337

In The  
United States Court of Appeals  
For The Fourth Circuit

JANE HOLMES DIXON,

*Plaintiff - Appellee,*

v.

SAMUEL L. EDWARDS;  
THE VESTRY OF ST. JOHN'S PARISH,

*Defendants - Appellants.*

ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
AT GREENBELT

**BRIEF OF AMICI CURIAE RT. REV. JACK LEO IKER,  
BISHOP OF THE EPISCOPAL DIOCESE OF FORT WORTH, AND  
RT. REV. ROBERT DUNCAN, BISHOP OF THE EPISCOPAL DIOCESE OF  
PITTSBURGH IN SUPPORT OF SAMUEL L. EDWARDS AND THE WARDENS AND  
VESTRY OF CHRIST CHURCH, ST. JOHN'S PARISH, ACCOKEEK, MARYLAND  
SUPPORTING A REVERSAL OF THE COURT'S JUDGMENT**

Dec 21 4 27 PM '01  
FILED  
U.S. COURT OF APPEALS  
FOURTH CIRCUIT

Kenneth R. Matticks, Esq.  
Texas Bar No. 0075004281  
Application for Admission to the Bar of this Circuit  
Filed December 18, 2001  
The White House on Turtle Creek  
2401 Turtle Creek Boulevard  
Dallas, Texas 75219-4760  
214.528.1881, Extension 34  
214.528.1882 (Facsimile)  
kmatticks@ippractice.com

*Special Counsel to Amici Curiae*

FILED

JAN 8 2002

U.S. Court of Appeals  
Fourth Circuit  
True Copy, Teste:

Patricia S. Connor, Clerk

BY Jane W. Bajak

Deputy Clerk

6-18-09

THE LEX GROUP ♦ 1108 East Main Street ♦ Suite 1400 ♦ Richmond, VA 23219  
(804) 644-4419 ♦ (800) 856-4419 ♦ Fax: (804) 644-3660 ♦ www.thelexgroup.com

ECUSA 000849

STATEMENT OF IDENTITY OF THE *AMICI CURIAE*, HIS INTEREST IN  
THE CASE AND THE SOURCE OF HIS AUTHORITY TO FILE A BRIEF

The Rt Rev. Jack Leo Iker is the Bishop of the Diocese of Fort Worth (Texas) of the Episcopal Church USA. On May 27, 2001, Bishop Iker placed St. John's Parish under his episcopal protection upon the request of the Rector, Rev. Samuel Edwards, and Vestry of St. John's Parish (appellants in this appeal and hereinafter referred to as "Appellant Edwards" or "Appellant Vestry"). Joint Appendix ("JA") 278. That protection continues to this date. Moreover, Fr. Edwards remains canonically resident in the Diocese of Fort Worth. Bp Iker has a significant interest in this case because of his relationship with both Appellants.

The Rt Rev. Robert Duncan is the Bishop of the Diocese of Pittsburgh (Pennsylvania), is a bishop of the Province of Washington (Province III) and serves as the Chair of the American Anglican Council's Bishops' Network, a membership consisting of 40 active and retired bishops of the Episcopal Church

Moreover, as Bishops of the Church, they have a vital interest in the correct interpretation of church polity, doctrine and faith, and in maintaining the separation of Church and State.

### SUMMARY OF THE ARGUMENT

The lower court misunderstood the polity of the Episcopal Church USA hereinafter “Episcopal Church”, “ECUSA” or “the Church”), specifically in reference to the nature, power and role of a bishop within the Episcopal Church. The court’s misunderstanding led to at least three reversible errors in the court’s ruling. First, the Diocese of Washington is an indispensable party to this suit because an Episcopal bishop, unlike perhaps a bishop of the Roman Catholic Church, is governed by the constitution and canons of the Church. An Episcopal Bishop is not an independent authority to act for the Church in his own name. Second, the lower court misconstrued the procedure of the Episcopal Church in calling a rector from one diocese to another, both as to the “30-day rule” and what is meant by the requirement that a prospective rector be “duly qualified.”

In a broader context, the court’s actions in this case, and at least some of the errors in its ruling, underlines the rationale for cases that mandate that courts remain free of ecclesiastical disputes until fully adjudicated within the ecclesiastical bodies and, further, to accept and defer to the decisions of ecclesiastical tribunals. For this reason alone, the trial court erred by not dismissing this case.

Finally, the Court erred in granting summary judgment under Rule 56, Federal Rules of Civil Procedure. There is credible evidence presented by Appellants Edwards and Vestry on a variety of material facts that was either ignored entirely or discounted by the lower court to reach the decision it announced. Simply put, the Court failed to follow the clear dictates of Rule 56, Fed. R. Civ. P., for deciding summary judgment motions.

#### ARGUMENT

- I. The Lower Court erred in not dismissing the case under Rule 19, Fed. R. Civ. P., in that the Episcopal Diocese of Washington is an indispensable party to this suit

In order to determine whether the Diocese of Washington is an indispensable party for purposes of Rule 19, Fed. R. Civ. P., the Court must properly understand the position of an Episcopal bishop within his diocese. There are some churches in which the Bishop and his diocese are interchangeable for one another, *i.e.*, the Bishop is the diocese and he speaks with nearly absolute authority as the diocese.<sup>1</sup>

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<sup>1</sup> "Peter has spoken, and Peter is judged by none" may be a motto of medieval Popes, but is not representative of the polity of the Episcopal Church. Supplemental Affidavit of Rev. Dr. Louis R. Taristano. JA 665.



It is *his* diocese. The Roman Catholic Church is but one example.<sup>2</sup> This is understanding of the lower court with respect to the Episcopal Church as reflected in its ruling, and it is an incorrect understanding.

An episcopal bishop is elected by the laity and clergy of a diocese and must be approved by the House of Bishops and the Standing Committees of the Episcopal Church before being seated as a bishop of the Church. *See*, Title III, Canon 22 of the *Constitution and Canons...of the...Episcopal Church, Adopted in General Conventions 1789-2000, as Revised by the 2000 Convention* (hereinafter referred to as "Canons of ECUSA"). Although given great deference as a leader in much the same way as the President of the United States is given deference, neither the President or an Episcopal bishop acts independently of the checks and balances of the legal system of which they are a part. **A bishop must adhere to the constitution and canons of the Church or be subject to discipline.** *See*, Title III, Canon 24; Title IV: Ecclesiastical Discipline of the Canons of ECUSA.

A bishop of the Church, again in the same way as the President of the United States, is a leader and representative of the people he serves. Although both may act in an individual capacity, their public acts can only be in their official

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<sup>2</sup> The Bishop of Rome and Pope is believed by Roman Catholics to be infallible in all statements made as representative of the polity. There is no equivalent to this in the Episcopal Church. *Id.*

Appellee Dixon is using her own negligence in exercising her option to find Appellant Edwards not duly qualified within the canonically-mandated time period as the basis for the Court to modify Episcopal canon law to suit Bishop Dixon's own needs.

The Court's ruling rewrites and changes ECUSA canon law, and for this reason, the case should be remanded to the lower court for dismissal or a full hearing on the merits not inconsistent with this Court's ruling.

III. The lower court erred in its construction and application of the term "duly qualified" in Title III, Canon 17, Section 3 of the Canons of ECUSA

Nowhere in the Constitution and Canons of ECUSA, as revised by the Convention of 2000, is the term "duly qualified" defined in relation to the call of a rector from one diocese to another. Does "duly qualified" mean, as the Appellee Dixon would have the court believe, anything she wants it to mean as the Bishop *Pro Tempore* of Washington? The *Amici Curiae* believe that this is a wrong interpretation, and is further evidence of the lower court's misunderstanding of Episcopal polity.

ECUSA has a national body that leads the overall church through its General Conventions, with the first national convention in 1789 and the most recent in 2000. See generally JA 187, 201. Among other things, the General

Convention is the body which alters and revises the Canons of the Church. Below that are the various dioceses which are generally geographical in nature.<sup>4</sup> The national church is governed by the Constitution and Canons of ECUSA, as Revised by the Convention of 2000. The dioceses have canons that cannot be inconsistent with national canons. Priests within a given diocese may move from one diocese to another, procedures of which are contained in the Canons of ECUSA. For that reason, there is rationale for having some reasonably uniform way of judging whether a priest is “duly qualified.” To allow each diocesan bishop absolute freedom to determine who is and is not duly qualified would, in part, render ECUSA a loose association of independent regional church bodies. There must be some national standard by which “duly qualified” can be determined.

One place to search for a working definition of “duly-qualified” is the Church Pension Fund, for it is here that records on all Episcopal clergy are kept. Were one interested in determining a priest’s formal education, and whether a priest had been regularly ordained as a deacon and had been regularly ordained as a priest, such records are officially maintained by the Church Pension Board. If one needed to determine whether any charges had been brought against a priest or

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<sup>4</sup> There are special instances of non-geographic dioceses that are of no moment in this case.

have been fully aired at a trial on the merits, but which were not reached because of the grant of summary judgment by the lower court.

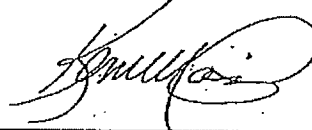
The issue from the perspective of the *Amici Curiae* is simply this: How could a priest be duly qualified in one diocese of ECUSA, and without a change in any facts or indices about that priest, be found not qualified in another diocese of the same church? If a bishop is the absolute, unchecked authority within his diocese, then personal whim can be a reason for finding a rector-candidate not qualified. However, in a constitutionally ordered church such as ECUSA that freely permits movement of its clergy between dioceses, the decision of a bishop must be governed by a more objective standard. It is the position of the *Amici Curiae* that Appellee Dixon stepped beyond the boundaries of her canonical authority and abused her authority.

Had the court permitted a trial on the merits, this issue and the facts underlying it would have been fully litigated. If the lower court is not ordered by this court to dismiss this case, the case should be remanded to the lower court for a hearing on the merits not inconsistent with the opinion of this Court.

Fed. R. Civ. P. by giving all reasonable inferences of the evidence to the moving, rather than the non-moving party.

For these reasons, the case should be remanded to the lower court with instructions to dismiss the case. In the alternative, the case should be remanded to the lower court for a full hearing on the merits not inconsistent with this court's ruling.

Respectfully submitted,



---

Kenneth R. Matticks, Esq.  
Texas Bar No. 0075004281  
The White House on Turtle Creek  
2401 Turtle Creek Boulevard  
Dallas, Texas 75219-4760  
214.528.1881 X34  
214.528.1882 (Facsimile)  
[Kmatticks@ippractice.com](mailto:Kmatticks@ippractice.com)  
Special Counsel to *Amici Curiae*

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on this 21<sup>st</sup> day of December, 2001, I filed with the Clerk's Office of the United States Court of Appeals for the Fourth Circuit, via hand delivery, the required number of copies of this Amicus Brief and Motion, and further certify that on this same day I served, via UPS Next Day Air for Saturday Delivery, two true and exact copies of said Brief and one Motion to the following:

Charles H. Nalls  
deKieffer & Horgan  
729 15th Street, NW  
Suite 800  
Washington, DC 20005

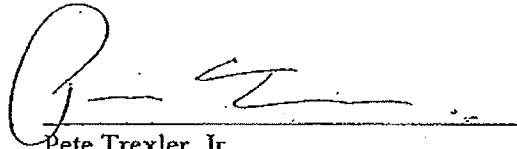
*Counsel for Appellant*

David M. Schnorrenberg  
Michael Grey Van Arsdall  
CROWELL & MORING, LLP  
1001 Pennsylvania Avenue, NW  
Washington, DC 20004-2595

*Counsel for Appellee*

ECUSA 000874

The necessary filing and service to Counsel was performed in accordance  
with the instructions given me by counsel in this case.

A handwritten signature in black ink, appearing to read "Pete Trexler, Jr.", is written over a horizontal line.

Pete Trexler, Jr.  
THE LEX GROUP  
1108 East Main Street, Suite 1400  
Richmond, Virginia 23219

ECUSA 000875

**TAB 4**



Q 94/188

NO. 84-8573 D-95th

THE EPISCOPAL DIOCESE OF DALLAS,	S	IN THE DISTRICT COURT OF
CORPORATION OF THE EPISCOPAL	S	
DIOCESE OF DALLAS, THE	S	
EPISCOPAL DIOCESE OF FORT WORTH,	S	
CORPORATION OF THE EPISCOPAL	S	
DIOCESE OF FORT WORTH,	S	
THE RIGHT REV. DONIS D.	S	
PATTERSON, TRUSTEE and	S	DALLAS COUNTY, TEXAS
THE RIGHT REV. A. DONALD	S	
DAVIES, TRUSTEE	S	
	S	
VS.	S	
	S	
JIM MATTOX, ATTORNEY GENERAL	S	95th JUDICIAL DISTRICT
OF TEXAS	S	

JUDGMENT

This the 22nd day of August, 1984, came on to be heard the above-entitled and numbered cause wherein THE EPISCOPAL DIOCESE OF DALLAS, CORPORATION OF THE EPISCOPAL DIOCESE OF DALLAS, THE EPISCOPAL DIOCESE OF FORT WORTH, CORPORATION OF THE EPISCOPAL DIOCESE OF FORT WORTH, THE RIGHT REV. DONIS D. PATTERSON, TRUSTEE, and THE RIGHT REV. A. DONALD DAVIES, TRUSTEE, are Plaintiffs, and JIM MATTOX, Attorney General of Texas, is Defendant, and it appearing to the Court that all parties, Plaintiff and Defendant, are before the Court, either in person or by attorney, and that a jury having been waived by all parties, and all parties having announced to the Court that they were familiar with the allegations contained in the Plaintiffs' Original Petition on file herein, and that Plaintiffs were in accord with the division of assets, properties, investments, trusts and related matters by and between Plaintiff, The Episcopal Diocese of Dallas, and Plaintiff, The Episcopal Diocese of Fort Worth, as set forth in the aforesaid Plaintiffs' Original Petition, and Defendant has no objection thereto, and that all parties announced to the Court their desire that the Court enter a declaratory judgment confirming the division of assets, properties, investments, trusts and related matters by and between the Plaintiff, The Episcopal Diocese of Dallas, and Plaintiff, The Episcopal Diocese of Fort Worth, and the Court having considered

32X

ECUSA 000651

A310

the statements of all parties this day made in open Court, the pleadings, the evidence and the argument of counsel, and all having been fully heard and fully understood, it is the opinion of the Court and the Court so finds the following:

1. Plaintiff, The Episcopal Diocese of Dallas, ("the Diocese of Dallas"), is a duly constituted religious organization, organized pursuant to the Constitution and Canons of the Protestant Episcopal Church in the United States of America (the "Episcopal Church"), with principal offices in Dallas, Dallas County, Texas. The Right Rev. Donis D. Patterson, Bishop of the Diocese of Dallas, represents the Diocese of Dallas in this proceeding.

2. Plaintiff, Corporation of the Episcopal Diocese of Dallas ("Dallas Episcopal Corporation"), is a Texas non-profit corporation, duly organized under the Constitution and Canons of the Episcopal Diocese of Dallas, having its principal place of business in Dallas County, Texas.

3. Plaintiff, The Episcopal Diocese of Fort Worth (the 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, with principal offices in Fort Worth, Tarrant County, Texas. The Right Rev. A. Donald Davies is the Bishop of the Diocese of Fort Worth, and represents the Diocese of Fort Worth in this proceeding.

4. Plaintiff, Corporation of the Episcopal Diocese of Fort Worth ("Fort Worth Episcopal Corporation") is a Texas non-profit corporation, duly organized under the Constitution and Canons of the Episcopal Diocese of Fort Worth, with its principal place of business in Tarrant County, Texas.

5. The Right Rev. Donis D. Patterson, Trustee, is the duly authorized representative of the E. D. Farmer Foundation, the E. D. Farmer Foundation Trust and St. Paul's Trust.

6. The Right Rev. A. Donald Davies is the proposed Trustee

of the E. D. Farmer Foundation-Fort Worth, the proposed Trustee of the E. D. Farmer Trust, and the proposed Trustee of St. Paul's Memorial Fund-Fort Worth.

7. The subject matter of this action is the division of the Diocese of Dallas and its assets including real and personal property whether standing in the name of the Diocese of Dallas or any of its Bishops.

8. Prior to June 19, 1982, the Episcopal Diocese of Dallas was composed of an area consisting of the following 48 counties in the State of Texas: Archer, Bosque, Bowie, Brown, Camp, Cass, Clay, Collin, Comanche, Cooke, Dallas, Delta, Denton, Eastland, Ellis, Erath, Fannin, Franklin, Grayson, Hamilton, Henderson, Hill, Hood, Hopkins, Hunt, Jack, Johnson, Kaufman, Lamar, Mills, Montague, Morris, Navarro, Palo Pinto, Parker, Rains, Red River, Rockwall, Somervell, Stephens, Tarrant, Titus, Upshur, Van Zandt, Wichita, Wise, Wood, and Young. Immediately prior to June 19, 1982, the Rt. Rev. A. Donald Davies was the Bishop of the Diocese of Dallas, having served in that capacity from 1970. He was preceded in the office of Bishop of the Diocese of Dallas by the Rt. Rev. Alexander C. Garrett, who served as the Bishop of Dallas from 1874 to 1924; the Rt. Rev. Harry T. Moore, who served as Bishop from 1924 to 1946; and the Rt. Rev. Charles Avery Mason, who served as Bishop from 1946 to 1970. In addition, the Bishop of the Episcopal Diocese of Dallas is named as the Trustee of (i) what is known as the E. D. Farmer Foundation, which was created by an instrument in writing dated February 26, 1948; (ii) what is commonly known as the E. D. Farmer Trust, which was originally created by that certain Warranty Deed dated August 11, 1930, which is recorded in Book 1111, Page 623, of the Deed Records of Tarrant County, Texas, wherein certain property in Fort Worth, Tarrant County, Texas, was conveyed to the Bishop of the Diocese of Dallas by George Beggs, Executor; and (iii) what is known as St. Paul's Trust, which was created by that certain instrument dated December 30, 1960, executed by C. Avery Mason and his wife.

9. On June 19, 1982, at a duly called special convention of the Diocese of Dallas, at which convention the required quorum of members of the clergy and lay persons was in attendance and voting, the division of the Diocese of Dallas into two separate dioceses as permitted by Article V of the Constitution of the Episcopal Church was duly approved. One of such dioceses was to continue to be known as the Episcopal Diocese of Dallas encompassing the following 25 counties in the State of Texas: Bowie, Camp, Cass, Collin, Dallas, Delta, Denton, Ellis, Fannin, Franklin, Grayson, Henderson, Hopkins, Hunt, Kaufman, Lamar, Morris, Navarro, Rains, Red River, Rockwall, Titus, Upshur, Van Zandt, and Wood. The other diocese was to bear such name as might be adopted at an organizational convention at a future date and was to encompass the following 23 counties in the State of Texas: Archer, Bosque, Brown, Clay, Comanche, Cooke, Eastland, Erath, Hamilton, Hill, Hood, Jack, Johnson, Mills, Montague, Palo Pinto, Parker, Somervell, Stephens, Tarrant, Wichita, Wise, and Young. At this same convention of the Diocese of Dallas, general resolutions were properly adopted authorizing the appointment of a committee of an equal number of clergy and laymen from each diocese to report back at the annual convention to be held on October 1, 1982, with recommendations as to the division between the two dioceses of the assets and liabilities, including both real and personal property.

10. On the 1st day of October, 1982, in Dallas, Texas, at a duly called annual convention of the Diocese of Dallas, at which convention a quorum of members of the clergy and lay persons was present and voting, a resolution was duly approved dividing the assets and liabilities, including both real and personal property, between the Diocese of Dallas and the new Diocese of Fort Worth, a true copy of said resolution and exhibits thereto being attached to and incorporated in this Judgment and collectively marked Exhibit A.

11. On November 13, 1982, a primary convention of the newly

formed diocese was held in Fort Worth, Texas, at which convention a quorum of clergy and lay persons was in attendance. At such primary convention in Fort Worth, Texas, the Diocese of Fort Worth was duly organized and established pursuant to the Constitution and Canons of the Episcopal Church. At such convention the Diocese of Fort Worth also adopted a Constitution and Canons for its own governance. Pursuant thereto, the Diocese of Fort Worth has caused a Texas non-profit corporation, bearing the name Corporation of the Episcopal Diocese of Fort Worth, to be organized.

12. As provided by Article V of the Constitution of the Episcopal Church, in case a diocese is divided into two or more dioceses, the Bishop of the diocese divided may elect the one to which he will be attached, and he thereupon becomes the Bishop thereof. The Rt. Rev. A. Donald Davies, who was serving as the Bishop of the Diocese of Dallas at the time of the division, elected to become the Bishop of the new Diocese of Fort Worth, leaving a vacancy in the office of Bishop of the Diocese of Dallas. Thereafter, in accordance with the Constitution and Canons of the Episcopal Church, the Rev. Donis D. Patterson was elected to be the Bishop of the Diocese of Dallas and was consecrated to that office on October 29, 1983, and is serving in that capacity on the date hereof.

13. On December 2, 1983, at a duly called Annual Convention of the Diocese of Dallas, at which convention a quorum of members of the clergy and lay persons was present and voting, the Diocese of Dallas, on a second reading, adopted a revised Constitution and Canons. Article 13 of such Constitution as so revised provides that title to all real property acquired for the use of the Church in the Diocese shall be vested in a corporation to be known as Corporation of the Episcopal Diocese of Dallas. Pursuant to such provision the Diocese of Dallas has caused a Texas non-profit corporation, bearing the name Corporation of the Episcopal Diocese of Dallas, to be organized.

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14. Pursuant to the terms of resolution adopted by the Plaintiffs, the Diocese of Dallas and the Diocese of Fort Worth, various assets, properties, investments, trusts and related matters have been divided between the two Plaintiff dioceses in an equitable manner, consistent with the number of Clergy and lay persons within each diocese and with due regard to the duties, responsibilities and obligations of the Clergy and lay persons within the two dioceses. The Court further finds that the Plaintiffs, Dioceses of Dallas and Fort Worth, would not by the aforesaid division of real and personal properties dispose of or otherwise affect or deal with any real or personal property disposed of under testamentary or inter vivos gift executed or effective prior to December 31, 1982, which bequest is to the Diocese of Dallas or the Bishop thereof.

Accordingly, it is, therefore, ORDERED, ADJUDGED AND DECREED by this Court, and the Court does by this Judgment record and declare that legal title to the following real and personal property shall be as follows:

A. With respect to the Diocese of Fort Worth, title to the following assets and property shall be vested by this declaratory judgment in Corporation of The Episcopal diocese of Fort Worth;  
To wit,

(1) All real property which as of December 31, 1982, stands in the name of Episcopal Diocese of Dallas or in the name of any of its Bishops as Bishop of Dallas, including Bishop Alexander C. Garrett, Bishop Barry T. Moore, Bishop Charles Avery Mason, Bishop A. Donald Davies or Bishop Donls D. Patterson, which is physically located within the Counties of Archer, Bosque, Brown, Clay, Comanche, Cooke, Eastland, Erath, Hamilton, Hill, Hood, Jack, Johnson, Mills, Montague, Palo Pinto, Parker, Somervell, Stephens, Tarrant, Wichita, Wise, and Young, State of Texas, and the certain properties located in Dallas County, Texas presently held for the use and benefit of the Episcopal parishes of St. Andrew's

and St. Joseph's in Grand Prairie, Texas (which two parishes are part of the Diocese of Fort Worth) described on Exhibit B attached hereto and incorporated herein by reference, save and except that real property in any of the foregoing counties standing in the name of or held for the benefit of any parish, mission or entity located in the counties now comprising the Diocese of Dallas, which parish, mission or entity shall continue to hold and own such real property, or have such real property held for its benefit by the Dallas Episcopal Corporation;

(2) Thirty-five percent (35%) in value of the assets and funds under the investment management of the Episcopal Foundation or the Department of Finance of the Diocese of Dallas as of December 31, 1982, and specifically designated or otherwise known as the Fund for the Endowment for the Episcopate, Episcopal Funds and the Memorial Scholarship Fund out of both the Common Trust-Growth Fund and the Common Trust-Income Fund.

(3) Thirty-five percent (35%) in value of the assets administered by the Department of Finance of the Diocese of Dallas of the Protestant Episcopal Church as of December 31, 1982, and specifically designated or otherwise known as the Operating Fund, Revolving Fund, Diocesan Discretionary Fund, St. Peter's Loan Fund, Ada S. Price Estate, Hispanic Ministries Fund, and World Missions Funds (Diocese of Mexico).

(4) Certain real estate known generally as Camp Crucis located in Hood County, Texas, provided, however, that any ad valorem tax liability of Camp Crucis, if any, for years through December 31, 1982, and interest and penalty thereon, as shall be ultimately determined by final judgment of a court of competent jurisdiction or settlement mutually agreed to by the Plaintiffs, shall be divided so that sixty-five percent (65%) of such liability shall be the responsibility of the Diocese of Dallas and thirty-five percent (35%) of

value of the assets of St. Paul's Trust (Exhibit E to this Judgment) pursuant to the terms, conditions and provisions of St. Paul's Memorial Fund-Fort Worth (Exhibit F to this Judgment), as of December 31, 1982.

(2) The Rt. Rev. Donis D. Patterson, Bishop of the Diocese of Dallas, and his successors in office, is designated as the Trustee of sixty-five percent (65%) in value of the assets of St. Paul's Trust (Exhibit E to this Judgment), as of December 31, 1982.

The Court further finds that this Judgment will be recorded in all counties comprising the Diocese of Dallas and the Diocese of Fort Worth, but that the only counties affected by the provisions of this Judgment relating to the E. D. Farmer Foundation (Exhibit C), the E. D. Farmer Foundation-Fort Worth (Exhibit D), the E. D. Farmer Trust, St. Paul's Trust (Exhibit E) and St. Paul's Memorial Fund-Fort Worth (Exhibit F) are the Counties of Dallas and Tarrant, being the counties of the situs of the aforementioned foundations and trusts, and that the Court finds that it would be burdensome to file and record the entire Judgment and all exhibits in the counties comprising the Diocese of Dallas and the Diocese of Fort Worth, other than the Counties of Dallas and Tarrant, and, therefore,

It is accordingly, ORDERED, ADJUDGED AND DECREED that this Judgment and Exhibits A and B thereto be recorded in all counties comprising the Diocese of Dallas and the Diocese of Fort Worth, save and except the Counties of Dallas and Tarrant, in which latter counties this Judgment and Exhibits A, B, C, D, E, and F shall be recorded.

It is further ORDERED, ADJUDGED AND DECREED that all costs in this behalf be charged to the party incurring same.

*Signed: August 22, 1984.*

*William R. Scholt*  
JUDGE PRESIDING



APPROVED:

THE EPISCOPAL DIOCESE OF DALLAS,  
CORPORATION OF THE EPISCOPAL DIOCESE  
OF DALLAS, and THE RT. REV. DONIS  
D. PATTERSON, TRUSTEE

By *[Signature]*  
Raol W. Eggers, Chancellor  
State Bar No. 06461000  
1407 Main Street, Suite 335  
Dallas, Texas 75202  
(214) 748-9536

LOCKE, PURNELL, BOREN, LANEY & NEELY  
(A Professional Corporation)

By *[Signature]*  
Harold B. Prensley, Jr.,  
Assistant Chancellor  
State Bar No. 16267000

By *[Signature]*  
Orin Harrison, III  
State Bar No. 09130700

3600 RepublicBank Dallas Tower  
Dallas, Texas 75201  
(214) 746-7400

THE EPISCOPAL DIOCESE OF FORT WORTH,  
CORPORATION OF THE EPISCOPAL DIOCESE OF  
FORT WORTH and THE RT. REV. A. DONALD  
DAVIES, TRUSTEE

By *[Signature]*  
MICHAEL KENSEL, Chancellor  
State Bar No. 11316000

By *[Signature]*  
ROBERT M. RANDOLPH, Assistant  
Chancellor  
State Bar No. 1634000

GODFREY, DECKER, McMACKIN,  
SHIPMAN, McCLANNY & BOURLAND

By *[Signature]*  
John B. McClane  
State Bar No. 13392000  
3200 Continental Plaza  
Fort Worth, Texas 76102  
(817) 336-0361

By *[Signature]* *Asst Atty Gen.*  
JIM HATTOK, Attorney General of Texas

2x11

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**TAB 5**

Corporations Section  
P.O. Box 13697  
Austin, Texas 78711-3697



Hope Andrade  
Secretary of State

**Office of the Secretary of State**

The undersigned, as Secretary of State of Texas, does hereby certify that the attached is a true and correct copy of each document on file in this office as described below:

**CORPORATION OF THE EPISCOPAL DIOCESE OF FORT WORTH**  
Filing Number: 64493201

Articles Of Incorporation	February 28, 1983
Articles Of Amendment	November 04, 1987
Change Of Registered Agent/Office	November 27, 1991
Articles Of Amendment	November 27, 1991
Nonprofit Periodic Report	February 18, 1994
Change of Registered Agent/Office	May 21, 2002
Restated Articles of Incorporation	September 05, 2006
Report Notice	March 06, 2007
Nonprofit Periodic Report	April 02, 2007
Nonprofit Periodic Report	March 06, 2009
Restated Articles of Incorporation	April 14, 2009
Articles of Correction	April 21, 2009

In testimony whereof, I have hereunto signed my name officially and caused to be impressed hereon the Seal of State at my office in Austin, Texas on May 19, 2009.



Hope Andrade  
Secretary of State

Phone: (512) 463-5555  
Prepared by: SDEHOYOZ

Come visit us on the internet at <http://www.sos.state.tx.us/>  
Fax: (512) 463-5709  
TID: 10266

Dial: 7-1-1 for Relay Services  
Document: 258484740002

FILED  
in the Office of the  
Secretary of State of Texas  
FEB 28 1993  
Clerk E  
Corporations Section

ARTICLES OF INCORPORATION  
OF  
CORPORATION OF THE EPISCOPAL DIOCESE OF FORT WORTH

ARTICLE ONE

The name of the corporation is CORPORATION OF THE EPISCOPAL DIOCESE OF FORT WORTH.

ARTICLE TWO

The corporation is a non-profit corporation.

ARTICLE THREE

The period of its duration is perpetual.

ARTICLE FOUR

The purpose or purposes for which the corporation is organized are:

- (1) To receive and maintain a fund or funds or real or personal property, or both, from any source including all real property acquired for the use of the Episcopal Diocese of Fort Worth as well as the real property of all parishes, missions and diocesan institutions. Subject to the limitations and restrictions hereinafter set forth, to use and apply the whole or any part of the income therefrom and the principal thereof exclusively for charitable, religious, scientific, literary, or educational purposes either directly or by contributions to organizations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code and its Regulations as they now exist or as they may hereafter be amended.
- (2) The property so held pursuant to (1) supra shall be administered in accordance with the Constitution and Canons of the Episcopal Diocese of Fort Worth as they now exist or as they may hereafter be amended.
- (3) No part of the net earnings of the corporation shall inure to the benefit of any Director of the

ARTICLES OF INCORPORATION OF  
CORPORATION OF THE EPISCOPAL DIOCESE OF FORT WORTH

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corporation, officer of the corporation, or any private individual (except that reasonable compensation may be paid for services rendered to or for the corporation affecting one or more of its purposes), and no Director or officer of the corporation, or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the corporation. No substantial part of the activities of the corporation shall be carrying on of propaganda, or otherwise attempting, to influence legislation, and the corporation shall not participate in, or intervene in (including the publication or distribution of statements) any political campaign on behalf of any candidate for public office.

- (4) Notwithstanding any other provision of these Articles of Incorporation, the corporation shall not conduct or carry on any activities not permitted to be conducted or carried on by an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and its Regulations as they now exist or as they may hereafter be amended, or by an organization, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code and Regulations as they now exist or as they may hereafter be amended.
- (5) Upon dissolution of the corporation or the winding up of its affairs, the assets of the corporation shall be distributed exclusively to charitable, religious, scientific, testing for public safety, literary, or educational organizations which would then qualify under the provisions of Section 501(c)(3) of the Internal Revenue Code and its Regulations as they now exist or as they may hereafter be amended.

#### ARTICLE FIVE

The street address of the initial registered office of the corporation is 3572 Southwest Loop 820, Fort Worth, Texas 76133, and the name of its initial registered agent at such address is The Right Reverend A. Donald Davies.

#### SECTION SIX

The number of trustees constituting the initial Board of Trustees is five. The manner of election and the period of time for which the Trustees shall hold office shall be fixed by the by-laws of the corporation as the same may be adopted and from time to time amended. The names and addresses of the persons who are to serve as the initial trustees are:

ARTICLES OF INCORPORATION OF  
CORPORATION OF THE EPISCOPAL DIOCESE OF FORT WORTH -- Page Two

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<u>Name</u>	<u>Address</u>
Mr. Gene E. Engleman	1112 Shady Oaks Lane Fort Worth, Texas 76107
Mr. Edward P. Munson, Jr.	4071 Hidden View Fort Worth, Texas 76109
Mr. C. E. Casebier, III	1601 Westridge Court Burst, Texas 76053
Mr. Robert McGhee Randolph	1215 Washington Terrace Fort Worth, Texas 76107
Mr. Walter Virden, III	1803 Bois D'Arc Arlington, Texas 76013

ARTICLE SEVEN

The name and street address of each incorporator is:

<u>Name</u>	<u>Address</u>
The Right Reverend A. Donald Davies	610 Mohawk Trail DeCordova Bend Estates Granbury, Texas 76048
Mr. Gene E. Engleman	1112 Shady Oaks Lane Fort Worth, Texas 76107
Mr. N. Michael Kensel	5533 Byers Fort Worth, Texas 76107

*R. Donald Davies*  
 \_\_\_\_\_  
 The Right Reverend A. Donald Davies

*Gene E. Engleman*  
 \_\_\_\_\_  
 Gene E. Engleman

*N. Michael Kensel*  
 \_\_\_\_\_  
 N. Michael Kensel

INCORPORATORS

THE STATE OF TEXAS        I  
 COUNTY OF TARRANT        I

BEFORE ME, a Notary Public, on this day personally appeared  
 THE RIGHT REVEREND A. DONALD DAVIES, GENE E. ENGLEMAN and N. MICHAEL  
 KENSEL, known to me to be the persons whose names are subscribed

ARTICLES OF INCORPORATION OF  
 CORPORATION OF THE EPISCOPAL DIOCESE OF FORT WORTH - Page Three

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to the foregoing document and, being by me first duly sworn,  
severally declared that the statements therein contained are  
true and correct.

GIVEN under my hand and seal of office this 24<sup>th</sup> day  
of February, 1983.

Carol L. Doble  
Notary Public in and for the  
State of Texas

My commission expires:  
8-30-86

ARTICLES OF INCORPORATION OF  
CORPORATION OF THE EPISCOPAL DIOCESE OF FORT WORTH - Page Four.

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A323

# EXHIBIT H



CAUSE NO. 141-237105-09

THE EPISCOPAL CHURCH ET AL.,	)	
	)	IN THE DISTRICT COURT OF
Plaintiffs,	)	
	)	
AND	)	
	)	
MARGARET MIEULI ET AL.,	)	
	)	
Third-Party Defendants and	)	
Counterclaimants,	)	TARRANT COUNTY, TEXAS.
	)	
v.	)	
	)	
FRANKLIN SALAZAR ET AL.,	)	
	)	
Defendants.	)	141 <sup>st</sup> JUDICIAL DISTRICT

**AFFIDAVIT OF THE REV. CANON CHARLES K. ROBERTSON**

Before me, the undersigned authority, personally appeared the Rev. Canon Charles K. Robertson, who, being by me duly sworn, deposes and said:


1. My name is Charles K. Robertson. I am of sound mind, capable of making this Affidavit, and have personal knowledge of the facts herein stated.
2. I am a priest of The Episcopal Church, and I serve as Canon and Assistant to the Presiding Bishop of The Episcopal Church at the Church's headquarters in New York, New York. I am familiar with the organization and maintenance of the records of the Presiding Bishop's official actions and related correspondence. The documents referred to below and attached as exhibits to this affidavit are true and correct copies of documents obtained from the Presiding Bishop's files where they have been maintained in the regular course of business.
3. Attached hereto as Exhibit 1 is a true and correct copy of the letter to The Most Rev'd Katharine Jefferts Schori from the Rt. Rev'd Dorsey F. Henderson, Jr. dated January 9, 2008, and regarding the Rt. Rev'd John-David Schofield (with attachment).

4. Attached hereto as Exhibit 2 is a true and correct copy of the Deposition of the Rt. Rev'd John-David M. Schofield dated March 12, 2008.

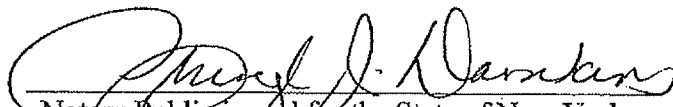
5. Attached hereto as Exhibit 3 is a true and correct copy of the letter to The Most Rev'd Katharine Jefferts Schori from the Rt. Rev'd Dorsey F. Henderson, Jr. dated December 17, 2007, and regarding the Rt. Rev'd Robert W. Duncan (with attachment).

6. Attached hereto as Exhibit 4 are true and correct copies of forms signed by Bishop Wallis C. Ohl (June 14, 2010 & July 17, 2010) consenting to the ordination and consecration of bishops.

7. Attached hereto as Exhibit 5 is a true and correct copy of the letter to six former members of the Standing Committee of the Diocese of Fort Worth from The Most Rev'd Katharine Jefferts Schori dated December 15, 2008.

  
The Rev. Canon Charles K. Robertson

SUBSCRIBED AND SWORN TO BEFORE ME on this 14<sup>th</sup> day of October, 2010.

  
Notary Public in and for the State of New York

1. D. # 2096002  
NY 3/18/12

**TAB 1**