VIRGINIA:

IN THE CIRCUIT COURT FOR FAIRFAX COUNTY

In re:	)	
Multi-Circuit Episcopal Church	)	**Civil Case Numbers:**
Litigation	)	CL 2007-248724,
	)	CL 2006-15792,
	)	CL 2006-15793,
	)	CL 2007-556,
	)	CL 2007-1235,
	)	CL 2007-1236,
	)	CL 2007-1237,
	)	CL 2007-1238,
	)	CL 2007-1625,
	)	CL 2007-5249,
	)	CL 2007-5250,
	)	CL 2007-5362,
	)	CL 2007-5363,
	)	CL 2007-5364,
	)	CL 2007-5682,
	)	CL 2007-5683,
	)	CL 2007-5684,
	)	CL 2007-5685,
	)	CL 2007-5686,
	)	CL 2007-5902,
	)	CL 2007-5903, and
	)	CL 2007-11514

CANA CONGREGATIONS' POST-TRIAL REPLY MEMORANDUM

Truro Church, The Falls Church, Church of the Apostles, Church of the Epiphany, Church of Our Saviour at Oatlands, Church of the Word, St. Margaret's Church, Christ the Redeemer Church, St. Stephen's Church, St. Paul's Church, and Potomac Falls Church (collectively, the "CANA Congregations") and various associated defendants respectfully submit this post-trial reply memorandum.[1]

---

[1] (CL 2007-1236; CL 2007-1238; CL 2007-1235; CL 2007-1237; CL 2007-5683; CL 2007-5682; CL 2007-5684; CL 2007-5362; CL 2007-5364; CL 2007-5250; CL 2007-5902; and CL 2007-5903).

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

CASES

STATUTES

INTRODUCTION

The Church's opposition brief is but the latest variation on the theme that the meaning of the key terms in Virginia Code § 57-9 should be governed by the Church's own unique, denomination-specific view of what constitutes a "division" and a "branch." This view, however, finds no support in standard rules of statutory construction, and it is foreclosed by the text, structure, history, and purpose of § 57-9. Indeed, the Episcopal-centric reading that the Church advances is inconsistent with its *own* use of "division" outside of this litigation, and should be rejected.

I. This Case Is Governed By The Ordinary Understanding Of A "Division," Which Occurs When A Group Of Congregations, Clergy, And Members Separates From A Religious Denomination To Form A New Polity.

The lead argument in the Church's opposition brief is an attack on the position that the ordinary meaning of "division" should govern. The argument takes two forms: first, that "there is no . . . common understanding" of "division"—that the term is "ambiguous" (TEC Opp. 3); and second, that ordinary meaning is "only part of the story, at best"—that even if "division" has a common meaning, more important are factors such as "the language of other statutes," the pre-1867 "common law," and the "constitutional avoidance" doctrine (TEC Opp. 7-9). Insofar as the Church has anything new to say, its arguments lack merit.

A. The Ordinary Understanding of "Division" Is Undisputed and Unambiguous.

1. The Church is compelled to dismiss the ordinary understanding of "division" because its expert, lacking knowledge of 19th century common usage, instead offered a "distinctive," "narrow," and "technical" historian's definition. CANA Br. 7-8, 23-25; CANA Opp. 12. The Church says it "distorts [Professor Mullin's] testimony to "claim that [he] lacks knowledge about the use of the term 'division' in common parlance" (TEC Opp. 16 n.12), but he expressly disclaimed such knowledge at least four times. *E.g.*, Tr. 1100 ("I do not know what the public usage was"); CANA Br. 23-25 (collecting testimony). The evidence is thus undisputed that, as a

matter of common usage in 1867 (as today), a "division" was a denominational split that resulted in the separation of a group of congregations and clergy who formed a new polity. Under settled rules of statutory construction, that is the end of the matter. *Meeks v. Com.*, 651 S.E.2d 637, 639 (Va. 2007); *Flanary v. Com.*, 184 Va. 204, 212 (Va. 1945) ("To read language into a statute which is contrary to the ordinary definition of the words used is judicial legislation").

2. Recognizing that the ordinary meaning of undefined terms generally governs a statute's interpretation, the Church attempts to claim that "division" has no ordinary meaning—that it is "ambiguous." TEC Opp. 3. But the fact that a word has multiple meanings does not mean its interpretation is indeterminate in a particular linguistic context. In the abstract, "division" might refer to a subpart of a religious body, as in a "missions division" of a religious denomination, or to internal strife within the body. But as used in § 57-9—if a "division" occurs, congregations may vote to join a "branch" of the church—"division" cannot have those meanings. It cannot mean "subpart" because a subpart does not "occur," and even if it did it would not produce a "branch"; and it cannot mean "internal strife" because such strife does not, without more, create a branch or require a "vote" to "determine" which "branch" of the divided body to join.

Citing the 1874 report of the Episcopal Diocese of Minnesota, the Church notes that "division" was used to refer not only to the Reformed Episcopal Church division but also to "a division of one of the Church's dioceses pursuant to its own rules and polity." TEC Opp. 5. This, the Church says, shows the "ambiguity" in "division." *Id.* But the Church admits that geographic "divisions" do not result in "branches" or involve any congregational votes. *See* CANA Br. 29-30; CANA Opp. 14.; Tr. 898-900 (Douglas) Its reading is therefore untenable.

3. The Church's textual analysis of § 57-9 fares no better. Asserting that "[t]he meaning of the word 'occur' is not at issue in this case, and that verb does not help to define the ambigu-

ous noun ('division') that precedes it," the Church dismisses our point that § 57-9's reference to divisions having "occurred" is inconsistent with the Church's core contention—that divisions are planned or approved by the authorities of a denomination. TEC Opp. 16. The General Assembly, however, chose to describe a division as an event that "occurs" rather than one that is approved "by the authorities" of the church or one that complies with its "rules."

Confronted with adverse language from § 57-9, the Church urges the Court to read the statute "*in pari materia*" with other laws. TEC Opp. 8-9. But even assuming this is appropriate, the Church ignores language of denominational approval that is present in other parts of Title 57 but absent from § 57-9.[2] The most notable example is found in § 57-15, which governs "transfers" of church property. Section 57-15 originally referred only to "congregational approval," but over time has been gradually amended to reference approval by the "church or religious denomination or society" or "the governing body of any church diocese." *Norfolk Presbytery*, 214 Va. at 502 n.2. Meanwhile, the General Assembly has repeatedly re-codified § 57-9, making minor adjustments but never adding language requiring approval by church authorities. Thus, in contrast to routine property transfers, the General Assembly has expressed no intention of requiring denominational approval for settling title issues arising in a "division." *See Halifax Corp. v. Wachovia Bank*, 268 Va. 641, 654 (Va. 2004) ("when the General Assembly includes specific language in one section of a statute, but omits that language from another section of the statute,

---

[2] *See* Va. Code § 57-7.1 (a "conveyance . . . shall be used for the . . . purposes of the . . . religious society . . . as determined by the authorities which, under its rules or usages, have charge of [its] administration"); *id.* § 57-15 (trustees may transfer property by presenting evidence that it is "the wish of the congregation, or church or religious denomination or society, or branch or division thereof, or the constituted authorities thereof having jurisdiction in the premises, or of the governing body of any church diocese"); *see also* Va. Code §§ 8.01-400, 19.2-271.3, 20-26, 24.2-703.1 ("'accredited religious practitioner' means a person who has been . . . accredited by a formal religious order").

we must presume that the exclusion of the language is intentional").[3]

The Church also claims that "several true denominational 'divisions' *had* 'occurred' in the years before § 57-9 was enacted," and that this "confirms the term should be interpreted in accordance with the historic events that preceded the statute." TEC Opp. 16. But as Professors Valeri and Irons testified, many smaller divisions affecting Virginians likewise preceded the statute's enactment (CANA Br. 7, 9-10), and the General Assembly did not differentiate between so-called "historic" divisions (assuming one could make such a judgment in 1867) and the more pedestrian ones. Indeed, none of the many modifiers that the Church has advocated in an effort to restrict § 57-9's scope—"authorized," "structural," "major," "great," "historic," "large," "true," "formal," "recognized," "confirmed," "approved," "significant"—appears in the text of § 57-9.

B. The Church's Reading of "Division" Cannot Be Squared with the Pre-1867 Common Law, the Purpose of the Statute, or Other Standard Principles of Statutory Construction.

1. Unable to dispute the common 19th century understanding of "division," the Church resorts to arguing that § 57-9 must be read to replicate "the common law applied in *Brooke*." TEC Opp. 9. But this argument ignores the ways in which § 57-9 *broadened* congregations' voting rights. *Brooke* involved only the MEC Plan of Separation, which allowed only churches in border conferences to decide which branch to join, whereas § 57-9 by its terms applies to all congregations in all divisions, regardless of location or denomination. CANA Opp. 4, 6-7.

Moreover, *Hoskinson* held that the MEC Plan did *not* cover Baltimore Conference congregations that voted to join MEC in the 1860s—those who routinely invoked the statute—as the Church concedes. TEC Opp. 14 ("the congregation had no right under the 1844 plan of separation to make that belated election"). Indeed, if § 57-9 merely codified *Brooke*, the Court likely

[3] The Church's argument that Va. Code § 57-15 limits the application of § 57-9 to congregational churches (TEC Opp. 8) is addressed in our opposition brief. *See* CANA Opp. 9-11.

would have said so in *Hoskinson*, which involved a claim under the statute. Instead, the Court held only that the congregation failed to follow the statute's *procedures*. 73 Va. at 440.

2. Nor has the Church shown how § 57-9(A) would serve any meaningful purpose under its reading. The Church does not deny that there would be no disputed property in a consensual or geographic division, and thus no voting or any need for a "conclusive" rule of ownership. The Church tries to downplay this fact by arguing that the statute need not "vest control of property in congregational majorities in *every* case of a true denominational division," because it would still "create[] an orderly procedure for clarifying the duties of trustees and the status of property in the event of a structural division." TEC Opp. 17 (emphasis added). But this assertion makes no sense, since the status of property under § 57-9 depends on the outcome of the vote.

Moreover, under the Church's reading of § 57-9(A), the statute would add nothing to Va. Code § 57-15, which permits congregational trustees to obtain court approval of property transfers by presenting evidence that such transfers are "the wish of the . . . constituted authorities thereof having jurisdiction in the premises, or of the governing body of any church diocese." If, pursuant to a "structural" division, a congregation affiliated with a different branch, it could simply file a § 57-15 petition citing the hierarchy's approval of the "division" as evidence of "the wish" of the "constituted authorities." As a result, § 57-9(A) would be superfluous. In sum, the Church's view would not *harmonize* § 57-9(A) with other provisions in Title 57, but *deprive it of independent meaning*. *See City of Virginia Beach v. Siebert*, 253 Va. 250, 253 (1997) ("We will not construe a statute in a manner that deprives another statute of effect or meaning").

3. The Church also cannot distinguish *Reid*, which holds that it is "a prerequisite to relief under § 57-9" that the separating parties "have expressed [their] desire to separate from the body of their church, and to rend it into groups." 229 Va. at 192. The Church says that this division

scenario "is consistent with applicable principles of congregational governance," but that the "facts" underlying a division will "necessarily" be different in a hierarchical church. TEC. Opp. 19. *Reid* never suggests this distinction, however, and it would contravene the text of § 57-9, which provides for congregational votes to settle title to property in *both* "autonomous" churches (§ 57-9(B)) and "super-congregational bodies" (§ 57-9(A)). *See Baber*, 207 Va. at 698. Indeed, reading *Reid* to require deference to super-congregational churches' "internal rules" would render § 57-9(A) a nullity, because votes would never be necessary. CANA Br. 29-30.

C. The Church Has Elsewhere Admitted Both the Meaning of the Term "Division" and the Existence of Such a Division in the Church and the Diocese.

In any event, the Church's *own* prior use of the term "division" likewise confirms both that the CANA reading is correct and that a division exists here.

1. The Church does not even attempt to explain Bishop Peter Lee's letter to the CANA Congregations, which lamented that "American Christianity has been punctuated over the years by frequent divisions, with one group choosing to separate because they believed the separated group might be more pure than their former identity," and which urged those voting to "reject the tempting calls to division." CANA Exh. 68. Bishop Lee uses "division" as commonly used in the 1800s and today—as a group "*choosing* to separate" from a church in hopes of forming a "separated group" that is "more pure." *See id.*; CANA Br. 44.

2. TEC's own General Convention likewise adopted a resolution describing its split with the Reformed Episcopal Church as a "division." CANA Exh. 6. Rather than focus on the text of this resolution, the Church attacks the credentials of Professor Valeri, who testified that it was consistent with his definition of "division." Setting aside the strangeness of this attack,[4] the reso-

[4] The Church makes much of purported holes in Professor Valeri's knowledge regarding its current polity (TEC Opp. 6), without explaining how that polity relates to the use of the word "division" in the resolution. Moreover, the Church fails to mention that Valeri expressly disclaimed

lution shows that, outside of this litigation, the Church views as "divisions" the unauthorized departures of groups far smaller than CANA. It is revisionist history to claim that the resolution—which refers to "this particular division" and directs a commission to engage in "dialogue with representatives of the Reformed Episcopal Church" (CANA Exh. 6)—used "division" to refer to disunity in the broader body of Christ, rather than to describe a specific historical division.

3. Professor Mullin admitted not only that the Reformed Episcopal Church departure from TEC was a "schism," but that the 2003 General Convention "gave rise to another schism in the Episcopal Church." Tr. 1122-23, 1128; *see* Tr. 1116 (defining a "schism" as the "voluntary action of individuals" to separate from a church). Faced with this admission, the Church scrambles to distance itself from its own definition of "schism" as a "division" or a "formal and willful separation from the unity of the church." TEC Opp. 4. "[A] 'division' is one kind of event that may be described as a schism," it says, but "other events would also qualify," and the overlap between the terms "does not mean there is no distinction." TEC Opp. 5.[5]

As TEC's 1988 resolution confirms, however, the Church has used *both* "division" and "schism" to describe its split with the Reformed Episcopal Church. Moreover, the Church has not explained how the unauthorized departure of the Reformed Episcopal Church was any more of a "formal and willful separation" than was the unauthorized departure of the CANA Congregations. The notion that "schism" is broader than "division," and that the latter is limited to TEC-approved splits, thus cannot be squared with the Church's own use of those terms.

---

expertise on that topic. Tr. 119. Indeed, if anyone's credibility is to be questioned, it is that of the Church's experts. Both work at Episcopal seminaries (Tr. 830-31, 1024) and one (Douglas) is an officer of TEC. The Church is so confident that it will secure from these witnesses the opinions it needs that it has used Professor Mullin as a putative expert in five separate cases (Tr. 1131-32) and committed Professor Douglas to his expert position in this case before even speaking with him (Tr. 889-90, 1005-09).

[5] Professor Douglas, by contrast, testified that "schism" was a narrower term than "division." *See* CANA Br. 37-38 & n.22.

4. The Diocese's Special Committee Report, authored by Chancellor Palmore, also acknowledges "the division which may cause some to 'walk apart.'" CANA Exh. 126; *see* CANA Br. 46-47. The Church attempts to dismiss this admission as a reference to an "ecclesiastical" division, but such a division obviously does not necessitate a "Protocol for Departing Congregation[s]." The Church also argues that this statement is not an admission of division because the CANA Congregations had not yet left. TEC Opp. 7. But even assuming, *arguendo*, that a division must precede the votes of those invoking § 57-9, many churches left both TEC and the Diocese before the CANA Congregations, and the Special Committee knew this. CANA Br. 35-36.[6]

In sum, whether one looks to the common meaning of "division" in 1867 or today, the result is the same: The Church has experienced a division, as evidenced by its own admissions.

II. The Church's Newfound Suggestion That Divisions Are Consensual If Ratified After The Fact Is Unsupportable.

Unable to answer our showing as to the common meaning of "division" and "branch," the Church makes an astounding claim: "The evidence was that all of [the great 19th Century splits in the Methodist, Presbyterian, and Baptist denominations] were consistent with the rules and polities of the churches in question," "and the Congregations' experts did not testify to the contrary." TEC Opp. 10. This claim is unsupportable, to put it mildly, and the Church can make it only by adopting a new theory that divisions need not be "approved in advance," only "acknowledged or affirmed" in hindsight, to be consistent with a church's polity. TEC Opp. 10, 12.[7]

---

[6] The Church likewise discounts the report of the Diocesan Reconciliation Commission, and the related Diocesan Annual Council Resolution, because the references to the "division" in these documents predated the first congregation's departure from the Diocese. TEC Opp. 7. But it is also undisputed that these admissions postdated the departure of other TEC congregations, and that the commission was aware of the departures. Tr. 417-20 (Julienne).

[7] The Church did not advance this theory in its brief on the scope of the § 57-9 hearing. *E.g.*, Br. 18 (a division "only occurs if the highest authority of the hierarchical denomination, pursuant to its Constitution and Canons, undertakes a formal division of the church").

1. As to the Methodists, the Church says there is "no doubt" that MEC's 1844 division "was effected pursuant to a formal plan of separation." TEC Opp. 11. But even assuming, *arguendo*, that the 1844 division in MEC was consensual, that would not mean the Baltimore Conference division was consensual. It is undisputed that MEC's new position on slavery split that Conference in the 1860s, resulting in two Conferences as well as efforts by MEC's Northern and Southern branches to obtain the allegiance of Virginia congregations. Professor Mullin did not speak to these events, except to admit that the MEC Plan "broke down soon after its enactment in 1844" (Tr. 1158), and thus did not cover this later split. The Church now says the Baltimore Conference split was "a continuation of the same dispute that had led to the 1844 division of the denomination." TEC Opp. 13. But that would come as some surprise to the Virginia Supreme Court, which held that it was *not*. *Hoskinson*, 73 Va. at 437-39.

The division in the Baltimore Conference closely parallels the division before the Court. Although MEC South predated the Baltimore Conference division, a new Conference was created as a result of that division to receive those leaving MEC (much as CANA and ADV were created to receive those leaving TEC). Thus, the most common use of the statute—the way in which it was successfully used by its sponsor and 25 congregations, and one that the Church concedes satisfied § 57-9 (TEC Opp. 14)—involved members of one church (MEC) joining a new conference (the Southern Baltimore Conference) affiliated with MEC South, a "preexisting church" (TEC Opp. 21). History compels that the split here likewise be deemed a "division."

2. The Church now concedes that "the great divisions in the Presbyterian Church did not take place pursuant to a plan agreed upon in advance." TEC Opp. 11. Yet it nonetheless insists that these divisions were authorized by Presbyterian polity, either because the presbyteries "had the right" to withdraw or because the divisions were "confirmed by the governing body"—*i.e.*,

ratified after the fact. *Id.* This theory is baseless.

At the outset, it is odd indeed to suggest that such divisions became "consistent with denominational polity" because the denominations later "struck those [who disaffiliated] from their rolls." TEC Opp. 11. Such housekeeping measures are a sign of resignation, not approval. Indeed, if actions like these ratify divisions, the division here was likewise ratified by the Church's formal action to inhibit the CANA clergy after they left. Diocese Compl., Exh. 2 (Inhibitions).

The Church cites Professor Valeri in support of its claim that the New School-Old School and North-South Presbyterian divisions were somehow "confirmed" by the General Assembly of the Presbyterian Church. TEC Opp. 11 (citing Tr. 145, 159). But he said no such thing. Indeed, he was emphatic that *no* 19th century division, including the Presbyterian splits, had denominational approval.[8] Moreover, given the actions of the mother churches to *reject* these divisions, it is Panglossian to suggest that later actions cleaning up the rolls amounted to after-the-fact "approval," "ratification," or "confirmation" thereof.

Nor does Professor Mullin support the Church's claim. He admitted on cross examination that the Old School's "recognition" of the Southern Branch—*i.e.*, taking their names off the rolls—did not occur until *after* the statute was adopted in February 1867 (Tr. 1156-57), and that the earlier New School-Old School split was never approved (CANA Br. 16-17). In short, there is a fundamental difference between *recognizing the existence* of a departure and *approving* of it.

---

[8] *See* CANA Br. 15-16; Tr. 60-63, 66-8 (the General Assembly of the Presbyterian Church did not "approve the division of the Presbyterian Church into the old school and new school," "begins deposing some of the new school ministers," and the branches "don't recognize each other's validity"); Tr. 66-68, 73-75 (there was no consent, but "vehement opposition," to the "withdrawal" of the New School to form the United Synod (Southern Branch); the ministers were deposed; and the branches "recognize each other exists, but they don't recognize the legitimacy of the other"); Tr. 88 (the Southern branch was "denounced roundly and the Presbyterian Church actually had statutes in its own constitution which would have made the ordination of ministers in this new PCCSA invalid"); Tr. 89 ("Not only does [the Northern branch] denounce it, but it actually passes a series of resolutions" that "demanded . . . fealty").

The Church can point only to the former.

The record likewise does not support the Church's suggestion that the Presbyterian divisions were consensual because presbyteries had "the right and authority" to leave. TEC Opp. 11. Professor Mullin's own testimony discussed only the late 1850s New School split into Northern and Southern branches, and even that testimony was equivocal. *See* Tr. 1056-57 (explaining that the resolution that "struck them from the official records . . . gives to me *a sense by which they did not deny* the right of a Synod to withdraw. They just said, 'If you're withdrawing, we're going to strike you from our books'" (emphasis added)). By contrast, Professor Valeri, a Presbyterian minister who has particular expertise in Presbyterian history (Tr. 45, 47, 50), unequivocally affirmed that none of the many Presbyterian divisions was authorized (Tr. 57-60, 62-69, 87-90).

3. To bolster its purported dichotomy between smaller "separations" and "historic divisions," the Church asserts that the CANA experts did not "claim[] . . . that any smaller separations were referred to as 'divisions' usually, commonly, or regardless of the context" (TEC Opp. 15). But that is demonstrably false. They testified that divisions involving the Reformed Episcopal Church, Reformed Methodist Church, AME Church, AME Zion Church, Old Light Synod, Cumberland Presbyterian Church, Associate Reform Presbyterian Church of the South, and Associate Reform Synod, to name a few, were "very small"—but were no less divisions. CANA Br. 10. Indeed, Professor Mullin himself admitted on cross-examination that "you see the word division used in common parlance to describe other, smaller separations" (Tr. 1153:1-4); that many secular publications (*e.g.*, the Macon Telegraph) used "division" to refer to smaller separations (Tr. 1147-49); and that he has publicly described the Reformed Episcopal Church split, which all agree was small, as a "division" (Tr. 1103, 1123-25).

The division here is far larger than these "smaller" divisions. Tens of thousands of mem-

bers, and at least 100 congregations, have divided from the Church in a short period of time, and the numbers are growing. CANA Br. 34-36. Moreover, some 11 percent of membership and 18 percent of those in average Sunday attendance have divided from the Diocese. CANA Br. 43-44. But in any case, § 57-9 applies to divisions of all sizes, and thus applies here.[9]

In sum, the Church's evolving view that a division requires, if not formal *approval* then at least formal *recognition* by the denomination, is simply the latest iteration of its position that the law applies to the Church only if it says so. As a theological matter, the Church may choose to believe that it is the final arbiter of truth. But as a legal matter, the meaning of "division" and "branch" is governed by settled rules of statutory construction. Those rules confirm that the ordinary meaning of "division" and "branch" must govern. And the undisputed evidence shows that these core requirements of § 57-9 have been satisfied.

---

[9] We have already answered the Church's "constitutional avoidance" and other constitutional arguments (TEC Opp. 9; *see* CANA Opp. 35-51), its legislative intent argument (TEC Opp. 15; *see* CANA Opp. 14-18), and its "branch" arguments (TEC Opp. 21-22; *see* CANA Opp. 19-28).

We have also largely addressed the Church's arguments concerning the Anglican Communion. CANA Br. 49-58; CANA Opp. 28-34. As to the claim that it is impossible for there to be any "structural division" in the Communion (TEC Opp. 23-24): Even Professor Douglas admitted that the Church of Nigeria's constitutional amendments and practical actions broke the relationship with TEC at a provincial level and constituted a division from the perspective of the Church of Nigeria (Tr. 931-33, 942-44). He also admitted that provinces could be "officially alienated" from one another at the level of "provincial polity structure" (Tr. 931-34, 961-62).

Further, Professor Douglas admitted that the term "religious society" can encompass associations of churches (like the Communion) (Tr. 927), and he agreed that the Communion is a "body of religious believers" (Tr. 911). At a minimum, then, the Communion is a religious society.

Finally, the Church seeks to inject its own notions of stringent control into the common meaning of "attached," by citing an alternative definition that is specific *to the military*. TEC Opp. 26. But these assertions of autonomy ring hollow in light of Professor Douglas's descriptions of the many attachments between Provinces, dioceses, churches, and individuals in the Communion. Tr. 932, 935-37, 950-55. The Church's claim that the legal ties between Provinces are so weak that there can be no "attachment," and yet so strong that they are incapable of being broken by official acts of a province's polity structures, is self-contradictory and untenable. But in any event, these attachments go far beyond the minimal ones described in *Baber*, where "[a]ll witnesses agreed that the congregation of each Christian church is autonomous." 207 Va. at 697.

CONCLUSION

WHEREFORE, the CANA Congregations and various associated defendants, by counsel, respectfully request that this Court make factual findings that the CANA Congregations have satisfied the "division," "branch," "church or religious society," and "attached" requirements of Va. Code § 57-9; that, upon approval of the CANA Congregations' determination to separate from TEC and join CANA, this approval be "entered in the court's civil order book" (§ 57-9), and that the Court grant such additional relief as the case may require and the Court deems just.

Dated: January 17, 2008

Respectfully submitted,

WINSTON & STRAWN

By: _____

Gordon A. Coffee (VSB #25808)
Gene C. Schaerr
Steffen N. Johnson
Andrew C. Nichols (VSB #66679)
1700 K Street, N.W.
Washington, DC 20006-3817
(202) 282-5000 (telephone)
(202) 282-5100 (facsimile)

Counsel for Truro Church and its Related Trustees, The Falls Church, Church of the Apostles, and Church of the Epiphany

GAMMON & GRANGE, P.C.

By: _____

Scott J. Ward (VSB #37758)
Timothy R. Obitts (VSB #42370)
Robert W. Malone (VSB #65697)
8280 Greensboro Drive, Seventh Floor
McLean, VA 22102
703-761-5000 (telephone)
703-761-5023 (facsimile)

Counsel for Christ the Redeemer Church, Potomac Falls Church, and The Falls Church

SEMMES, BOWEN & SEMMES, P.C.

By: _____

James A. Johnson
Paul N. Farquharson
Scott H. Phillips
250 W. Pratt Street
Baltimore, Maryland 21201
(410) 539-5040 (telephone)
(410) 539-5223 (facsimile

Counsel for The Falls Church

SEMMES, BOWEN & SEMMES, P.C.

By: _____

Sarah W. Price (VSB #68555)
Suite 200
1577 Spring Hill Road
Vienna, Virginia 22182
(703) 760-9473 (telephone)
(703) 356-6989 (facsimile

Counsel for The Falls Church

SANDS ANDERSON MARKS & MILLER

By: _____

J. Jonathan Schraub (VSB # 17366)
George O. Peterson (VSB # 44435)
Michael T. Marr (VSB # 48536)
1497 Chain Bridge Road, Suite 202
McLean, VA 22101
703-893-3600 (telephone)
703-893-8484 (facsimile)

Counsel for Truro Church and its Related Trustees

MARY A. McREYNOLDS, P.C.

By: _____
Mary A. McReynolds (admitted pro hac vice)
1050 Connecticut Avenue, N.W.
Tenth Floor
Washington, D.C. 20036
(202) 426-1770 (telephone)
(202) 772-2358 (facsimile)

Counsel for Church of the Apostles, Church of the Epiphany, Herndon, St. Margaret's Church, St. Paul's Church, Haymarket, and St. Stephen's Church, and their Related Trustees

CARR & CARR

By: _____
James E. Carr (VSB #14567)
44135 Woodbridge Parkway
Suite 260
Leesburg, VA 20176
703-777-9150 (telephone)
703-726-0125 (facsimile)

Counsel for Church of Our Saviour at Oatlands and its Related Trustees

WALSH, COLLUCCI, LUBELEY,
EMERICK & WALSH, PC

By: _____
E. Andrew Burcher (VSB # 41310)
4310 Prince William Parkway, S-300
Prince William, VA 22192
703-680-4664 x 159(telephone)
703-680-2161 (facsimile)

Counsel for Church of the Word, St. Margaret's Church, St. Paul's Church and their Related Trustees

R. HUNTER MANSON

By: _____

R. Hunter Manson (VSB #05681)
P. O. Box 539
876 Main Street
Reedville, VA 22539
804-453-5600 (telephone)
804-453-7055 (facsimile)

Counsel for St. Stephen's Church

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of January, 2008 a copy of the foregoing CANA Congregations' Post-Trial Reply Memorandum, was sent by electronic mail and first-class mail, postage prepaid, to:

Bradfute W. Davenport, Jr., Esquire
George A. Somerville, Esquire
Joshua D. Heslinga, Esquire
TROUTMAN SANDERS, LLP
P.O. Box 1122
Richmond, VA 23218

Mary C. Zinsner, Esquire
TROUTMAN SANDERS, LLP
1660 International Drive, Suite 600
McLean, VA 22102

Edward H. Grove, III, Esquire
BRAULT PALMER GROVE
WHITE & STEINHILBER, LLP
10533 Main Street
Fairfax, VA 22030

Heather H. Anderson, Esquire
Adam M. Chud, Esquire
Soyong Cho, Esquire
GOODWIN PROCTER, LLP
901 New York Ave., N.W.
Washington, D.C. 20001

Robert C. Dunn, Esquire
Law Office of Robert C. Dunn
P.O. Box 117
Alexandria, VA 22313-0117

The Honorable Robert F. McDonnell, Attorney General of Virginia
William E. Thro, State Solicitor General
Stephen R. McCullough, Deputy State Solicitor General
Office of the Attorney General
900 East Main Street
Richmond, Virginia 23219

With a courtesy copy by electronic mail and hand-delivered to:

Seana C. Cranston
Law Clerk to the Honorable Randy I. Bellows
4110 Chain Bridge Road
Fifth Floor Judges' Chambers
Fairfax, VA 22030

Counsel for the CANA Congregations