

VIRGINIA:

2007 FEB -9 PM 2:03
IN THE CIRCUIT COURT OF THE COUNTY OF FAIRFAX

THE EPISCOPAL CHURCH,

PLAINTIFF,

V.

TRURO CHURCH; CHURCH OF THE APOSTLES;
CHURCH OF THE EPIPHANY; CHRIST THE REDEEMER
CHURCH; THE CHURCH AT THE FALLS – THE FALLS
CHURCH; ST. MARGARET’S CHURCH; ST. PAUL’S
CHURCH, HAYMARKET; CHURCH OF THE WORD;
CHURCH OF OUR SAVIOUR AT OATLANDS; POTOMAC
FALLS CHURCH; ST. STEPHEN’S CHURCH; THE RT.
REV. MARTYN MINNS; THE REV. DAVID R. HARPER;
THE REV. ROBIN RAUH; THE REV. MARK SHOLANDER;
THE REV. DR. JOHN W. YATES; THE REV. NEAL
BROWN; THE REV. DAVID N. JONES; THE REV. ROBIN
T. ADAMS; THE REV. ELIJAH BROCKENBROUGH
WHITE; THE REV. JACK GRUBBS; THE REV. JEFFREY O.
CERAR; JIM OAKES; JIM WILKINSON; MARY AILES;
BILL BARTO; CYNTHIA BROSNAN; STANTON
BRUNNER; DAN DEARBORN; BETH DORMAN; PAUL
JULIENNE; JUNE LEEUWRIK; DAN MALABONGA;
KEVIN MARSHALL; JIM MOULTON; MARY
SPRINGMANN; KATRINA WAGNER; ERNIE WAKEHAM;
MEGAN WALNUT; GARTH WILSON; DAVID K.
ALLISON; MARK ROBBINS; JERRY BAKER; PETER
EDMAN; DON FOY; DICK FULLER; BILL JENNINGS;
RUTH KRIZ; TONY MOSCATI; LOREN NYSTROM;
WILBERT SMITH; MALCOLM PHILLIPS; CHAD
KRUKOWSKI; SALLY MCNEELY; TED GREGG; RALPH
MORRIS; KEVIN HOLMES; MARK OLIPHANT; ANDY
PLUMMER; SCOTT REITER; MARGARET STROMBERG;
JOHN TICER; BOB FITZSIMMONDS; TANIE GUY;
DONNA SEPULVEDA CONWELL; JERRY CONWELL;
HARRY FURNEY; THOMAS WILSON; CAROL JACKSON;
HENRY BARRATT; ANNE CREGGER; DON DUSENBURY;
LARRY MEDLEY; ANNE WAIDMAN; DAVID
GUSTAFSON; KEN HAGERTY; GAIL THOMPSON;
ROGER TURNER; JOHN WALTER; ELIZABETH LAW;
MARTHA COOPER; KEN BROWN; CARLTON HOWARD;
BILL HARDING; CHARLEY MARTIN; RAY BELL; JOYCE

2007 1625 =

Case No. _____

HELLEMS; DAN THOMAS; MARIANN LYNCH; DWAIN
GRIMES; KAYE TAFT; JIM ARAM; CHRIS JOHNSON;
BRAD SCHOFFSTALL; SUSAN HILLEARY; JAKE
KRUCHTEN; DANIEL L. BELL; MARGARET C.
RADCLIFFE; GEORGE T. BECKETT; DICK
GOERTEMILLER; WARD LEHARDY; ELAINE PRICE;
CRAIG SOULE; HOWARD L. YORK; GEORGE K.
KRANDA; JAMES R. HUNDLEY; JANE B. WRIGHTSON;
JOHN DOES 1 – 60; AND JANE ROES 1 – 28,

DEFENDANTS.

COMPLAINT

Parties

1. Plaintiff is the Episcopal Church, also known as the Protestant Episcopal Church in the United States of America (“Episcopal Church” or “Church”). The Episcopal Church is a non-profit unincorporated association with its headquarters in New York, New York.

2. Defendants Truro Church, Church of the Apostles, Church of the Epiphany, Christ the Redeemer Church, The Church at the Falls – The Falls Church (“The Falls Church”), St. Margaret’s Church, St. Paul’s Church, Haymarket (“St. Paul’s Church”), Church of the Word, Church of Our Saviour at Oatlands (“Church of Our Saviour”), Potomac Falls Church, and St. Stephen’s Church are eleven local churches, known as “parishes” or “missions” (collectively, “parishes”), of the Episcopal Church and the Episcopal Diocese of Virginia (“Diocese” or “Diocese of Virginia”). The Diocese is one of the Church’s 111 geographical subdivisions known as “dioceses” and encompasses approximately the northern-most one-third of the Commonwealth of Virginia. Between February 2006 and January 2007, nine of the defendant parishes, Truro Church, Church of the Apostles, Church of the Epiphany, Christ the Redeemer Church, The Falls Church, St. Margaret’s Church, St. Paul’s Church, Church of Our Saviour, and St. Stephen’s Church, organized as non-stock religious corporations under the laws of Virginia.

Defendants Church of the Word and Potomac Falls Church are unincorporated associations. The parishes are subordinate units of the Episcopal Church and the Diocese, and are named as defendants in this action because their real and personal property and affairs are currently under the *de facto* control of individuals who claim the right to sever the link between the parishes and the Diocese and the Episcopal Church, to divert the parishes' real and personal property for their own use in affiliation with another denomination outside the United States, and to exclude the parishes' faithful Episcopalian members from use and control of that property.

3. Defendants Truro Church, Church of the Apostles, Church of the Epiphany, and Christ the Redeemer Church are located in Fairfax County, Virginia.

4. Defendant The Falls Church is located in Arlington County, Virginia.

5. Defendants St. Margaret's Church, St. Paul's Church, and Church of the Word are located in Prince William County, Virginia.

6. Defendants Church of Our Saviour and Potomac Falls Church are located in Loudoun County, Virginia.

7. Defendant St. Stephen's Church is located in Northumberland County, Virginia.

8. Venue is proper in this Court pursuant to Va. Code §§ 8.01-261, 262, and 263.

9. Defendant the Rt. Rev. Martyn Minns formerly served as the "rector," the priest in charge of a parish, of Truro Church pursuant to the rules, or "canons" of the Church.

Defendants Jim Oakes, Jim Wilkinson, Mary Ailes, Bill Barto, Cynthia Brosnan, Stanton Brunner, Dan Dearborn, Beth Dorman, Paul Julienne, June Leeuwrik, Dan Malabonga, Kevin Marshall, Jim Moulton, Mary Springmann, Katrina Wagner, Ernie Wakeham, Megan Walnut, and Garth Wilson formerly served as members of the "vestry," the local governing body of a parish, of Truro Church pursuant to the canons of the Church and the Diocese. These defendants

have left the Episcopal Church, yet continue to exercise control over the real and personal property of Truro Church.

10. Defendant the Rev. David R. Harper formerly served as the rector of the Church of the Apostles pursuant to the canons of the Church. Defendants David K. Allison, Mark Robbins, Jerry Baker, Peter Edman, Don Foy, Dick Fuller, Bill Jennings, Ruth Kriz, Tony Moscati, Loren Nystrom, Wilbert Smith, and Malcolm Phillips formerly served as members of the vestry of the Church of the Apostles pursuant to the canons of the Church and the Diocese. These defendants have left the Episcopal Church, yet continue to exercise control over the real and personal property of the Church of the Apostles.

11. Defendant the Rev. Robin Rauh formerly served as the rector of the Church of the Epiphany pursuant to the canons of the Church. Defendants Chad Krukowski, Sally McNeely, Ted Gregg, Ralph Morris, Kevin Holmes, Mark Oliphant, Andy Plummer, Scott Reiter, Margaret Stromberg, and John Ticer formerly served as members of the vestry of the Church of the Epiphany pursuant to the canons of the Church and the Diocese. These defendants have left the Church, yet continue to exercise control over the real and personal property of the Church of the Epiphany.

12. Defendant the Rev. Mark Sholander formerly served as the "Vicar," the priest in charge of a mission, of Christ the Redeemer Church pursuant to the canons of the Church. Defendants Bob FitzSimmonds, Tanie Guy, Donna Sepulveda Conwell, Jerry Conwell, and Harry Furney formerly served as members of the "vestry committee," the local governing body of a mission, of Christ the Redeemer Church pursuant to the canons of the Church and the Diocese. These defendants have left the Episcopal Church, yet continue to exercise control over the personal property of the Christ the Redeemer Church.

13. Defendant the Rev. Dr. John W. Yates formerly served as the rector of The Falls Church pursuant to the canons of the Church. Defendants Thomas Wilson, Carol Jackson, Henry Barratt, Anne Cregger, Don Dusenbury, Larry Medley, Anne Waidman, David Gustafson, Ken Hagerty, Gail Thompson, Roger Turner, John Walter, Elizabeth Law, Martha Cooper, Ken Brown, and Carlton Howard formerly served as members of the vestry of The Falls Church pursuant to the canons of the Church and the Diocese. These defendants have left the Episcopal Church, yet continue to exercise control over the real and personal property of The Falls Church.

14. Defendant the Rev. Neal Brown formerly served as the rector of St. Margaret's Church pursuant to the canons of the Church. Defendants Bill Harding, Charley Martin, and John Does 1 – 15 formerly served as members of the vestry of St. Margaret's Church pursuant to the canons of the Church and the Diocese. These defendants have left the Episcopal Church, yet continue to exercise control over the real and personal property of St. Margaret's Church.

15. Defendant the Rev. David N. Jones formerly served as the rector of St. Paul's Church pursuant to the canons of the Church. Defendants Ray Bell, Joyce Hellems, and John Does 16 – 30 formerly served as members of the vestry of St. Paul's Church pursuant to the canons of the Church and the Diocese. These defendants have left the Episcopal Church, yet continue to exercise control over the real and personal property of St. Paul's Church.

16. Defendant the Rev. Robin T. Adams formerly served as the rector of the Church of the Word pursuant to the canons of the Church. Defendants Dan Thomas, Mariann Lynch, Dwaine Grimes, Kaye Taft, Jim Aram, Chris Johnson, Brad Schoffstall, Susan Hilleary, and Jake Kruchten formerly served as members of the vestry of the Church of the Word pursuant to the canons of the Church and the Diocese. These defendants have left the Episcopal Church, yet continue to exercise control over the personal property of the Church of the Word.

17. Defendant the Rev. Elijah Brockenbrough White formerly served as the rector of the Church of Our Saviour pursuant to the canons of the Church. Defendants Daniel L. Bell and John Does 31 – 46 formerly served as members of the vestry of the Church of Our Saviour pursuant to the canons of the Church and the Diocese. These defendants have left the Episcopal Church, yet continue to exercise control over the real and personal property of the Church of Our Saviour.

18. Defendant the Rev. Jack Grubbs formerly served as the Vicar of Potomac Falls Church pursuant to the canons of the Church. Defendants John Does 47 – 63 formerly served as members of the vestry committee of the Potomac Falls Church pursuant to the canons of the Church and the Diocese. These defendants have left the Episcopal Church, yet continue to exercise control over the personal property of the Potomac Falls Church.

19. Defendant the Rev. Jeffrey O. Cerar formerly served as the rector of St. Stephen's Church pursuant to the rules, or "canons" of the Church. Defendants Margaret C. Radcliffe, George T. Beckett, Dick Goertemiller, and Ward Leahardy, formerly served as members of the vestry of St. Stephen's Church pursuant to the canons of the Church and the Diocese. These defendants, as well as defendants Elaine Price and Craig Soule, have left the Episcopal Church, yet continue to exercise control over the real and personal property of St. Stephen's Church.

20. Defendants Jane Roes 1 – 4 are the Trustees of Truro Church. They are named as defendants in this action because, on information and belief, they continue to hold legal title to some of the real property at issue in this case, which was deeded over the years to "Trustees for Zion Protestant Episcopal Church," "Trustees of Zion Protestant Episcopal Church," "Surviving Trustees of Truro Episcopal Church," or "Trustees for Truro Church."

21. Defendants Jane Roes 5 – 8 are the Trustees of the Church of the Apostles. They are named as defendants in this action because, on information and belief, they continue to hold legal title to some of the real property at issue in this case, which was deeded over the years to “Trustees for The Church of The Apostles (Episcopal)” or “Trustees for The Church of The Apostles.”

22. Defendants Jane Roes 9 – 12 are the Trustees of the Church of the Epiphany. They are named as defendants in this action because, on information and belief, they continue to hold legal title to some of the real property at issue in this case, which was deeded over the years to “Trustees of The Church of The Epiphany (Episcopal).”

23. Defendants Jane Roes 13 – 16 are the Trustees of The Falls Church. They are named as defendants in this action because, on information and belief, they continue to hold legal title to some of the real property at issue in this case, which was deeded over the years to the “Vestry of Truro Parish,” “Trustees of the Episcopal Church known and designated as the ‘Falls Church,’” “Trustees for the Falls Church Episcopal Church,” “Trustees of The Falls Church,” or “Trustees for The Falls Church (Episcopal).”

24. Defendants Jane Roes 17 – 20 are the Trustees of St. Margaret’s Church. They are named as defendants in this action because, on information and belief, they continue to hold legal title to some of the real property at issue in this case, which was deeded over the years to “St. Margaret’s Episcopal Church by its Trustees,” or “Trustees of St. Margaret’s Church, Dettingen Parish.”

25. Defendants Jane Roes 21 – 24 are the Trustees of St. Paul’s Church. They are named as defendants in this action because, on information and belief, they continue to hold legal title to some of the real property at issue in this case, which was deeded over the years to

“Trustees of St. Paul’s Episcopal Church” or to “Trustees, to be held as a rectory for the use and benefit of St. Paul’s P.E. Church, Haymarket.”

26. Defendants Jane Roes 25 – 28 are the Trustees of the Church of Our Saviour. They are named as defendants in this action because, on information and belief, they continue to hold legal title to some of the real property at issue in this case, which was deeded over the years for use by an Episcopal mission or parish.

27. Defendants Howard L. York, George K. Kranda, James R. Hundley and Jane B. Wrightson are trustees of St. Stephen’s Church. They are named as defendants in this action because, on information and belief, they continue to hold legal title to some of the real property at issue in this case, which was deeded over the years for use by an Episcopal mission or parish.

Organizational Structure of the Episcopal Church

28. The Episcopal Church is a hierarchical religious denomination. The Church has a three-tiered representative form of government that is prescribed by its Constitution and canons, which are binding upon all constituent units and members of the Church.

29. At the highest level, the Episcopal Church is governed by a legislative body called its “General Convention,” which meets at least once every three years. The “Chief Pastor and Primate” of the Church is its “Presiding Bishop,” who is elected by the General Convention and charged, among other duties, with responsibility for leadership in initiating and developing policy and strategy in the Church and speaking for the Church as to the policies, strategies, and programs authorized by the General Convention.

30. At the next level, the Church is comprised of 111 incorporated or unincorporated dioceses located in the United States and other countries. The governing body of each diocese is generally called its “Annual Convention” or “Council.” Each diocese assists in carrying out the

Church's mission in its defined geographic territory. Each diocese is also under the authority of a diocesan bishop who is elected by the diocesan convention or council and serves as the "ecclesiastical authority" and "chief executive officer" in charge of both ecclesiastical and temporal affairs within that diocese. The diocesan bishop is advised by and in some circumstances shares authority with a "Standing Committee," a body of elected ordained and lay persons. A diocese may also have an "Executive Board," comprised of the diocesan bishop and other elected clergy and lay representatives, to assist in implementing the work and mission of the Diocese between meetings of the Annual Convention or Council.

31. At the third level of governance, the 111 dioceses together contain the Church's nearly 7,700 worshipping congregations. Most of these congregations are called "parishes" of the Church; others, generally newly-forming congregations that do not meet all of the requirements for acceptance as a parish, are called "missions." A congregation may only be designated a parish or mission upon application to and acceptance by the diocese in which it is located. Each of the Church's parishes and missions is a constituent part of the diocese in which it is located. The local governing body, or vestry, of each parish is comprised of lay members elected by the voting membership of the parish and the rector of the parish. In the Diocese of Virginia, the local governing body of a mission is called a "vestry committee."

32. The Episcopal Church's hierarchical structure provides for representative participation in each level of governance. Each parish and mission, either by its membership or its vestry, elects representatives to the annual meeting of the Council of the Diocese in which it is located. Each diocese, in turn, sends bishops, other ordained clergy, and lay representatives as voting members to the triennial meeting of the General Convention of the Episcopal Church. Only clergy and lay members of the Episcopal parishes and missions are permitted to participate

in the annual meeting of the Diocesan Council. Only clergy and lay members of Episcopal parishes, missions, and dioceses are permitted to participate in the triennial meeting of the General Convention.

33. Pursuant to the Episcopal Church's Constitution and Canons (Const. Art. V and Canon I.10), the Church's General Convention may authorize the formal division of one of its dioceses into two or more separate dioceses. The Diocese of Virginia, for example, originally encompassed the entire geographic territory of the Commonwealth. By action of the General Convention, the Diocese was divided in 1892 into the Diocese of Virginia and the Diocese of Southern Virginia; in 1919, the Diocese of Southern Virginia was further divided into the Diocese of Southern Virginia and the Diocese of Southwestern Virginia.

34. Similarly, by action of the General Convention under Canon I.11(3)(f) a diocese may be released from the jurisdiction of the Episcopal Church to become a part of another entity within the Anglican Communion.

35. Since 1892, the General Convention has taken no action to divide the Diocese of Virginia or to release the Diocese of Virginia or any other diocese within the United States from its jurisdiction.

The Anglican Communion

36. The Episcopal Church is a member of the Anglican Communion. The Anglican Communion is not a hierarchical or "super-congregational" church. It is a fellowship of independent regional churches around the world, known for the most part as "provinces," that trace their respective roots to the Church of England, are recognized by the Archbishop of Canterbury as being in "communion" with him, and are constituent members of an advisory

body of bishops, priests, and laity from the 38 provinces of the Anglican Communion known as the “Anglican Consultative Council.”

37. The Convocation of Anglicans in North America (“CANANA”), which the individual defendants and other former members of the defendant parishes have joined, is an extraterritorial “mission” of the Church of Nigeria. The Church of Nigeria was formed initially as a mission or series of missions of the Church of England, and was established as an independent church in 1979. The Church of Nigeria is also a member of the Anglican Communion.

38. The Church of Uganda, which some former clergy and members of other Episcopal parishes in Virginia have joined, was formed initially as a mission or series of missions of the Church of England and was established as an independent church in 1961. The Church of Uganda is also a member of the Anglican Communion.

39. There are now, and have always been, theological differences and disagreements among the various independent members of the Anglican Communion.

Episcopal Church’s Rules Governing Parish Administration and Property

40. The Episcopal Church’s General Convention has adopted and from time to time amends a Constitution and canons. The dioceses through their Annual Conventions or Councils have also adopted and from time to time amend Constitutions and canons that supplement, and may not conflict with, the Episcopal Church’s Constitution and canons. Each diocese, parish, and mission of the Church is bound by the current Episcopal Church and applicable diocesan Constitutions and canons, as those are amended over time by the Church’s General Convention and applicable Diocesan Convention or Council, respectively.

41. The Episcopal Church's and the Diocese's canons govern both temporal and spiritual matters and contain a number of provisions that specifically relate to the use and control of parish property.

42. From the earliest days, the canons of the Diocese of Virginia explicitly recognized that parish property was held by and for the mission of the Church. Former Canon I.7, adopted in 1793, provided: "[t]he vestries respectively, with the Minister, . . . shall hold and enjoy all glebes, lands, churches, looks, plate, and other property now belonging or hereafter accruing to the Protestant Episcopal Church, within their respective parishes, as trustees for the benefit of the society. . . ." Former Canon I.10 similarly provided "[n]o sale of [parish] property as is of the nature of principal or stock, belonging to the Protestant Episcopal Church in any Parish, shall be made without the consent of the Convention."

43. Canon II.6 of the Episcopal Church was adopted in part in 1868 and in part in 1871. Canon II.6(1) requires that consecrated property be "secured for ownership and use by a Parish, Mission, Congregation, or Institution affiliated with this Church and subject to its Constitution and canons." Canon II.6(2) specifically prohibits parishes from encumbering or alienating such real property without the consent of the leadership of the diocese and provides:

"It shall not be lawful for any Vestry, Trustees, or other body authorized by laws of any State or Territory to hold property for any Diocese, Parish or Congregation, to encumber or alienate any dedicated and consecrated Church or Chapel, or any Church or Chapel which has been used solely for Divine Service, belonging to the Parish or Congregation which they represent, without the previous consent of the Bishop, acting with the advice and consent of the Standing Committee of the Diocese."

44. Episcopal Church Canon I.7.3, adopted in 1940, provides:

"No Vestry, Trustee, or other Body, authorized by Civil or Canon law to hold, manage, or administer real property for any Parish, Mission, Congregation, or Institution, shall encumber or alienate the same or any part thereof without the written consent of the Bishop and Standing Committee of the Diocese of which the Parish, Mission,

Congregation, or Institution is a part, except under such regulations as may be prescribed by Canon of the Diocese.”

45. Canon 15.1 of the Diocese of Virginia requires that “[t]he Vestry of every [parish]...shall elect Trustees for appointment pursuant to law to hold title to such [real and personal] property.” Canon 15.2 requires the consent of the Diocese for the encumbrance or alienation of “consecrated property, or any Church or Chapel which has been used solely for divine services.”

46. Episcopal Church Canon III.9(5)(a)(2), which was adopted in 1904, requires that “[f]or the purposes of the office and for the full and free discharge of all functions and duties pertaining thereto,” it is “the Rector...[who] shall at all times be entitled to the use and control of the Church and Parish buildings together with all appurtenances and furniture, and access to all records and registers maintained by or on behalf of the congregation.” Canon III.9(5)(a)(1) requires the rector to carry out his duties in obedience “to the Rubrics of the [Church’s] Book of Common Prayer, the Constitution and Canons of [the Episcopal] Church, as the pastoral direction of the Bishop.”

47. In 1979, the Episcopal Church’s General Convention adopted Canons I.7(4) and (5) to confirm the larger Church’s historic interest in parish property. Canons I.7(4) and (5) provide:

“Sec. 4: All real and personal property held by or for the benefit of any Parish, Mission or Congregation is held in trust for this Church and the Diocese thereof in which such Parish, Mission or Congregation is located. The existence of this trust, however, shall in no way limit the power and authority of the Parish, Mission or Congregation otherwise existing over such property so long as the particular Parish, Mission or Congregation remains a part of, and subject to, this Church and its Constitution and Canons.

“Sec. 5: The several Dioceses may, at their election, further confirm the trust declared under the foregoing Section 4 by appropriate action, but no such action shall be necessary for the existence and validity of the trust.”

48. Diocesan Canon 15.1 confirms that parish property is held for the mission of the Church and the Diocese and provides that “[a]ll real and personal property held by or for the benefit of any [parish,] Church or Mission within this Diocese is held in trust for The Episcopal Church and the Diocese of Virginia.”

49. National Canons I.7(4) and (5) and Diocesan Canon 15.1 restate the Church’s historic interest in parish property, which is also reflected in numerous earlier canons.

50. The canons of the Diocese further specifically authorize the Diocese to secure and take direct control of parish property that has ceased to be used by an Episcopal congregation.

Diocesan Canon 15.3 provides:

“The Executive Board shall take such steps as may be necessary to recover or secure any property, real or personal, belonging to any...Parish..., the legal title to which is not vested in duly constituted Trustees; and whenever any property, real or personal, formerly owned or used by any congregation of the Episcopal Church in the Diocese of Virginia for any purpose for which religious congregations are authorized to hold property under the provisions of the Code of Virginia or any amendment thereof, has ceased to be so occupied or used by such congregation, so that the same may be regarded as abandoned property by the Executive Board, which shall have the authority to declare such property abandoned and shall have the authority to take charge and custody thereof, the Executive Board shall take such steps as may be necessary to transfer the property to the Bishop or the Ecclesiastical Authority; or to sell it.”

51. The Episcopal Church’s and Diocese’s canons also control both the formation and the governance of individual parishes. Episcopal Church Canon I.13.2(a) delegates the authority to recognize new parishes or missions to the dioceses and provides:

“The ascertainment and defining of the boundaries of existing Parishes or Parochial Cures, as well as the establishment of a new Parish or Congregation, and the formation of a new Parish within the limits of any other Parish, is left to the action of the several Diocesan Conventions.”

52. Canon 10 of the Diocese of Virginia establishes the requirements that a congregation must meet to be organized as a mission or accepted as a parish (referred to in the

canons of the Diocese as a “Church”) by the Diocese. Specifically, Diocesan Canon 10

provides:

“Section 1. A group of people (1) which acknowledge the jurisdiction of the Bishop or Ecclesiastical Authority of the Diocese of Virginia, (2) among whom there is a regular program of identifiable Episcopal services (including regular celebration of the Holy Communion) at a designated place or places of worship, (3) which as a group shares in the support of the Episcopate of the Diocese, (4) which makes provision for the pastoral administrations of the church to its members and (5) which functions under the supervision of a Priest or Deacon, shall be called a Church....

“Section 2. A group of people seeking such status must signify its desire to a regular meeting of the Council of the Diocese of Virginia by petitioning for Church [“parish”] status. Such petition must contain the proposed name for the Church, a certification that the requirements of Section 1 of this Canon are complied with, the name and address of the supervising Priest, the address or addresses of the place or places of worship, and a copy of the current budget. The petition shall be accompanied by certificates of endorsement from the Regional Council of the Region in which such group provides a place of worship and from the Executive Board, it being the responsibility of the group to obtain such certificate.

...

“Section 6. A group of persons who desire to organize a congregation, but who are unable to meet all of the requirements of Section 1 of this Canon, may be constituted by the Bishop or Ecclesiastical Authority, with the advice and consent of the Standing Committee,... a Mission....”

53. All parishes, missions, and vestries are bound by both the Episcopal Church’s and Diocese’s Constitutions and canons. The preamble to the Diocesan Constitution provides:

“[T]he Diocese of Virginia acknowledges the authority and power of the General Convention of the Protestant Episcopal Church in the United States of America, as set forth in the Constitution and Canons adopted thereby...” Article XVII of the Diocesan Constitution provides “[e]very Congregation within the Diocese of Virginia, however called, shall be bound by the Constitution and the Canons adopted in pursuance hereof.”

54. Episcopal Church Canon I.17(8) requires that all persons accepting any office in the Church, including members of vestries, “shall well and faithfully perform the duties of that

office in accordance with the Constitution and Canons of this Church and of the Diocese in which the office is being exercised.”

55. Canon 11.8 of the Diocese of Virginia requires every individual elected to a vestry to take an oath as a prerequisite to becoming a member of the vestry. The oath states:

“I do believe the Holy Scriptures of the Old and New Testament to be the Word of God, and to contain all things necessary to salvation; and I do yield my hearty assent and approbation to the doctrines, worship and discipline of The Episcopal Church; and I promise that I will faithfully execute the office of Vestry member of ___ Church, in Region ___, in the County (or City) of ___, according to my best knowledge and skill.”

56. Diocesan Canon 11.11 provides that a vestry member’s “[n]eglect to perform faithfully and diligently the duties of Vestry members enumerated in the Canons or by the by-laws of the congregation” may result in that vestry member’s position being vacated.

57. Neither the Constitution and canons of the Episcopal Church, nor those of the Diocese, contain any provision for the unilateral withdrawal from the Diocese or the Episcopal Church by any parish or mission.

58. To the contrary, if, among other circumstances, an existing parish or mission shall cease to function as an Episcopal congregation, the Diocese under its Canon 15.3 “shall” take steps to secure any property belonging to or held by that parish or mission, as described in Paragraph 50 above.

59. If an existing parish shall cease to function as an Episcopal parish, the Diocese may also change the status of such parish to that of a mission. Diocesan Canon 10.6 provides:

“Upon...the failure of any Church [parish] to meet all the requirements of Section 1 of this Canon,...the Bishop or Ecclesiastical Authority, with the advice and consent of the Standing Committee...may change the status of such Church to that of a Mission.”

60. Diocesan Canon 9.3 further provides:

“The authority of an inactive Church is assigned to the Executive Board, which may delegate this authority in specific cases to a sub-committee composed entirely of

members of the Executive Board. An inactive Church is defined as one in which there is no functioning Vestry or Vestry Committee.”

61. Through its elected representatives to the annual Diocesan Council meetings and the Church’s General Conventions, each of the defendant parishes has effectively participated in the adoption of all amendments to the canons of the Church and the Diocese that have occurred since its founding.

The Current Dispute

62. In December 2006 or January 2007, a majority of the membership of each of the defendant parishes purportedly voted to withdraw from the Episcopal Church and the Diocese and to affiliate with the Church of Nigeria.

63. In about December 2006 or January 2007, the former members of eight of these parishes (The Falls Church, Church of the Apostles, Truro Church, Church of the Epiphany, St. Stephen’s Church, St. Margaret’s Church, St. Paul’s Church, and Church of Our Saviour) filed petitions under Va. Code § 57-9 contending that there has been a “division” within the Episcopal Church and that they are therefore entitled to retain their respective parish’s real property for their own use in association with another church. On information and belief, members of the remaining three parishes (Potomac Falls Church, Christ the Redeemer Church, and Church of the Word) hold title to no real property and have not filed such petitions.

64. On or about January 18, 2007, the Standing Committee of the Diocese determined that the defendant rectors and other clergy of the defendant parishes had “abandoned the communion” of the Episcopal Church, on the ground that such clergy are functioning as ordained clergy for congregations that have severed ties with the Episcopal Church and the Diocese of Virginia; that by doing so, they are leading congregations that have declared that they do not recognize the ecclesiastical or legal authority of either the Episcopal Church or the Diocese; and

that as a result, they have openly renounced the doctrine, discipline, or worship of the Episcopal Church. On or about January 22, 2007, the Diocesan Bishop, the Rt. Rev. Peter James Lee, sent a notice of inhibition to each of those rectors and other clergy, prohibiting them from functioning as clergy of the Church.

65. On or about January 18, 2007, the Executive Board of the Diocese, acting pursuant to Diocesan Canon 15.3, set forth in paragraph 50 above, adopted resolutions (1) declaring each parish's real property abandoned; (2) taking charge and custody of the parish's property; and (3) directing the Trustees appointed to hold the parish's property to transfer such property to the Diocesan Bishop.

66. The Episcopal Church and the Diocese are working to identify the remaining faithful Episcopalian members of each parish, and in appropriate cases have recognized the faithful Episcopalians who are members of a particular parish as the continuing congregation of that parish.

67. Notwithstanding the rules described in Paragraphs 40-61 above and the events described in Paragraphs 62-66 above, the individual defendants have retained and are using the real and personal property held by the parishes for their own use in association with a different church; have diverted and are continuing to divert the parishes' funds from the mission of the Episcopal Church; and have refused to surrender the real and personal property held by the parishes to the Diocesan Bishop, as directed by the Executive Board's January 18, 2007 resolutions.

68. The actions described in Paragraphs 62-63 above could not and did not affect the interest held by the Episcopal Church and the Diocese in the parishes' real and personal property, which must be used only for the mission of the Episcopal Church and the Diocese.

69. Defendants have nevertheless taken the position that the actions alleged in Paragraphs 62-63 above served to extinguish any interest on the part of the Episcopal Church and the Diocese in the real and personal property held by the parishes.

70. Therefore, an actual controversy exists between plaintiff and defendants concerning the use and control of the real and personal property held by the parishes.

71. As a result of the defendants' continued use, control, and diversion of the real and personal property held by the parishes for purposes other than for the mission of the Episcopal Church, in derogation of the Church's and the Diocese's Constitutions and canons and the Church's and the Diocese's interests in that property, the Church has suffered and will suffer irreparable injury.

WHEREFORE, plaintiff requests that the Court:

(1) declare that each parish's real and personal property is held for the benefit of an Episcopal congregation or entity and must be used for the Church's ministry and mission;


(2) declare that defendants may not divert, alienate, or use the parishes' real or personal property except as provided by and in accordance with the Constitutions and canons of the Episcopal Church and Diocese;

(3) issue a preliminary and permanent injunction ordering defendants to stop diverting, alienating, or using the parishes' real or personal property except as provided by the Constitutions and canons of the Episcopal Church and Diocese; to render an accounting of all real and personal property held by each parish; and to relinquish control of the real and personal property held by the parishes to the Diocesan Bishop, in accordance with the Diocesan Executive Board's January 18 resolutions; and

(4) award such further relief as may be necessary and proper.

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THE EPISCOPAL CHURCH

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