

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

In re Multi-Circuit Episcopal Church)
Litigation:)
)

Case Nos.: CL 2007-248724,
 CL 2007-5250

**THE DIOCESE’S MOTION TO COMPEL
REGARDING THE FALLS CHURCH**

The Church at the Falls – the Falls Church (TFC) has failed to produce highly relevant documents and to address deficiencies in interrogatory answers. The Diocese respectfully requests that the Court compel TFC to provide the requested documents and answers.

PROCEDURAL BACKGROUND

On April 29, 2008, the Diocese served requests for discovery on the Congregations, including TFC. *See* Ex. A. TFC served responses on June 4, 2008. *See* Exs. B & C. TFC produced documents as they were kept in the ordinary course of business, and counsel for the Diocese spent days at TFC reviewing documents and selecting them for production. On December 28, 2010, counsel for the Diocese wrote to counsel for TFC requesting that TFC provide a small number of missing documents and pages thereof and that it provide complete interrogatory answers. *See* Ex. D. After TFC’s counsel’s promises of a response were not actually followed by a response, counsel for the Diocese informed counsel for TFC that the Diocese would seek relief from the Court. *See* Ex. E at 3-4. TFC then responded by letter on February 3, 2011. *See* Ex. F. That letter stood by TFC’s interrogatory objections and answers and did not even provide a clear assurance that the Diocese would receive the small number of documents in question or a particular date by which TFC would produce those documents.

Furthermore, although TFC has three different law firms and 10 attorneys that are its counsel of record in this litigation, TFC’s counsel has refused to provide the availability for a

hearing on February 18, 2011, of anyone other than one individual attorney. *See* Ex. E at 1-2.

The Diocese does not believe it reasonable or proper for TFC to attempt to avoid a hearing in that manner, particularly in view of the number of very able counsel for TFC and the rapidly diminishing time before trial deadlines. Moreover, this is not a complicated motion.

Accordingly, counsel for the Diocese has noticed this matter for hearing on February 18. If TFC represents to the Court that none of its attorneys is available on February 18, then the Diocese respectfully requests that the Court hear the matter on another date.

TFC's letter of February 3 promises to supplement its response to the Diocese's Interrogatory 11 on or before February 11 and to "work with the Diocese/TEC to address and correct, if necessary," the deficiencies in its document production. We hope that it will do so and that this matter can be resolved without judicial involvement. Given the weeks of delay preceding TFC's letter of February 3, the patent insufficiency of its responses, and the impending (March 16) deadline for completion of discovery, however, the Diocese feels compelled to file this motion in order to bring the matter before the Court, if necessary, in a timely fashion.

ARGUMENT

I. TFC should be compelled to provide an answer to the Diocese's Interrogatory 1 to the extent that it relates to TFC's denial of the Diocese's Request for Admission 19.

The Diocese's Request for Admission 19 stated, "Canon 15, as shown on EDV0000208 - EDV0000210 (produced July 25, 2007), was adopted at the Annual Council of the Diocese in 1983. *See* 1983 Diocese Journal at 203." TFC denied that request and refused to answer an interrogatory which asked for the basis of the denial. *See* Ex. B at 3. Its letter of February 3, 2011, states only that it "believe[s] that our denials are sufficient" and offers "to discuss with you the basis for your request that we need to provide additional support for the denials." Ex. F at 2.

TFC's one-word denial of that request for admission is not "sufficient." The Diocese is

entitled either to an admission of these facts or to know the basis or theory on which TFC intends rely to argue that its Canon 15 was not adopted as stated.

II. TFC should be compelled to provide answers to Interrogatories 4, 5, 7, and 11 that are as complete as possible and that comply with the Rules.

Interrogatory 4 asked TFC to identify programs and funds of TEC or the Diocese in which TFC participated or from which it received a loan or grant. It listed a number of specific examples of such programs. TFC objected that the lack of time or scope limits rendered the interrogatory “incapable of reasonable response.” Ex. B at 5-6. The Diocese asked that TFC provide whatever information it could reasonably provide. Ex. D at 2. TFC has not provided any information. Even if a party’s information is incomplete, it has a duty to provide what information it can reasonably provide in response to plainly relevant discovery. TFC’s most recent excuse for not responding – that the Diocese should already have the information – is insufficient. A response is necessary to reveal what TFC’s position and contentions are with respect to the subject of the interrogatory. TFC should be compelled to serve an answer that provides what information TFC has.

Interrogatory 5 asked TFC to identify property that has been consecrated by a Bishop of the Episcopal Church and give the date(s) of the consecration(s). TFC objected that the interrogatory was not limited in time or scope and that the term consecration was ambiguous, then stated that TFC would produce documents “pursuant to Rule 4:8(f).” Ex. B at 6. In this context, the term “consecration” has a well-known meaning, of which TFC is fully aware. Moreover, TFC’s response violates Rule 4:8(f)’s explicit requirement that such a response “specify the records from which the answer may be derived in sufficient detail to permit the interrogating party to locate and to identify, as readily as can the party served, the records from which the answer may be ascertained.” TFC has failed to provide any specification. *See*

Dawson v. Bd. of Supervisors, 2002 Va. Cir. LEXIS 126 at 3 (Loudoun Apr. 11, 2002) (“under Rule 4:8(f) if a party decides to exercise the option to provide business records in lieu of answering an interrogatory then the strict requirements of the Rule must be met”). TFC should be compelled to provide an answer that states the requested information.

Interrogatory 7 asked TFC to “State with particularity how and when TFC came to be formed, accepted, or recognized as a mission, parish, congregation, and/or church” in the Diocese and state the times and circumstances under which TFC’s status changed. TFC objected that the information sought is public, stated that TFC predated the Diocese, and again stated that TFC would produce documents “pursuant to Rule 4:8(f).” Ex. B at 7. In addition to again violating Rule 4:8(f) by failing to specify the records from which the answer can be derived, TFC’s answer is insufficient. The Diocese agrees that some publicly available documents address the matter, and the Diocese has its own position (which TFC knows) as to TFC’s status throughout history. But the Diocese is entitled to know what TFC’s position and contentions are. *See* Ex. D at 2. TFC’s answer is an evasion.

Interrogatory 11 asked TFC to identify the facts and witnesses that support its affirmative defenses. TFC’s response provided no description at all of the factual basis for its defenses. *See* Ex. B at 10-11. Moreover, TFC’s invocation of Rule 4:8(f) is doubly defective. First, TFC again did not specify records. Second, TFC’s response is inappropriate unless TFC has produced a document describing the basis for the defenses. The Diocese has found no such document.

TFC should be ordered to answer Interrogatories 4, 5, 7, and 11.

III. TFC should be compelled to produce a few missing documents and pages thereof.

Among TFC’s document production were some books of Vestry minutes. The Diocese selected such minutes for production. TFC’s production was deficient in that it:

- produced no Vestry minutes between December 1956 and November 1984, without explanation (while producing minutes both before and after that period);
- produced a vestry minutes book (beginning at TFC1019542) in which almost 200 pages were missing;
- produced a vestry minutes book (beginning at TFC1017847) in which approximately 90 pages were missing and in which many of the pages produced were illegible or cut-off;
- produced a vestry minutes book (beginning at TFC1018880) in which 12 pages were missing;
- produced a vestry minutes book (beginning at TFC1019181) in which four pages were missing;
- produced a vestry minutes book in which the book ends mid-sentence (*see* TFC1018567) and a referenced “history of [TFC] in brief form” is not included as the book states, *see* TFC1018588; and
- produced a vestry handbook in which one of the four appendices is missing (*see* TFC1008604-34).

Each of these documents is relevant, and the Diocese needs a true and correct copy of the complete documents. There are a small number of documents at issue. TFC should be ordered to produce the missing documents and portions thereof.

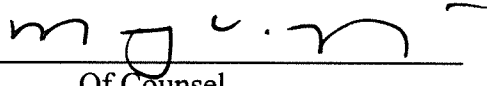
CONCLUSION

The Diocese respectfully requests that the Court order TFC to, within one week of the hearing on this Motion, answer Interrogatories 4, 5, 7, and 11 and produce true and correct copies of the complete Vestry minute documents identified above.

Respectfully submitted,

THE PROTESTANT EPISCOPAL CHURCH
IN THE DIOCESE OF VIRGINIA

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CERTIFICATE OF SERVICE

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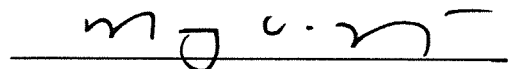
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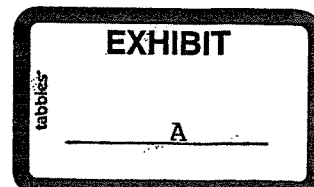
IN THE CIRCUIT COURT OF FAIRFAX COUNTY

In re:
Multi-Circuit Episcopal Church Litigation

) Case Nos.: 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

**THE DIOCESE AND THE EPISCOPAL CHURCH'S
REQUESTS FOR ADMISSIONS, INTERROGATORIES, AND
REQUESTS FOR THE PRODUCTION OF DOCUMENTS
TO THE CHURCH AT THE FALLS - THE FALLS CHURCH**

Pursuant to Part 4 of the Rules of the Supreme Court of Virginia, the Protestant Episcopal Church in the Diocese of Virginia and The Episcopal Church propound the following requests for admission, interrogatories, and requests for the production of documents to The Church at the Falls - The Falls Church.



DEFINITIONS AND INSTRUCTIONS

1. The "Diocese" means the Protestant Episcopal Church in the Diocese of Virginia.
2. The "Episcopal Church" or the "Church" means the institution that is now known as The Episcopal Church, however it was named or known at any other date or time.
3. "TFC" means The Church at the Falls - The Falls Church and any predecessor entities, however named or known, whether incorporated or unincorporated, and including but not limited to The Falls Church (Episcopal); The Falls Church Episcopal/ The Falls Church Episcopal Church; The Falls Church.
4. "You" or "your" means TFC and its clergy, vestry, directors, officers, trustees, representatives, attorneys, experts, investigators, or anyone acting on behalf of any the foregoing.
5. "This case" refers to all legal proceedings in the above list between the Diocese, the Episcopal Church, and the eleven congregations describing themselves as the "CANA Congregations," including all petitions, claims, and defenses of any party.
6. "Confirmed" refers to the performance of the sacramental rite of confirmation, in which a person "express[es] a mature commitment to Christ, and receive[s] strength from the Holy Spirit through prayer and the laying on of hands by a bishop." 1979 Book of Common Prayer at 860. *See generally id.* at 412-19.
7. "Reaffirmation" refers to the rite of "Reaffirmation of Baptismal Vows." *See, e.g.,* 1979 Book of Common Prayer at 309-10, 412-19. "Reception" refers to the related baptismal rite. *See, e.g., id.*
8. "Diocese Journal" means the Journal of the Annual Council of the Diocese and is used as a short form citation.
9. "DMS" means the Diocesan Missionary Society.

10. The "Subject Votes" means the votes that form the basis for TFC's petition pursuant to Va. Code § 57-9, including all questions upon which persons voted and all votes recorded regardless of whether such questions or votes were included in the result reported in TFC's petition pursuant to § 57-9.

11. "Describe" or "description" when used in reference to persons or the members of a class means to identify each individual person or member of a class. When used in reference to a document, "describe" or "description" means to state the following as to each document: (a) its title, if any, and/or subject, if identified; (b) its nature and contents; (c) its date; (d) the name, address and position of its author(s), signer(s) or producer(s); (e) the name, address and position of the addressee, if any, and of all persons who have received copies; and (f) its present location and the name, address and position of the person(s) having custody of it.

12. "Document" has the meaning assigned by Rule 4:9(a) of the Rules of the Supreme Court of Virginia and includes any thing that contains information, including any written, recorded, graphic or multimedia material however produced or reproduced, tangibly or in electronic format, whether or not in your possession, custody or control and whether or not claimed to be privileged against discovery on any ground.

13. As used in Interrogatories and Requests for the Production of Documents, "regarding" means embodying, describing, evidencing, discussing, containing, identifying, mentioning, pertaining to, or otherwise relating to in any way, in whole or in part, the subject(s) referred to in the interrogatory or request.

14. "Identify" or "identification" when used in reference to an individual person means to state his/her full name, his/her present address, his/her home and business telephone numbers, and his/her present or last known position and business affiliation. When used in

reference to an entity, “identify” or “identification” means to state the full name, present or last known address, and present or last known telephone number of such entity.

15. “Communication” refers to any and all written documents between two or more persons, or oral communications, including telephone communications, personal conferences, meetings or otherwise, between two or more persons.

16. Whenever you are requested to give a date, if you are unable to give the exact day, month, and year, give your best estimate.

17. Unless otherwise specified, year ranges are inclusive. For example, a reference to “1919-1922” refers to each and every year in that range, beginning with January 1, 1919, and ending with December 31, 1922.

18. Unless otherwise specified, references to a “Diocesan Canon,” the Diocesan Canons, or the Canons of the Diocese refer to the 2005 version of the Constitution and Canons of the Diocese, produced Nov. 6, 2007, as EDV0029801 – EDV0029848, and which was also filed as Ex. 3 to the Praeceptum Indexing Documents Filed Pursuant to Motions Craving Oyer (filed June 15, 2007), and TEC-Diocese Ex. 3 to the Trial in November 2007.

19. For each document or other communication as to which a privilege or other ground of exclusion is claimed, describe the document or other communication and state the basis for such claims of privilege or other ground of exclusion.

20. Conjunctions (“and” and “or”) and noun and verb forms (singular or plural) and tenses (past or present) are intended to and shall be construed to encompass the largest possible scope for these requests and shall not be construed to exclude information from the scope of these requests.

REQUESTS FOR ADMISSIONS

Pursuant to Rule 4:11 of the Rules of the Supreme Court of Virginia, the Episcopal Church and the Diocese, by counsel, requests that The Church at the Falls - The Falls Church admit to the following or set forth in detail the reasons why it cannot truthfully admit the following:

1. Prior to December 10, 2006, each member of the vestry of TFC was required by Diocesan Canon 11.8 or a predecessor canon to subscribe to one of the following declarations and promises before acting as a vestry member:

a. "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."

b. "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 Protestant Episcopal Church in these United States; and I promise that I will faithfully execute the office of vestry member of Church in County (or City), according to my best knowledge and skill."

c. "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 Protestant Episcopal Church in these United States; and I promise that I will faithfully execute the office of vestry member of Parish (or Church) in County (or City), according to my best knowledge and skill."

d. "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 Protestant Episcopal Church in these United States; and I promise that I will

faithfully execute the office of Vestryman of Parish (or Church) in
..... County (or City), according to my best knowledge and skill.”

2. Prior to December 10, 2006, each member of the vestry of TFC did
subscribe to one of the declarations and promises printed in Request for Admission Number 1.

3. During their time as Vestry members, each member of the Vestry of TFC
is or was a fiduciary (*i.e.* “A person who is required to act for the benefit of another person on all
matters within the scope of their relationship; one who owes to another the duties of good faith,
trust, confidence, and candor.” BLACK’S LAW DICTIONARY 658 (8th ed. 2004)) with respect to
the real and personal property used by TFC.

4. Prior to December 10, 2006, each of the clergy of TFC was required by
Article VIII (and its predecessors) of the Constitution of the Episcopal Church to subscribe to
and make the following declaration at the time of his or her ordination to the diaconate and to the
priesthood: “I do believe the Holy Scriptures of the Old and New Testaments to be the Word of
God, and to contain all things necessary to salvation; and I do solemnly engage to conform to the
Doctrine, Discipline, and Worship of the Episcopal Church.”

5. Prior to December 10, 2006, each of the clergy of TFC did subscribe to
and make the declaration printed in Request for Admission Number 4.

6. During their time as Rectors, each of the Rectors of TFC is or was a
fiduciary (*i.e.* “A person who is required to act for the benefit of another person on all matters
within the scope of their relationship; one who owes to another the duties of good faith, trust,
confidence, and candor.” BLACK’S LAW DICTIONARY 658 (8th ed. 2004)) with respect to the real
and personal property used by TFC.

7. Prior to December 10, 2006, clergy of TFC functioned under the authority of the Bishop of the Diocese.

8. Prior to December 10, 2006, TFC was served by clergy ordained in the Episcopal Church.

9. Prior to December 10, 2006, clergy of TFC conducted religious services (including but not limited to Holy Communion, baptisms, marriages, and funerals) in accordance with the Book of Common Prayer as adopted by the General Convention of the Episcopal Church.

10. Prior to December 10, 2006, the Bishop of the Diocese, or another bishop acting as his representative, periodically visited TFC and performed episcopal acts, including but not limited to confirmations, reaffirmations, and receptions.

11. In each of the years between 1960 and 2006, inclusive, TFC sent one or more delegates to, and was represented by one or more delegates at, the Annual Council of the Diocese.

12. Prior to December 10, 2006, TFC practiced business methods (as that term is used in Diocesan Canon 13, *see* EDV0029827 – EDV0029828) consistent with the Constitutions and Canons of the Diocese and the Episcopal Church.

13. From 1986 until December 10, 2006, TFC compensated its clergy in accordance with the Clergy Compensation and Benefits Guidelines created by the Diocese's Commission on Professional Standards and Support (formerly known as the Clergy Compensation Committee).

14. Prior to December 10, 2006, TFC submitted parochial reports to the Diocese and/or the Episcopal Church.

15. Prior to 2006, TFC and its clergy, vestry, trustees, directors, and officers acted in a way that they knew or believed to be consistent with the Constitution and Canons of the Diocese and the Constitution and Canons of the Episcopal Church.

16. Prior to December 10, 2006, TFC was included in the Episcopal Church's or the Diocese's group exemption from federal income taxes under section 501(c)(3) of the Internal Revenue Code.

17. Prior to December 10, 2006, TFC functioned as an Episcopal mission or church.

18. Prior to December 10, 2006, each of the five criteria listed in Diocesan Canon 10 § 1 (*see* EDV0029821) applied to or described TFC.

19. Canon 15, as shown on EDV0000208 - EDV0000210 (produced July 25, 2007), was adopted at the Annual Council of the Diocese in 1983. *See* 1983 Diocese Journal at 203.

20. At no time prior to December 1, 2006, did you ever protest or object to Canon 15 of the Diocese.

21. At no time prior to December 1, 2006, did you ever protest or object to Canon I.7(4) of the Canons of the Episcopal Church.

22. The Journals of the Annual Councils of the Diocese are admissible into evidence under Virginia law as business records.

23. Minutes of the meetings of the Standing Committee of the Diocese, of the Executive Board of the Diocese, and of the Executive Committee of the DMS are admissible into evidence under Virginia law as business records.

24. Prior to December 2006, TFC used Sunday School curricula and/or materials developed, provided, published, approved, or endorsed by the Episcopal Church or the Diocese.

25. Since May 19, 2002, as a “gift of encouragement” at the time of confirmation, the Diocese has given each confirm and under the age of 19 at churches in the Diocese one \$200 voucher (a “Youth Mission Voucher”) that “may be applied toward a mission trip whereby you will serve your neighbors in need, at home or abroad, and proclaim the Good News of Christ.” *See Ex. A to these Requests for Admission.*

26. Prior to December 10, 2006, TFC’s ordained persons and lay employees received health insurance through the insurance plans established by the Executive Board of the Diocese, except where the Diocese approved exceptions or exemptions.

27. Prior to December 10, 2006, TFC and its clergy participated in the Episcopal Church’s Pension Fund as set forth in Episcopal Church Canon I.8 and predecessor canons.

INTERROGATORIES

1. If you deny any of the facts or statements set forth in the foregoing Requests for Admission, for each denial state the reason you claim that fact or statement is not true, state what you claim to be true instead, identify all persons who have knowledge of the facts that you claim to be true instead, and describe all documents which support your denial and/or your contentions as to what is true. In particular, if you deny a Request for Admission on the grounds that you believe a year or date in the Request is incorrect, give what you believe to be the correct year or date.

ANSWER:

2. If you contend that any provision(s) printed in the Constitution and Canons of the Episcopal Church and the Diocese (TEC-Diocese Exs. 1-3 to the Trial in November 2007) were not in effect or were not valid in December 2006 and/or January 2007, state all facts that support such contention(s), identify all persons who have knowledge of the facts that support such contention(s), and describe all documents that support such contention(s).

ANSWER:

3. If you contend that, prior to 2006, real or personal property was donated or put in trust for TFC with an intent that such property benefit only the local congregation and not the Diocese or the Episcopal Church, state all facts that support such contention(s), identify all persons who have knowledge of the facts that support such contention(s), and describe all documents that support such contention(s).

ANSWER:

4. Identify the programs and funds of the Episcopal Church or the Diocese in which you have participated or from which you have received a loan or grant, and state (if applicable) the date(s), amount(s), and nature of such participation, loans, or grants. The programs and funds to which this interrogatory refers includes but is not limited to the following: the Church Pension Fund; the Church Insurance program; the Diocese's health insurance program (*see* Diocesan Canon 31); the Diocese's Trustees of the Funds investment program; the Diocese's payroll service; the Diocesan Fund for Human Need; the Diocesan Fund for World Mission (known since 2006 as Bishop Frank and Karen Gray Fund for World Mission); the United Thank Offering; the Diocese's 5th Century Fund (a capital and planned giving campaign that ran from 2000-2005); the Diocese's Mustard Seed Fund; the Diocese's Disabled Clergy Fund; and the Bishop of the Diocese's Discretionary Fund.

ANSWER:

5. Identify any property used, occupied, or held by or for you that has been consecrated by a Bishop of the Episcopal Church and give the date or dates of the consecration of such property.

ANSWER:

6. If you contend that the Diocese or the Episcopal Church has "admitted" or "recognized" that the Constitution and Canons of the Diocese or the Episcopal Church were or are "merely aspirational" or otherwise not binding on congregations, clergy, or Vestry members

within or affiliated with the Episcopal Church and the Diocese, identify with particularity all facts and describe all documents that support your contention.

ANSWER:

7. State with particularity how and when TFC came to be formed, accepted, or recognized as a mission, parish, congregation, and/or church within or affiliated with the Diocese and/or the Episcopal Church, including all such occasions if there are more than one, and including any times or instances and the circumstances under which TFC's status or designation as a mission, parish, congregation, or church changed.

ANSWER:

8. If you contend that when TFC became a mission, parish, congregation, and/or church of the Episcopal Church and/or the Diocese, TFC retained or reserved rights regarding ownership, control, or use of real or personal property upon or after disaffiliation from or severing ties with the Episcopal Church and/or the Diocese, state all facts that support such contention(s), identify all persons who have knowledge of the facts that support such contention(s), and describe all documents that support such contention(s).

ANSWER:

9. If you contend that while TFC was a mission, parish, congregation, and/or church within or affiliated with the Episcopal Church and/or the Diocese, TFC "enjoy[ed] autonomy of a type associated with congregational churches" (*see, e.g., CANA Congregations' Reply Mem. on Scope of Hearing (filed Aug. 31, 2007) at 6 n.4*), state all facts that support such

contention(s), identify all persons who have knowledge of the facts that support such contention(s), and describe all documents that support such contention(s).

ANSWER:

10. If you contend that the Episcopal Church and/or the Diocese do not have “all of the attributes of a true hierarchical religious denomination” (*see, e.g.,* Truro Church Answer to the Complaint filed by the Diocese ¶ 6; Church of the Apostles Answer to the Complaint filed by the Diocese ¶ 6), state “all of the attributes of a true hierarchical religious denomination” and indicate which of them you contend the Episcopal Church and/or the Diocese have and which of them you contend the Episcopal Church and/or the Diocese does not have.

ANSWER:

11. With respect to each of the following stated grounds of defense, state all facts that support the defense, identify all persons who have knowledge of the facts that support the defense, and describe all documents that support the defense:

a. The Diocese’s and/or the Episcopal Church’s claims are barred by equitable estoppel and/or estoppel en pais.

b. The Diocese’s and/or the Episcopal Church’s claims are barred by waiver and/or estoppel.

c. The Diocese’s and/or the Episcopal Church’s claims are barred by unclean hands.

d. The Diocese’s and/or the Episcopal Church’s claims are barred by laches.

e. The Diocese's and/or the Episcopal Church's claims are barred by unconscionability.

f. The Diocese's and/or the Episcopal Church's requested relief, to the extent based upon asserted contractual rights, constitutes an unenforceable penalty clause in violation of Virginia public policy.

ANSWER:

12. In regard to the Subject Votes, state in detail how you determined which members of TFC were eligible to vote and why you decided to use such rules or criteria; what rules, methods, or procedures were used to record and/or tabulate votes, and how and why TFC decided to use such rules, methods, or procedures; what rules, methods, or procedures were used to verify the identity and age of the persons voting or otherwise to insure the integrity of the votes, and how and why TFC decided to use such rules, methods, or procedures; the length of the purported congregational meeting at which persons voted, including any recesses taken, and how and why you decided to hold a congregational meeting of that length.

ANSWER:

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. All documents described or relied upon by you in responding to any of the foregoing Requests for Admission or Interrogatories.

2. All documents regarding TFC's formation, recognition, or acceptance as a mission, parish, congregation, and/or church within or affiliated with the Diocese and the Episcopal Church, including but not limited to all documents regarding any application by TFC to become such a mission, parish, congregation, and/or church, or the events by which TFC became such a mission, parish, congregation, and/or church.

3. All parish, congregation, or church profiles or histories (published or unpublished), including but not limited to those created, modified, or distributed in connection with clergy or other employee vacancies at TFC.

4. All minutes, agendas, resolutions, and other documents regarding discussions, issues considered, or actions taken at meetings of the vestry, committees, trustees, officers, and/or directors of TFC.

5. All minutes, agendas, resolutions, and other documents regarding discussions, issues considered, or actions taken at any annual or special meetings of the congregation of TFC.

6. All financial statements or records reflecting any contribution or assistance from the Episcopal Church, the Diocese, a convocation of congregations within the Diocese, or another congregation within the Episcopal Church or the Diocese to TFC.

7. All documents regarding attendance or participation by TFC, or a delegate for TFC, in meetings or events of the Episcopal Church or the Diocese since January 1, 1976, including but not limited to Annual Councils of the Diocese and General Conventions of the Episcopal Church. This request does not include travel vouchers or receipts, reimbursement forms, and other such documents that concern only the logistics of one or more individuals' attendance at such meetings or events.

8. All oaths or declarations, including but not limited to those with the wording stated in Requests for Admission numbers 1 and 4, signed or subscribed to by clergy, members of the Vestry, or other officers of TFC.

9. All documents regarding the actual or potential alienation, encumbrance, disposal, sale, lease, or mortgage of real property used by or for TFC or its officers in their capacity as officers of TFC, including but not limited to any inquiry to the Diocese or the seeking of consent from or giving of consent by the Diocese regarding the actual or potential alienation, encumbrance, disposal, sale, lease, or mortgage of such real property.

10. All instruments or other operative documents regarding any donation of real or personal property with a value known or believed to be greater than \$1,000.00 to one or

more of the following entities: TFC, the Diocese, or the Episcopal Church. This request does not include personal checks or records thereof that do not express any restrictions or limitations regarding the Diocese or the Episcopal Church. The Diocese and the Episcopal Church do not object at present to the redaction of account numbers and/or amounts but reserve their rights to seek production of unredacted documents.

11. All instruments or other operative documents regarding the establishment, modification, or termination of a trust benefiting one or more of the following entities: TFC, the Diocese, or the Episcopal Church.

12. All documents not already provided that show any restriction or lack thereof on your ownership or control of real or personal property.

13. All documents (including but not limited to minutes, transcripts, and audio or video tapes) memorializing, recording, and/or summarizing discussions or events at any meeting of the congregation, Vestry, or any subgroup of the Vestry, wardens, or clergy of TFC where separation from, disaffiliation from, or severing ties with the Diocese or the Episcopal Church was mentioned or discussed.

14. All documents (including but not limited to handouts, agendas, and audio or video tapes) disseminated, shared, or played at any meeting of the congregation, Vestry, or any subgroup of the Vestry, wardens, or clergy of TFC where any of the following topics was mentioned or discussed: (i) separation from, disaffiliation from, or severing ties with the Diocese

or the Episcopal Church; (ii) actions taken at the 2003 or 2006 General Convention of the Episcopal Church; or (iii) the Constitution or Canons of the Episcopal Church or the Diocese.

15. All documents discussing the potential or actual impact on the use, projected use, or right to use and control TFC's real or personal property upon and/or after disaffiliation from or severing ties with the Diocese or the Episcopal Church.

16. All documents regarding TFC's exemption from federal, state, or local taxes, including but not limited to any applications for section 501(c)(3) status under the Internal Revenue Code.

17. All communications between (i) clergy, trustees, members of the Vestry, corporate officers, or other representatives of TFC, and (ii) the Diocese or the Episcopal Church (including but not limited to any bishop in the Diocese or the Episcopal Church, the Standing Committee or Executive Board of the Diocese, or the chancellor, secretary, or treasurer of the Diocese).

18. All communications since January 1, 1978, to or from TFC or its clergy, trustees, members of the Vestry, or other officers or directors, regarding the Constitution or Canons of the Diocese or the Episcopal Church.

19. All contracts or letters of agreement between TFC and any of its past or present officers or directors, including but not limited to Rectors and other clergy, and any correspondence regarding negotiations or drafts of such contracts or letters of agreement.

20. All documents regarding a request for or the provision of loans, grants, gifts, or scholarships by the Diocese, the Episcopal Church, or any affiliated entity, to you or any member or child of a member of TFC.

21. All documents (including copies of any such materials) regarding the use at TFC of Sunday School or other teaching materials developed, provided, published, approved, or endorsed by the Episcopal Church or the Diocese, including but not limited to the Seabury Series, the Episcopal Children's Curriculum (produced by the VTS Center for the Ministry of Teaching), Journey to Adulthood (J2A) and Rite 13, and any materials published by Living the Good News, Inc. or Church Publishing, Inc.

22. All documents regarding the dedication or consecration of property used or occupied by TFC or any of its officers.

23. All communications with and/or documents sent to any commission, board, department, agency, or other unit of any local government regarding the real property used by TFC.

24. All W2s for employees of TFC for the 2007 tax year. The Diocese and the Episcopal Church do not object at present to the redaction of individual names, addresses, Social Security numbers, and compensation amounts but reserve their rights to seek production of unredacted documents.

25. All indexes, catalogs, finding aids, or other file lists of any type regarding documents maintained by TFC or any of its officers or directors.

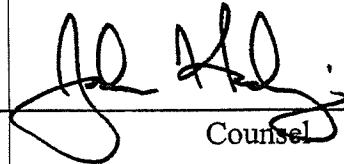
26. Any and all communications between (i) clergy, trustees, members of the Vestry, corporate officers, or other representatives of TFC, and (ii) the members of TFC, either individually or collectively, regarding the Subject Votes, including but not limited to any notices regarding the Subject Votes, communications regarding rules or procedures to be used in the Subject Votes, and any communications regarding the effect of members not voting in the Subject Votes.

27. Any and all communications or documents regarding the eligibility of one or more persons to vote in the Subject Votes, including but not limited to any member lists or records referred to or used in making eligibility determinations, any list of persons who were told by you that they could not vote, and any list of persons who cast provisional ballots and all such ballots.

28. Any and all documents referred to or relied upon by TFC in setting or enforcing rules, methods, or procedures regarding the Subject Votes.

29. Any and all other documents regarding the Subject Votes.

THE PROTESTANT EPISCOPAL CHURCH
IN THE DIOCESE OF VIRGINIA

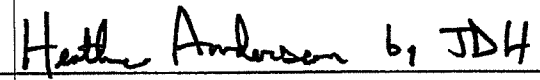
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing document were sent by electronic mail to all counsel named below and by first-class mail to the lead counsel at each firm (indicated with an asterisk below), on this 29th day of April, 2008:

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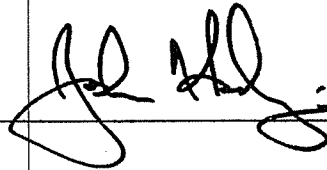
Stephen R. McCullough, Esquire (SMccullough@oag.state.va.us)

Office of the Attorney General

900 East Main Street

Richmond, Virginia 23219

Counsel for the Commonwealth of Virginia ex. rel. Robert F. McDonnell, in his official capacity as Attorney General

A handwritten signature in black ink, appearing to read "S. R. McCullough", is written over a horizontal line. The signature is stylized and cursive.

1724895

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

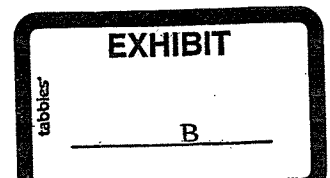
In re:	)	Case Nos.:	CL 2007-248724,
Multi-Circuit Episcopal Church Litigation	)		CL 2006-15792,
	)		CL 2006-15793,
	)		CL 2007-556,
	)		CL 2007-1235,
	)		CL 2007-1236,
	)		CL 2007-1237,
	)		CL 2007-1238,
	)		CL 2007-1625,
	)		CL 2007-5249,
	)		CL 2007-5250,
	)		CL 2007-5362,
	)		CL 2007-5363,
	)		CL 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

**THE CHURCH AT THE FALLS - THE FALLS CHURCH'S
ANSWERS TO THE PROTESTANT EPISCOPAL CHURCH IN THE DIOCESE
OF VIRGINIA'S AND THE PROTESTANT EPISCOPAL CHURCH IN THE
UNITED STATES OF AMERICA'S INTERROGATORIES DATED APRIL 29, 2008**

Pursuant to Rule 4:8, The Falls Church (TFC), by its counsel, hereby files these Answers and Objections to the Protestant Episcopal Church in the Diocese of Virginia's and the Protestant Episcopal Church in the United States of America's set of interrogatories dated April 29, 2008.

GENERAL OBJECTIONS

A. TFC objects to the Interrogatories of The Episcopal Church and the Diocese of Virginia ("Plaintiffs"), including the instructions, to the extent they (a) contain requests which exceed the scope and requirements of the Rules, and (b) purport to require discovery not



provided for by the Rules, including, but not limited to, discovery on subjects not at issue in this case.

B. TFC objects to Plaintiffs' Interrogatories to the extent they require TFC to (i) create documents or other materials not already in existence, or (ii) conduct a new investigation.

C. TFC objects to Plaintiffs' Interrogatories to the extent they seek information that is protected from discovery by the attorney-client privilege, the work product doctrine, and/or any other applicable privileges or immunities. To the extent that an individual interrogatory may be construed as seeking such privileged or protected information, TFC hereby claims such privilege and invokes such protection. The fact that TFC does not specifically object to an individual interrogatory on the ground that it seeks such privileged or protected information shall not be deemed a waiver of the protection of nondisclosure afforded by the applicable privilege or protection. To the extent required by the Rules, a privilege log will be provided for any withheld documents.

D. TFC objects to each and every interrogatory to the extent that it seeks information (i) that is not within TFC's knowledge and/or (ii) that is equally or more readily accessible or available to Plaintiffs and/or their respective employees, contractors, attorneys, and/or agents by virtue of being in their knowledge and/or records and/or in the public domain or otherwise.

E. In responding to Plaintiffs' Interrogatories, TFC does not waive the foregoing objections, nor the specific objections that are set forth in the responses to particular requests. To the extent that an answer or objection asserted by TFC herein is in conflict with the General Objections of the CANA Congregations, the specific answer or objection herein controls.

F. By making the objections herein, TFC does not concede that any request is relevant to this action or is reasonably calculated to lead to the discovery of admissible evidence.

TFC expressly reserves the right to object to further discovery into the subject matter of any of these interrogatories and to supplement their responses should further investigation disclose additional responsive information.

G. To the extent TFC's Answers to any of the propounders' Interrogatories requires information from the propounders which was requested in the discovery requests of TFC, but has not been provided in response to said discovery, TFC objects to the Interrogatory as being incapable of response, in whole or part, as a function of said discovery failures of the propounders.

INTERROGATORIES

I. If you deny any of the facts or statements set forth in the foregoing Requests for Admission, for each denial state the reason you claim that fact or statement is not true, state what you claim to be true instead, identify all persons who have knowledge of the facts that you claim to be true instead, and describe all documents which support your denial and/or your contentions as to what is true. In particular, if you deny a Request for Admission on the grounds that you believe a year or date in the Request is incorrect, give what you believe to be the correct year or date.

ANSWER:

The language "state what you claim to be true instead, identify all persons who have knowledge of the facts that you claim to be true instead... and/or your contentions as to what is true" is ambiguous rendering the Interrogatory in pertinent part incapable of response. Further, this interrogatory is vague and unduly burdensome in that it requires the responding party to identify all persons "who have knowledge of the facts" and "all documents which support" the denial.

2. If you contend that any provision(s) printed in the Constitution and Canons of the Episcopal Church and the Diocese (TEC-Diocese Exs. 1-3 to the Trial in November 2007) were not in effect or were not valid in December 2006 and/or January 2007, state all facts that support such contention(s), identify all persons who have knowledge of the facts that support such contention(s), and describe all documents that support such contention(s).

ANSWER:

TFC objects to this Interrogatory because it is unduly burdensome in that it requires the responding party to identify all facts, persons and documents that support a contention. Moreover, the undefined language of "in effect" and "were not valid" renders the Interrogatory ambiguous and incapable of reasonable response.

Subject to the foregoing objection, TFC contends that, including but not limited to, Title 1.7.4 of the Canons of the Episcopal Church in the United States ("Dennis Canon") is not applicable to TFC because of certain irregularities or other factors present during, before, and/or after the General Convention in 1979. While discovery on this issue is ongoing, TFC contends that, among others, the *Journal of the General Convention, 1979* and the pertinent editions of White and Dykman support this contention. In addition, TFC states that, among others, various delegates, attendees and observers present at the 1979 General Convention may have relevant knowledge.

3. If you contend that, prior to 2006, real or personal property was donated or put in trust for TFC with an intent that such property benefit only the local congregation and not the Diocese or the Episcopal Church, state all facts that support such contention(s), identify all persons who have knowledge of the facts that support such contention(s), and describe all documents that support such contention(s).

ANSWER:

TFC objects to this Interrogatory because it is unduly burdensome in that it is overly broad and unlimited in time or scope rendering it overly burdensome and incapable of reasonable response, and requires the responding party to identify all facts, persons and documents that support a contention.

Subject to the foregoing objection, TFC contends that all real and personal property donated to TFC were donated to TFC for use by the vestry at its discretion, unless designated for some other purpose. Prior to 2006, TFC, through its vestry and clergy, determined whether and how much of the assets available to TFC were to be given to the Diocese or any other entity or cause.

4. Identify the programs and funds of the Episcopal Church or the Diocese in which you have participated or from which you have received a loan or grant, and state (if applicable) the date(s), amount(s), and nature of such participation, loans, or grants. The programs and funds to which this interrogatory refers includes but is not limited to the following: the Church Pension Fund; the Church Insurance program; the Diocese's health insurance program (*see* Diocesan Canon 31); the Diocese's Trustees of the Funds investment program; the Diocese's payroll service; the Diocesan Fund for Human Need; the Diocesan Fund for World Mission (known since 2006 as Bishop Frank and Karen Gray Fund for World Mission); the United Thank Offering; the Diocese's 5th Century Fund (a capital and planned giving campaign that ran from 2000-2005); the Diocese's Mustard Seed Fund; the Diocese's Disabled Clergy Fund; and the Bishop of the Diocese's Discretionary Fund.

ANSWER:

TFC objects to this interrogatory on the grounds that it is overly broad and unlimited in time or scope rendering it incapable of reasonable response.

5. Identify any property used, occupied, or held by or for you that has been consecrated by a Bishop of the Episcopal Church and give the date or dates of the consecration of such property.

ANSWER:

TFC objects to this interrogatory on the grounds that it is unreasonably unlimited in time or scope. Further, objection is made to the failure of the propounders to define the term "consecration" (particularly as to whom or what) in connection with this interrogatory, rendering it ambiguous.

Subject to the foregoing objection, TFC states that to the extent that information responsive to this interrogatory is available, pursuant to Rule 4:8(f), TFC will make available for inspection and copying all non-privileged and non-work product protected documents.

6. If you contend that the Diocese or the Episcopal Church has "admitted" or "recognized" that the Constitution and Canons of the Diocese or the Episcopal Church were or are "merely aspirational" or otherwise not binding on congregations, clergy, or Vestry members within or affiliated with the Episcopal Church and the Diocese, identify with particularity all facts and describe all documents that support your contention.

ANSWER:

TFC objects to this interrogatory because it is unduly burdensome in that it requires TFC to identify all facts and documents that support a contention. Further objection is made because of the ambiguity of the undefined quoted language "merely aspirational" which renders the interrogatory ambiguous and incapable of reasonable response.

Subject to the foregoing objection, including but not limited to the following reasons, TFC contends that the Constitution and Canons of the Diocese and the Episcopal Church are not binding upon TFC. TFC existed as a parish before either the Diocese or the Episcopal Church existed. Over the course of TFC's existence it has referred to the Constitution and Canons of the Diocese and the Episcopal Church as guidelines for its governance and operation. TFC has acknowledged the authority of Scripture and the authority of the Book of Common Prayer, as well as the authority of civil law, as being superior to the Constitution and Canons. In addition, TFC relies upon, among other things, pertinent portions of White and Dykman and the absence of an itemized trust interest asserted by the Diocese in certain diocesan records and reports.

7. State with particularity how and when TFC came to be formed, accepted, or recognized as a mission, parish, congregation, and/or church within or affiliated with the Diocese and/or the Episcopal Church, including all such occasions if there are more than one, and including any times or instances and the circumstances under which TFC's status or designation as a mission, parish, congregation, or church changed.

ANSWER:

TFC objects to this interrogatory as the information requested is readily available to the Episcopal Church and the Diocese or is a matter of public record.

Subject to the foregoing objection, TFC states that it predated the existence of the Diocese and the Episcopal Church. In addition, TFC states that to the extent that further information responsive to this interrogatory is available, pursuant to Rule 4:8(f), TFC will make available for inspection and copying all non-privileged and non-work product protected documents.

8. If you contend that when TFC became a mission, parish, congregation, and/or church of the Episcopal Church and/or the Diocese, TFC retained or reserved rights regarding ownership, control, or use of real or personal property upon or after disaffiliation from or severing ties with the Episcopal Church and/or the Diocese, state all facts that support such contention(s), identify all persons who have knowledge of the facts that support such contention(s), and describe all documents that support such contention(s).

ANSWER:

TFC objects to this interrogatory because it is unduly burdensome in that it requires TFC to identify all facts, persons and documents that support a contention. Further objection is made that the interrogatory as now framed is so ambiguous and overly broad as to be incapable of reasonable response.

Subject to the foregoing objection, TFC contends that neither the Diocese nor the Episcopal Church have any rights to or in TFC's property. Such property has always been held either by TFC or in trust for TFC. This interrogatory wrongly presumes that TFC was required to retain or reserve its rights to property it has either always held or which has always been held in trust for TFC.

9. If you contend that while TFC was a mission, parish, congregation, and/or church within or affiliated with the Episcopal Church and/or the Diocese, TFC "enjoy[ed] autonomy of a type associated with congregational churches" (*see, e.g., CANA Congregations' Reply Mem. on Scope of Hearing* (filed Aug. 31, 2007) at 6 n.4), state all facts that support such contention(s), identify all persons who have knowledge of the facts that support such contention(s), and describe all documents that support such contention(s).

ANSWER:

TFC objects to this interrogatory because it is unduly burdensome in that it requires TFC to identify all facts, persons and documents that support a contention.

Subject to the foregoing objection, TFC contends that it has exercised autonomy by, among other things, determining whether, in what amounts, for what purposes and to which entities, TFC contributes time, talent and treasure; throughout the years, and from time to time, TFC has acted pursuant to the decisions taken by its individually elected vestry; TFC nominated and elected its own vestry; TFC set eligibility criteria for vestry candidates; TFC decided when to hold vestry elections and the voting procedures for the elections; TFC selected its own rector; TFC selected its own assistant rector(s), music director, and other staff; TFC formed search committees to find rector candidates, interviewed candidates, and negotiated the terms of employment for the rector; TFC determined wage increases and fringe benefits for its rector, assistant rector and other staff; TFC paid the salary and fringe benefits of its rector, assistant rector, music director and other staff; neither the Diocese nor the Episcopal Church were obligated to pay the salary or fringe benefits of TFC's rector, assistant rector(s) or other staff; TFC secured and paid for casualty insurance on TFC's local property; TFC secured and paid for insurance for its vestry; TFC decided each year how much money to contribute to the Diocese of Virginia; TFC determined what form of service to use during its services; TFC set the hours for its services; TFC chose which songs were sung at its services; TFC sent persons abroad as missionaries; TFC paid for the financial support of the missionaries; TFC has at all times exercised full dominion and control over the congregational property.

10. If you contend that the Episcopal Church and/or the Diocese do not have "all of the attributes of a true hierarchical religious denomination" (*see, e.g.*, Truro Church Answer to the Complaint filed by the Diocese ¶ 6; Church of the Apostles Answer to the

Complaint filed by the Diocese ¶ 6), state "all of the attributes of a true hierarchical religious denomination" and indicate which of them you contend the Episcopal Church and/or the Diocese have and which of them you contend the Episcopal Church and/or the Diocese does not have.

ANSWER:

TFC objects to this interrogatory on the grounds that it is unreasonably burdensome in that it would require TFC to state all possible attributes of a true hierarchical religious denomination regardless of relevance.

Subject to the foregoing objection, TFC refers to its answer to Interrogatory #9 above. In addition, TFC contends that The Episcopal Church and the Diocese lack certain indicia of a hierarchical religious denomination including but not limited to, a significant degree of lay governance, including elected representatives at congregations, diocesan and national levels, control over choice of rectors and other congregational staff, the purely voluntary nature of contributions to the Diocese of Virginia. Moreover, the dioceses of the Episcopal Church can be seen as creations of the various congregations and the Episcopal Church can be seen as a creation of the dioceses ... all of which is contrary to a hierarchical church structure.

11. With respect to each of the following stated grounds of defense, state all facts that support the defense, identify all persons who have knowledge of the facts that support the defense, and describe all documents that support the defense:

a. The Diocese's and/or the Episcopal Church's claims are barred by equitable estoppel and/or estoppel en pais.

b. The Diocese's and/or the Episcopal Church's claims are barred by waiver and/or estoppel.

c. The Diocese's and/or the Episcopal Church's claims are barred by unclean hands.

d. The Diocese's and/or the Episcopal Church's claims are barred by laches.

e. The Diocese's and/or the Episcopal Church's claims are barred by unconscionability.

f. The Diocese's and/or the Episcopal Church's requested relief, to the extent based upon asserted contractual rights, constitutes an unenforceable penalty clause in violation of Virginia public policy.

ANSWER:

TFC objects to this Interrogatory and its subparts because it is unduly burdensome in that it requires the responding party to identify all facts, persons and documents that support a contention.

Subject to the foregoing objection, TFC states that to the extent that information responsive to this interrogatory is available, pursuant to Rule 4:8(f), TFC will make available for inspection and copying all non-privileged and non-work product protected documents.

12. In regard to the Subject Votes, state in detail how you determined which members of TFC were eligible to vote and why you decided to use such rules or criteria; what rules, methods, or procedures were used to record and/or tabulate votes, and how and why TFC decided to use such rules, methods, or procedures; what rules, methods, or procedures were used to verify the identity and age of the persons voting or otherwise to insure the integrity of the votes, and how and why TFC decided to use such rules, methods, or procedures; the length of the

purported congregational meeting at which persons voted, including any recesses taken, and how and why you decided to hold a congregational meeting of that length.

ANSWER:

TFC conducted the Subject Vote in accordance with the requirements of Va. Code §57-9 and Virginia law in general. TFC also conducted the Subject Vote in a manner consistent with TFC's Articles of Incorporation and Bylaws, with the resolutions adopted by TFC's vestry, with the Rules of Order approved by the congregation at the commencement of the congregational meeting and vote, with the "Protocol for Departing Congregation", with the Constitution and Canons of TEC, with the Constitution and Canons of the Diocese. In order to ensure a fair opportunity for all qualified adult members of TFC to vote, TFC allowed sufficient time for all views to be expressed and heard and full opportunity for eligible voters to vote. All voting procedures were publicized in advance and neither the Diocese nor The Episcopal Church communicated to TFC any objections regarding those procedures. TFC has maintained all voting records in a secure location. The Subject Vote and the circumstances surrounding same are more fully set forth in TFC's Petition For Approval of Report of Congregational Determination Pursuant to Va. Code §57-9, filed on December 18, 2006 in *In Re: The Church at the Falls—The Falls Church*, Civil Action No. 06-1751 (Arlington Cnty. Va. Cir. Ct.).

VERIFICATION

Pursuant to Virginia Code Sec. 8.01-4.3, I swear under the penalties of perjury that the foregoing statements of fact are true to the best of my knowledge and belief.

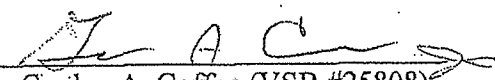


William E. Deiss, Parish Administrator
on behalf of The Falls Church

Dated: June 4, 2008

Respectfully submitted,

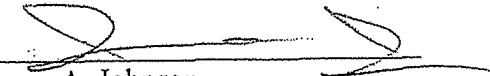
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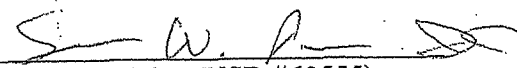
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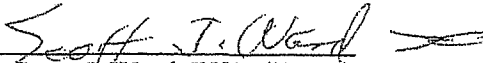
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The Falls Church

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of June, 2008 a copy of the foregoing

Answers to Interrogatories, was sent by electronic mail and first-class mail, postage prepaid, to:

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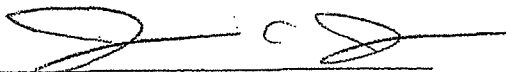
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VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

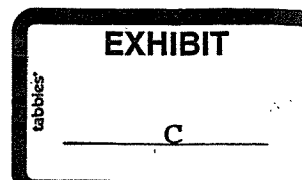
In re:)	Case Nos.:	CL 2007-248724,
Multi-Circuit Episcopal Church Litigation	)		CL 2006-15792,
	)		CL 2006-15793,
	)		CL 2007-556,
	)		CL 2007-1235,
	)		CL 2007-1236,
	)		CL 2007-1237,
	)		CL 2007-1238,
	)		CL 2007-1625,
	)		CL 2007-5249,
	)		CL 2007-5250,
	)		CL 2007-5362,
	)		CL 2007-5363,
	)		CL 2007-5364,
	)		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

**THE CHURCH AT THE FALLS - THE FALLS CHURCH'S RESPONSES TO THE
DIOCESE OF VIRGINIA'S AND THE EPISCOPAL CHURCH'S REQUESTS
FOR PRODUCTION OF DOCUMENTS DATED APRIL 29, 2008**

Pursuant to Rule 4:9, The Falls Church, by its undersigned counsel, hereby files these Responses to Requests for Production of Documents in this matter. As agreed earlier in this litigation, TFC has polled its current and former vestry members and other individuals previously named as defendants and includes all responsive and unprivileged documents obtained thereby in these responses.

GENERAL OBJECTIONS

A. TFC objects to the document requests of The Episcopal Church and the Diocese of Virginia ("Plaintiffs"), including the instructions, to the extent they (a) contain requests which



exceed the scope and requirements of the Rules, and (b) purport to require discovery not provided for by the Rules, including, but not limited to, discovery on subjects not at issue in this case.

B. TFC objects to Plaintiffs' document requests to the extent they require the CANA Congregations to (i) create documents or other materials not already in existence, or (ii) conduct a new investigation.

C. TFC objects to Plaintiffs' document requests to the extent they seek information that is protected from discovery by the attorney-client privilege, the work product doctrine, and/or any other applicable privileges or immunities. To the extent that an individual request may be construed as seeking such privileged or protected information, TFC hereby claims such privilege and invoke such protection. The fact that TFC does not specifically object to an individual request on the ground that it seeks such privileged or protected information shall not be deemed a waiver of the protection of nondisclosure afforded by the applicable privilege or protection. To the extent required by the Rules, a privilege log will be provided for any withheld documents.

D. TFC objects to Plaintiffs' document requests to the extent they seek confidential and/or proprietary information protected by constitutional, statutory, or common law rights of privacy.

E. TFC objects to Plaintiffs' document requests to the extent that they seek documents and/or information (i) that is not within TFC's knowledge and/or (ii) that is equally or more readily accessible or available to Plaintiffs and/or their respective employees, contractors, attorneys, and/or agents by virtue of being in their knowledge and/or records and/or in the public domain or otherwise.

F. In responding to Plaintiffs' document requests, TFC does not waive the foregoing objections, nor the specific objections that are set forth in the responses to particular requests. To the extent that a response or objection asserted by TFC herein is in conflict with the General Objections of the CANA Congregations, the specific response or objection herein controls.

G. By making these responses herein, TFC does not concede that any request is relevant to this action or is reasonably calculated to lead to the discovery of admissible evidence. TFC expressly reserves the right to object to further discovery into the subject matter of any of these document requests, to the introduction into evidence of any document produced, and to supplement their responses should further investigation disclose additional responsive documents.

H. As to any document subject to one of the propounded Requests, TFC reserves the right to assert any objection, not already made herein, that may become evident upon review of said document.

I. As to any document subject to one of the propounded Requests, TFC reserves the right to assert the priest penitent privilege, under Virginia Code Section 8.01-400 and other governing state law, if applicable to the content of said document.

J. TFC has maintained documents related to the Subject Votes in a secure location. Access to those non-privileged documents will be provided upon the satisfactory execution of an agreement that the removal or other disclosure of said documents does not affect their authenticity or any chain of custody.

K. TFC objects to any documents maintained by any of its parishioners that might be subject to the attorney-client or other privilege.

RESPONSES

REQUEST No. 1: All documents described or relied upon by you in responding to any of the foregoing Requests for Admission or Interrogatories.

RESPONSE: Objection is made to the extent that the language "relied upon by you in responding" requests the disclosure of attorney "mental impressions, conclusions, opinions or legal theories". (See Rule 4:1(3)). Subject to this objection, TFC will produce all non-privileged and non work product protected documents.

REQUEST No. 2 : All documents regarding TFC's formation, recognition, or acceptance as a mission, parish, congregation, and/or church within or affiliated with the Diocese and the Episcopal Church, including but not limited to all documents regarding any application by TFC to become such a mission, parish, congregation, and/or church, or the events by which TFC became such a mission, parish, congregation, and/or church.

RESPONSE: Subject to this objection, TFC will produce all non-privileged and non work product protected documents.

REQUEST No. 3: All parish, congregation, or church profiles or histories (published or unpublished); including but not limited to those created, modified, or distributed in connection with clergy or other employee vacancies at TFC.

RESPONSE: Objection - overly broad, unduly burdensome, not limited in time and scope, the request places the burden on the respective congregation to what, if any, documents are responsive to this request or is meant by "church profile" or "histories". Subject to this objection, TFC will produce all non-privileged and non work product protected documents.

REQUEST No. 4: All minutes, agendas, resolutions, and other documents regarding discussions, issues considered, or actions taken at meetings of the vestry, committees, trustees, officers, and/or directors of TFC.

RESPONSE: Objection - attorney-client privilege, and work product doctrine, overly broad, unduly burdensome, not limited in time frame or scope. Subject to this objection, TFC will produce all non-privileged and non work product protected documents.

REQUEST No. 5: All minutes, agendas, resolutions, and other documents regarding discussions, issues considered, or actions taken at any annual or special meetings of the congregation of TFC.

RESPONSE: Objection - overly broad, unduly burdensome, not limited in time frame or scope. Subject to this objection, TFC will produce all non-privileged and non work product protected documents.

REQUEST No. 6: All financial statements or records reflecting any contribution or assistance from the Episcopal Church, the Diocese, a convocation of congregations within the Diocese, or another congregation within the Episcopal Church or the Diocese to TFC.

RESPONSE: Objection – the undefined term “convocation” renders the request in pertinent part vague and incapable of reasonable response; otherwise the request is overly broad, unduly burdensome, not limited in time frame or scope. Subject to this objection, TFC will produce all non-privileged and non work product protected documents.

REQUEST No. 7: All documents regarding attendance or participation by TFC, or a delegate for TFC, in meetings or events of the Episcopal Church or the Diocese since January 1, 1976, including but not limited to Annual Councils of the Diocese and General Conventions of the Episcopal Church. This request does not include travel vouchers or receipts, reimbursement forms, and other such documents that concern only the logistics of one or more individuals' attendance at such meetings or events.

RESPONSE: Subject to this objection, TFC will produce all non-privileged and non work product protected documents.

REQUEST No. 8: All oaths or declarations, including but not limited to those with the wording stated in Requests for Admission numbers 1 and 4, signed or subscribed to by clergy, members of the Vestry, or other officers of TFC.

RESPONSE: Objection to the extent that the language “signed or subscribed” is used, insofar as they are synonyms and any other meaning of subscribed is not defined by the

propounder, rendering the Request in pertinent part vague and incapable of reasonable response. Subject to this objection, TFC will produce all non-privileged and non work product protected documents.

REQUEST No. 9: All documents regarding the actual or potential alienation, encumbrance, disposal, sale, lease, or mortgage of real property used by or for TFC or its officers in their capacity as officers of TFC, including but not limited to any inquiry to the Diocese or the seeking of consent from or giving of consent by the Diocese regarding the actual or potential alienation, encumbrance, disposal, sale, lease, or mortgage of such real property.

RESPONSE: Objection - overly broad, unduly burdensome, not limited in time frame or scope. Further objection is made to the language "documents regarding...potential alienation" which creates a request in pertinent part so vague as to be incapable of reasonable response.

REQUEST No. 10: All instruments or other operative documents, dated prior to the day upon which the Congregation's vote to disaffiliate began, regarding any donation of real or personal property with a value known or believed to be greater than \$1,000.00 to one or more of the following entities: the Congregation, the Diocese, or the Episcopal Church. This request does not include the collections or offerings taken during regular religious services, and its purpose is to obtain any documents supporting, exemplifying, or rebutting any allegation that property was donated or conveyed with an intent to benefit the Congregation and not the Diocese or the Episcopal Church. The Diocese and the Episcopal Church do not object at present to the redaction of account numbers and/or amounts but reserve their rights to seek production of unredacted documents.

RESPONSE: Objection - overly broad, unduly burdensome, not limited in time frame; also, objection made to production of any unredacted documents without suitable arrangements being made to secure the privacy of the individual contributors and their account and other financial information from public disclosure. Subject to this objection, TFC will produce all non-privileged and non work product protected documents.

REQUEST No. 11: All instruments or other operative documents regarding the establishment, modification, or termination of a trust benefiting one or more of the following entities: TFC, the Diocese, or the Episcopal Church.

RESPONSE: Objection - overly broad, unduly burdensome, not limited in time frame; also, objection made to production without suitable arrangements being made to secure the privacy of any person, and their account and other financial information, from public disclosure. Subject to this objection, TFC will produce all non-privileged and non work product protected documents.

REQUEST No. 12: All documents not already provided that show any restriction or lack thereof on your ownership or control of real or personal property.

RESPONSE: Objection – Request as framed is ambiguous and incapable of reasonable response; overly broad, unduly burdensome, not limited in time frame.

REQUEST No. 13: All documents (including but not limited to minutes, transcripts, and audio or video tapes) memorializing, recording, and/or summarizing discussions or events at any meeting of the congregation, Vestry, or any subgroup of the Vestry, wardens, or clergy of TFC where separation from, disaffiliation from, or severing ties with the Diocese or the Episcopal Church was mentioned or discussed.

RESPONSE: Objection - attorney-client privilege, and work product doctrine; privileged settlement discussion matters. Subject to this objection, TFC will produce all non-privileged and non work product protected documents.

REQUEST No. 14: All documents (including but not limited to handouts, agendas, and audio or video tapes) disseminated, shared, or played at any meeting of the congregation, Vestry, or any subgroup of the Vestry, wardens, or clergy of TFC where any of the following topics was mentioned or discussed: (i) separation from, disaffiliation from, or severing ties with the Diocese or the Episcopal Church; (ii) actions taken at the 2003 or 2006 General Convention of the Episcopal Church; or (iii) the Constitution or Canons of the Episcopal Church or the Diocese.

RESPONSE: Objection - attorney-client privilege, the work product doctrine; privileged settlement discussion matters. Subject to this objection, TFC will produce all non-privileged and non work product protected documents.

REQUEST No. 15: All documents discussing the potential or actual impact on the use, projected use, or right to use and control TFC's real or personal property upon and/or after disaffiliation from or severing ties with the Diocese or the Episcopal Church.

RESPONSE: Objection – Request as framed is ambiguous and not capable of reasonable response; attorney-client privilege, the work product doctrine. Subject to this objection, TFC will produce all non-privileged and non work product protected documents.

REQUEST No. 16: All documents regarding TFC's exemption from federal, state, or local taxes, including but not limited to any applications for section 501(c)(3) status under the Internal Revenue Code.

RESPONSE: Subject to this objection, TFC will produce all non-privileged and non work product protected documents.

REQUEST No. 17: All communications between (i) clergy, trustees, members of the Vestry, corporate officers, or other representatives of TFC, and (ii) the Diocese or the Episcopal Church (including but not limited to any bishop in the Diocese or the Episcopal Church, the Standing Committee or Executive Board of the Diocese, or the chancellor, secretary, or treasurer of the Diocese).

RESPONSE: Objection - overly broad, unduly burdensome, not limited in time frame, scope or subject. Subject to this objection, TFC will produce all non-privileged and non work product protected documents.

REQUEST No. 18: All communications since January 1, 1978, to or from TFC or its clergy, trustees, members of the Vestry, or other officers or directors, regarding the Constitution or Canons of the Diocese or the Episcopal Church.

RESPONSE: Objection – Request as framed is ambiguous and incapable of reasonable response; overly broad, unduly burdensome; also, intrudes on attorney client privilege and work product.

REQUEST No. 19: All contracts or letters of agreement between TFC and any of its past or present officers or directors, including but not limited to Rectors and other clergy, and any correspondence regarding negotiations or drafts of such contracts or letters of agreement.

RESPONSE: Objection – Request as framed is ambiguous and incapable of reasonable response; overly broad, unduly burdensome, not limited in time frame or scope.

REQUEST No. 20: All documents regarding a request for or the provision of loans, grants, gifts, or scholarships by the Diocese, the Episcopal Church, or any affiliated entity, to you or any member or child of a member of TFC.

RESPONSE: Objection - overly broad, unduly burdensome, not limited in time frame. Subject to this objection, TFC will produce all non-privileged and non work product protected documents.

REQUEST No. 21: All documents (including copies of any such materials) regarding the use at TFC of Sunday School or other teaching materials developed, provided, published, approved, or endorsed by the Episcopal Church or the Diocese, including but not limited to the Seabury Series, the Episcopal Children's Curriculum (produced by the VTS Center for the Ministry of Teaching), Journey to Adulthood (J2A) and Rite 13, and any materials published by Living the Good News, Inc. or Church Publishing, Inc.

RESPONSE: Objection - overly broad, unduly burdensome, not limited in time frame or scope. Subject to this objection, TFC will produce all non-privileged and non work product protected documents.

REQUEST No. 22: All documents regarding the dedication or consecration of property used or occupied by TFC or any of its officers.

RESPONSE: Objection to the Request as presently framed which does not define “dedication” or “consecration” for purposes of this Request, (most particularly for whom or what); rendering it vague and incapable of reasonable response.

REQUEST No. 23: All communications with and/or documents sent to any commission, board, department, agency, or other unit of any local government regarding the real property used by TFC.

RESPONSE: Objection - overly broad, unduly burdensome, not limited in time frame and scope. Subject to this objection, TFC will produce all non-privileged and non work product protected documents.

REQUEST No. 24: All W2s for employees of the Congregation for the 2007 tax year that contain, in any form or manner, any of the following words: "Episcopal," "Diocese," or "Bishop." The Diocese and the Episcopal Church do not object at present to the redaction of individual names, addresses, Social Security numbers, and compensation amounts but reserve their rights to seek production of unredacted documents.

RESPONSE: Objection - not reasonably calculated to lead to admissible evidence; also, objection made to production of any unredacted documents without suitable arrangements being made to secure the privacy of the individual employees and their financial information from public disclosure.

REQUEST No. 25: All indexes, catalogs, finding aids, or other file lists of any type regarding documents maintained by TFC or any of its officers or directors.

RESPONSE: Objection as this request seeks documents protected by the work product doctrine as such documents were created during the course of this litigation. Subject to this objection, TFC will produce all non-privileged and non work product protected documents.

REQUEST No. 26: Any and all communications between (i) clergy, trustees, members of the Vestry, corporate officers, or other representatives of TFC, and (ii) the members of TFC, either individually or collectively, regarding the Subject Votes, including but not limited to any notices regarding the Subject Votes, communications regarding rules or procedures to be used in the Subject Votes, and any communications regarding the effect of members not voting in the Subject Votes.

RESPONSE: Objection - attorney-client privilege, the work product doctrine. Subject to this objection, TFC will produce all non-privileged and non work product protected documents.

REQUEST No. 27: Any and all communications or documents regarding the eligibility of one or more persons to vote in the Subject Votes, including but not limited to any member lists or records referred to or used in making eligibility determinations, any list of persons who were told by you that they could not vote, and any list of persons who cast provisional ballots and all such ballots.

RESPONSE: Objection – Request as framed is ambiguous and incapable of reasonable response to the extent that it does not identify between whom are the “communications” if requests; attorney-client privilege, the work product doctrine.

REQUEST No. 28: Any and all documents referred to or relied upon by TFC in setting or enforcing rules, methods, or procedures regarding the Subject Votes.

RESPONSE: Objection - attorney-client privilege, the work product doctrine. Subject to this objection, TFC will produce all non-privileged and non work product protected documents.

REQUEST No. 29: Any and all other documents regarding the Subject Votes.

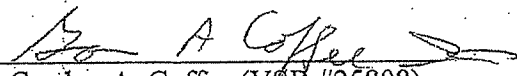
RESPONSE: Objection – the Request as framed is vague and not capable of reasonable response; attorney-client privilege, the work product doctrine.

Dated: June 4, 2008

Respectfully submitted,

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Counsel for The Falls Church

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of June, 2008 a copy of the foregoing Responses to Request for Production of Documents, was sent by electronic mail and first-class mail, postage prepaid, to:

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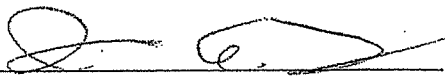
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Paul N. Farquharson

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Direct Dial: 804-697-1283
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December 28, 2010

BY E-MAIL AND MAIL

James A. Johnson (jjohnson@semmes.com)
Paul N. Farquharson (pfarquharson@semmes.com)
Scott H. Phillips (sphillips@semmes.com)
Semmes Bowen & Semmes, P.C.
25 South Charles Street, Suite 1400
Baltimore, Maryland 21201

and other counsel of record for The Falls Church

Re: *In re MultiCircuit Episcopal Church property litigation;*
Fairfax Cir. Ct. omnibus case no. CL2007-248724

Dear Jim and other counsel,

I write regarding The Falls Church's discovery responses and document productions.

Regarding TFC's June 4, 2008, responses to requests for admission and interrogatories, the Diocese seeks to ensure it understands TFC's factual and legal contentions. We ask that TFC supplement to provide complete responses regarding the following points:

- TFC objected to and declined to provide any response to Interrogatory 1. Whether in answer to Interrogatory 1 or by further response to the Requests for Admission, we seek clarification of some of TFC's admissions and the basis for some of its denials:
 - TFC's responses to Requests for Admission 4 and 5 refer to "certain congregation clergy" and say that such clergy "may have signed" statements "similar" to the referenced one. The admissions are unclear and insufficient.

ATLANTA • CHICAGO • HONG KONG • LONDON • NEW YORK • NEWARK • NORFOLK
ORANGE COUNTY • PORTLAND • RALEIGH • RICHMOND • SAN DIEGO • SHARPSVILLE
TYSONS CORNER • VIRGINIA BEACH • WASHINGTON, D.C.

EXHIBIT

D

- TFC's response to Request for Admission 8 also refers to "certain" unnamed clergy. Please identify which clergy and state whether TFC contends it was served prior to December 10, 2006, by any clergy not ordained in the Episcopal Church.
- TFC's response to Request for Admission 9 refers to "certain clergy" and "services generally in a manner consistent with the Book of Common Prayer in use by the congregation at the time." Does the reference to "certain" clergy mean that TFC contends that some clergy were using the BCP and some not? Does TFC contend that, prior to December 10, 2006, TFC followed a BCP other than one adopted by the General Convention of the Episcopal Church?
- TFC denied Requests for Admission 19-21. To our knowledge, you have not provided a basis for any of those responses.
- TFC objected to and declined to provide any response to Interrogatory 4. Surely TFC can identify whether it received funds from one or more of the listed sources for at least some period of time. We ask that TFC provide whatever information it can reasonably provide.
- TFC responded to Interrogatories 5 and 7 by invoking Rule 4:8(f) but failed to provide the specification required by that Rule. Those interrogatories are clear in meaning and reasonable in scope, and we ask that TFC answer them. In regard to Interrogatory 7, there are a number of historical materials available regarding TFC, but TFC's response wholly fails to state what TFC contends about the subjects of the interrogatory. Should TFC wish to adopt parts of published histories as its response, that would likely be one reasonable way to respond, but TFC cannot continue to evade describing its own factual position and contentions about the subject of the interrogatory.
- TFC's response to Interrogatory 6 fails to identify the "certain diocesan records and reports" upon which TFC relies.
- TFC responded to Interrogatory 11, which sought the facts and witnesses that support TFC's affirmative defenses, by invoking Rule 4:8(f). Invoking the Rule for that interrogatory seems inappropriate unless TFC has produced a document describing the basis for its defenses, and TFC's response again fails to provide the specification required by that Rule.

Regarding TFC's document productions, we are aware of certain missing pages and materials. We ask that TFC either provide a supplemental production that addresses the following deficiencies or identify to us the already-produced records that fill these gaps:

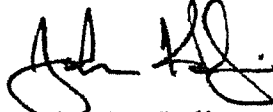
- We do not believe TFC has produced copies of Vestry minutes for the period from December 1956 to November 1984.

- In the Vestry minutes book that begins at TFC1017847 (minutes actually beginning at TFC1017850), pages 4, 10-12, 155-60, 166-67, 172, 174, 187, 241, 243, 292-96, 372-73, 416, 425-29, and all even-numbered pages between pages 10 and 136 (except for 112, 124, and 130) appear to be missing from TFC's production. (These page numbers refer to pages of the Vestry book, not Bates numbers.) The pages Bates numbered as TFC1018169-74 appear to be cut off at the bottom. In addition, TFC's production of that book contains a number of pages that are illegible, no doubt due to the difficulties in copying very old records. We ask that you produce the original book for our inspection, after which we can either work together on legible copies of particular pages or transcribe pages that are of interest but of which legible copies cannot be made.
- Pages of Vestry minutes are missing between TFC1018567, which is a second page of the June 5, 1935 minutes and cuts off mid-sentence, and TFC1018568, which is the first page of a new book, in which minutes begin with August 7, 1935 (on TFC1018571).
- TFC1018588 says that "a history of the church in brief form" was placed in the "back of this book," but no such history appears. Please confirm whether there is actually any history in that book and produce a copy of any such history.
- In the Vestry minutes book beginning at TFC1018880, pages 93-94, 99-100, and 296-99 are missing, and there appears to be only one page between 275-79. (These page numbers refer to pages of the Vestry book, not Bates numbers.)
- In the Vestry minutes book beginning at TFC1019181, pages 182-83 and 260-61 appear to be missing. (These page numbers refer to pages of the Vestry book, not Bates numbers.)
- In the Vestry minutes book beginning at TFC1019542, many pages appear to be missing, specifically: 95-286, 292-96, and any pages that may exist after 299. (These page numbers refer to pages of the Vestry book, not Bates numbers.)
- TFC1000039 appears incomplete in that it ends at page 7.
- Please confirm whether TFC1001917 and TFC1001919 together form the complete document.

TROUTMAN SANDERS LLP
Letter to counsel for The Falls Church
December 28, 2010
Page 4 of 4

This letter is a good faith attempt to resolve the above matters related to discovery objections and responses without Court involvement. We ask that you supplement to address the issues above as soon as possible and that you ensure we have received the documents and supplemental discovery responses by close of business on January 18, 2011.

Sincerely,



Joshua D. Heslinga

cc: Other counsel for the Episcopal Church and the Diocese (*by e-mail*)
Other copies by mail and e-mail to

Gordon A. Coffee (gcoffee@winston.com)
Gene C. Schaerr (gschaerr@winston.com)
Steffen N. Johnson (sjohnson@winston.com)
Andrew C. Nichols (anichols@winston.com)
Winston & Strawn LLP
1700 K Street, N.W.
Washington, D.C. 20006

Scott J. Ward (sjw@gg-law.com)
Timothy R. Obitts (tro@gg-law.com)
Dawn W. Sikorski (dws@gg-law.com)
Gammon & Grange, P.C.
8280 Greensboro Drive, Seventh Floor
McLean, Virginia 22102

RE: Episcopal litigation - letter regarding TFC discovery responses and documents

Farquharson, Paul [PFarquharson@semmes.com]

Sent: Tuesday, February 01, 2011 1:10 PM

To: Heslinga, Joshua D.; Johnson, James A.; Phillips, Scott H.

Cc: Coffee, Gordon A.; Schaerr, Gene C.; Johnson, Steffen N.; Nichols, Andrew C.; Ward, Scott J.; Obitts, Timothy R.; Sikorski, Dawn W. ; Davenport, Brad; Somerville, George A.; Zinsner, Mary C.; Kostel, Mary E.; Kostel2, Mary E.; Cho, Soyong

I am the person handling this issue. I have depositions scheduled for the 18th. If you would like to propose another date. I will gladly check my calendar. Regards, Paul

Paul N. Farquharson

Principal

Semmes, Bowen & Semmes

25 South Charles Street, Ste 1400

Baltimore, MD 21201

Tel: (410) 576 - 4742

Fax: (410) 539 - 5223

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From: Heslinga, Joshua D. [mailto:Joshua.Heslinga@troutmansanders.com]

Sent: Tuesday, February 01, 2011 1:05 PM

To: Farquharson, Paul; Johnson, James; Phillips, Scott

Cc: Coffee, Gordon A.; Schaerr, Gene C.; Johnson, Steffen N.; Nichols, Andrew C.; Ward, Scott J.; Obitts, Timothy R.; Sikorski, Dawn W. ; Davenport, Brad; Somerville, George A.; Zinsner, Mary C.; Kostel, Mary E.; Kostel2, Mary E.; Cho, Soyong

Subject: RE: Episcopal litigation - letter regarding TFC discovery responses and documents

So you refuse to provide the availability of TFC's counsel generally?

From: Farquharson, Paul [mailto:PFarquharson@semmes.com]

Sent: Tuesday, February 01, 2011 1:05 PM

To: Heslinga, Joshua D.; Johnson, James A.; Phillips, Scott H.

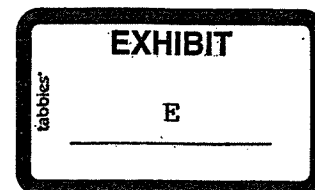
Cc: Coffee, Gordon A.; Schaerr, Gene C.; Johnson, Steffen N.; Nichols, Andrew C.; Ward, Scott J.; Obitts, Timothy R.; Sikorski, Dawn W. ; Davenport, Brad; Somerville, George A.; Zinsner, Mary C.; Kostel, Mary E.; Kostel2, Mary E.; Cho, Soyong

Subject: RE: Episcopal litigation - letter regarding TFC discovery responses and documents

I am handling this and you will have our response to your letter on Thursday.

Paul N. Farquharson

Principal



Semmes, Bowen & Semmes

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Baltimore, MD 21201

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From: Heslinga, Joshua D. [mailto:Joshua.Heslinga@troutmansanders.com]
Sent: Tuesday, February 01, 2011 1:01 PM
To: Farquharson, Paul; Johnson, James; Phillips, Scott
Cc: Coffee, Gordon A.; Schaerr, Gene C.; Johnson, Steffen N.; Nichols, Andrew C.; Ward, Scott J.; Obitts, Timothy R.; Sikorski, Dawn W. ; Davenport, Brad; Somerville, George A.; Zinsner, Mary C.; Kostel, Mary E.; Kostel2, Mary E.; Cho, Soyong
Subject: RE: Episcopal litigation - letter regarding TFC discovery responses and documents

I assume your response is for you. How about TFC's many other counsel?

From: Farquharson, Paul [mailto:PFarquharson@semmes.com]
Sent: Tuesday, February 01, 2011 1:01 PM
To: Heslinga, Joshua D.; Johnson, James A.; Phillips, Scott H.
Cc: Coffee, Gordon A.; Schaerr, Gene C.; Johnson, Steffen N.; Nichols, Andrew C.; Ward, Scott J.; Obitts, Timothy R.; Sikorski, Dawn W. ; Davenport, Brad; Somerville, George A.; Zinsner, Mary C.; Kostel, Mary E.; Kostel2, Mary E.; Cho, Soyong
Subject: RE: Episcopal litigation - letter regarding TFC discovery responses and documents

Not available.

Paul N. Farquharson

Principal

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From: Heslinga, Joshua D. [mailto:Joshua.Heslinga@troutmansanders.com]

Sent: Tuesday, February 01, 2011 12:57 PM
To: Farquharson, Paul; Johnson, James; Phillips, Scott
Cc: Coffee, Gordon A.; Schaerr, Gene C.; Johnson, Steffen N.; Nichols, Andrew C.; Ward, Scott J.; Obitts, Timothy R.; Sikorski, Dawn W. ; Davenport, Brad; Somerville, George A.; Zinsner, Mary C.; Kostel, Mary E.; Kostel2, Mary E.; Cho, Soyong
Subject: RE: Episcopal litigation - letter regarding TFC discovery responses and documents

Which tells me nothing. Your availability on Feb. 18?

From: Farquharson, Paul [mailto:PFarquharson@semmes.com]
Sent: Tuesday, February 01, 2011 12:59 PM
To: Heslinga, Joshua D.; Johnson, James A.; Phillips, Scott H.
Cc: Coffee, Gordon A.; Schaerr, Gene C.; Johnson, Steffen N.; Nichols, Andrew C.; Ward, Scott J.; Obitts, Timothy R.; Sikorski, Dawn W. ; Davenport, Brad; Somerville, George A.; Zinsner, Mary C.; Kostel, Mary E.; Kostel2, Mary E.; Cho, Soyong
Subject: RE: Episcopal litigation - letter regarding TFC discovery responses and documents

Josh - I will have the response to you on Thursday. Regards, Paul

Paul N. Farquharson
Principal
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Tel: (410) 576 - 4742
Fax: (410) 539 - 5223

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From: Heslinga, Joshua D. [mailto:Joshua.Heslinga@troutmansanders.com]
Sent: Tuesday, February 01, 2011 12:47 PM
To: Farquharson, Paul; Johnson, James; Phillips, Scott
Cc: Coffee, Gordon A.; Schaerr, Gene C.; Johnson, Steffen N.; Nichols, Andrew C.; Ward, Scott J.; Obitts, Timothy R.; Sikorski, Dawn W. ; Davenport, Brad; Somerville, George A.; Zinsner, Mary C.; Kostel, Mary E.; Kostel2, Mary E.; Cho, Soyong
Subject: RE: Episcopal litigation - letter regarding TFC discovery responses and documents

Paul,

We've been very patient, but this non-response (let alone lack of a satisfactory resolution of the issues) can't go on. Again, most of the issues in the December 28 letter, including the document issues, have nothing to do with your amendments.

Please confirm as soon as possible whether TFC's counsel is available for a

hearing on February 18 at 10 am on a motion regarding these issues.

Joshua Heslinga

Troutman Sanders LLP

1001 Haxall Point, Richmond, VA 23219 [physical]

P.O. Box 1122, Richmond, VA 23218-1122 [mailing]

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http://www.troutmansanders.com/joshua_heslinga/

vCard: <http://www.troutmansanders.com/attorneys/vcard.aspx?Attorney=682>

From: Farquharson, Paul [mailto:PFarquharson@semmes.com]

Sent: Wednesday, January 26, 2011 12:48 PM

To: Heslinga, Joshua D.; Johnson, James A.; Phillips, Scott H.

Cc: Coffee, Gordon A.; Schaerr, Gene C.; Johnson, Steffen N.; Nichols, Andrew C.; Ward, Scott J.; Obitts, Timothy R.; Sikorski, Dawn W. ; Davenport, Brad; Somerville, George A.; Zinsner, Mary C.; Kostel, Mary E.; Kostel2, Mary E.; Cho, Soyong

Subject: Re: Episcopal litigation - letter regarding TFC discovery responses and documents

Josh - I will be responding shortly. Regards, Paul

From: Heslinga, Joshua D.

To: Farquharson, Paul; Johnson, James; Phillips, Scott

Cc: Coffee, Gordon A. ; Schaerr, Gene C. ; Johnson, Steffen N. ; Nichols, Andrew C. ; Ward, Scott J. ; Obitts, Timothy R. ; Sikorski, Dawn W. ; Davenport, Brad ; Somerville, George A. ; Zinsner, Mary C. ; Kostel, Mary E. ; Kostel2, Mary E. ; Cho, Soyong

Sent: Wed Jan 26 12:36:38 2011

Subject: RE: Episcopal litigation - letter regarding TFC discovery responses and documents

Paul,

Has there been anything further on this since your e-mail on the 7th below? It seems incredible that a motion to compel would be necessary on these things, but the time for a response to the letter has come and gone without further response (unless I am overlooking something) and so that is where we're headed absent prompt, agreeable resolution of the issues in the letter.

I note that much of the letter has nothing to do with your amendments, meaning that there should be no delay related to that.

-- Josh

From: Farquharson, Paul [mailto:PFarquharson@semmes.com]

Sent: Friday, January 07, 2011 9:56 AM

To: Heslinga, Joshua D.; Johnson, James A.; Phillips, Scott H.

Cc: Coffee, Gordon A.; Schaerr, Gene C.; Johnson, Steffen N.; Nichols, Andrew C.;

Ward, Scott J.; Obitts, Timothy R.; Sikorski, Dawn W. ; Davenport, Brad; Somerville, George A.; Zinsner, Mary C.; Kostel, Mary E.; Kostel2, Mary E.; Cho, Soyong
Subject: RE: Episcopal litigation - letter regarding TFC discovery responses and documents

Josh - I will be responding to your letter and this item in further detail. I will note here, however, that TFC produced requested documents for review and had copied those which were flagged. Regards, Paul

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From: Heslinga, Joshua D. [mailto:Joshua.Heslinga@troutmansanders.com]
Sent: Friday, January 07, 2011 9:50 AM
To: Johnson, James; Farquharson, Paul; Phillips, Scott
Cc: Coffee, Gordon A.; Schaerr, Gene C.; Johnson, Steffen N.; Nichols, Andrew C.; Ward, Scott J.; Obitts, Timothy R.; Sikorski, Dawn W. ; Davenport, Brad; Somerville, George A.; Zinsner, Mary C.; Kostel, Mary E.; Kostel2, Mary E.; Cho, Soyong
Subject: RE: Episcopal litigation - letter regarding TFC discovery responses and documents

Counsel,

One small additional matter has come to our attention. It appears to us that Appendix 2 of a TFC Vestry Manual was not produced. We have Appendices 1, 3 and 4, but not 2. See TFC1008604-34.

If it is possible for you to address this next week as well, that would be appreciated.

Joshua Heslinga
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P.O. Box 1122, Richmond, VA 23218-1122 [mailing]
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http://www.troutmansanders.com/joshua_heslinga/
vCard: <http://www.troutmansanders.com/attorneys/vcard.aspx?Attorney=682>

From: Heslinga, Joshua D.
Sent: Tuesday, December 28, 2010 9:10 AM
To: Johnson, James A.; Farquharson, Paul N.; Phillips, Scott H.
Cc: Coffee, Gordon A.; 'Schaerr, Gene C.'; Johnson, Steffen N.; Nichols, Andrew C.; Ward, Scott J.; Obitts, Timothy R.; Sikorski, Dawn W. ; Davenport, Brad; Somerville, George A.; Zinsner, Mary C.; Kostel, Mary E.; Kostel2, Mary E.; Cho, Soyong
Subject: Episcopal litigation - letter regarding TFC discovery responses and documents

Please see attached.

Joshua Heslinga
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(804) 697-1283 [phone]
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[VCard](#)

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February 3, 2011

Joshua Heslinga, Esquire
Troutman Sanders LLP
1001 Haxall Point
P.O. Box 1122
Richmond, Virginia 23218-1122

Re: Multi Circuit Episcopal Church Property Litigation
Fairfax Circuit Court omnibus case no. CL2007-248724

Dear Josh:

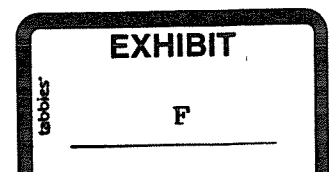
I am responding to your December 28, 2010 correspondence and subsequent January 7, 2011 e-mail regarding certain of TFC's discovery responses and document productions. As you know, TFC made its documents available for review and copying over the course of several days during which representatives from the Diocese/TEC identified documents for copying and production. TFC had those selected documents copied and produced. TFC is willing, within reason, to make documents available for review and copying or to otherwise cooperate to address the discovery issues you have raised. This offer is contingent upon a reciprocal level of cooperation from the Diocese/TEC.

January 7, 2011 E-mail

"It appears to us that Appendix 2 of a TFC Vestry Manual was not produced. We have Appendices 1, 3 and 4, but not 2. See TFC1008604-34."

Response

We have reviewed our produced copy and Appendix 2 is not attached. We have not yet been able to confirm if Appendix 2 was not selected for copying or is missing from the original. We will work with the Diocese to make Appendix 2 available for review and copying to the extent it exists and is not privileged.





Joshua Heslinga, Esquire
February 3, 2011
Page 2

December 28, 2010 Letter

“TFC objected to and declined to provide any response to Interrogatory 1. Whether in answer to Interrogatory 1 or by further response to the Requests for Admission, we seek clarification of some of TFC's admissions and the basis for some of its denials:

TFC's responses to Requests for Admission 4 and 5 refer to "certain congregation clergy" and say that such clergy "may have signed" statements "similar" to the referenced one. The admissions are unclear and insufficient.”

Response

We believe that the responses are both clear and sufficient. To the best of the Congregation's knowledge, all of its clergy prior to December 10, 2006 were ordained. However, the Congregation was not present at each such ordination and is not in a position to respond differently than it has. Further, it is our understanding that both Rev. Yates and Rev. Wright were questioned at some length in this regard at their depositions.

“TFC's response to Request for Admission 8 also refers to "certain" unnamed clergy. Please identify which clergy and state whether TFC contends it was served prior to December 10, 2006, by any clergy not ordained in the Episcopal Church.”

Response

We believe that our response to Request for Admission 8 is clear as stated. The Falls Church predates the existence of both the Diocese and TEC. Thus the answer is both sufficient and accurate.

“TFC's response to Request for Admission 9 refers to "certain clergy" and "services generally in a manner consistent with the Book of Common Prayer in use by the congregation at the time." Does the reference to "certain" clergy mean that TFC contends that some clergy were using the BCP and some not? Does TFC contend that, prior to December 10, 2006, TFC followed a BCP other than one adopted by the General Convention of the Episcopal Church?”

Response

We think the response is appropriate given the breadth and ambiguity of the request. The clergy at The Falls Church used the Book of Common Prayer to conduct various services. However, the clergy also provided a host of other services including but not limited to spiritual meetings for all ages such as worship services, Bible studies, youth group meetings, and Sunday school classes where the Book of Common Prayer was not used.



Joshua Heslinga, Esquire
February 3, 2011
Page 3

“TFC denied Requests for Admission 19-21. To our knowledge, you have not provided a basis for any of those responses.”

Response

We believe that our denials are sufficient. I will be happy to discuss with you the basis for your request that we need to provide additional support for the denials.

“TFC objected to and declined to provide any response to Interrogatory 4. Surely TFC can identify whether it received funds from one or more of the listed sources for at least some period of time. We ask that TFC provide whatever information it can reasonably provide.”

Response

We will stand by our objection. Certainly the Diocese and TEC have records regarding the identity of the congregations that participated in the programs the Diocese and TEC sponsored. This should be particularly true with respect to records of loans or grants provided to the various congregations, including TFC, if any.

“TFC responded to Interrogatories 5 and 7 by invoking Rule 4:8(f) but failed to provide the specification required by that Rule. Those interrogatories are clear in meaning and reasonable in scope, and we ask that TFC answer them. In regard to Interrogatory 7, there are a number of historical materials available regarding TFC, but TFC's response wholly fails to state what TFC contends about the subjects of the interrogatory. Should TFC wish to adopt parts of published histories as its response, that would likely be one reasonable way to respond, but TFC cannot continue to evade describing its own factual position and contentions about the subject of the interrogatory.”

Response

We believe that our responses to Interrogatories 5 and 7 are sufficient under the rules and pursuant to the course of discovery by all parties in this litigation. If you think that a further review of TFC's documents will be helpful, we will gladly arrange for an additional inspection as offered above.

“TFC's response to Interrogatory 6 fails to identify the "certain diocesan records and reports" upon which TFC relies.”

Response



Joshua Heslinga, Esquire

February 3, 2011

Page 4

Among the thousands upon thousands of documents produced by the Diocese, TFC has not located one that asserts an itemized trust interest in TFC's property.

"TFC responded to Interrogatory 11, which sought the facts and witnesses that support TFC's affirmative defenses, by invoking Rule 4:8(f). Invoking the Rule for that interrogatory seems inappropriate unless TFC has produced a document describing the basis for its defenses, and TFC's response again fails to provide the specification required by that Rule."

Response

TFC will supplement its response to this interrogatory on or before February 11, 2011.

"We do not believe TFC has produced copies of Vestry minutes for the period from December 1956 to November 1984."

Response

TFC made all Vestry minutes available for review and copying during the prior discovery period. Nevertheless, as offered above, TFC will work with the Diocese/TEC to make such documents available again for review.

"In the Vestry minutes book that begins at TFC1017847 (minutes actually beginning at TFC1017850), pages 4, 10-12, 155-60, 166-67, 172, 174, 187, 241, 243, 292-96, 37273, 416, 425-29, and all even-numbered pages between pages 10 and 136 (except for 112, 124, and 130) appear to be missing from TFC's production. (These page numbers refer to pages of the Vestry book, not Bates numbers.) The pages Bates numbered as TFC1018169-74 appear to be cut off at the bottom. In addition, TFC's production of that book contains a number of pages that are illegible, no doubt due to the difficulties in copying very old records. We ask that you produce the original book for our inspection, after which we can either work together on legible copies of particular pages or transcribe pages that are of interest but of which legible copies cannot be made."

Response

TFC will work with the Diocese/TEC to address and correct, if necessary, this issue as offered above.

"Pages of Vestry minutes are missing between TFC1018567, which is a second page of the June 5, 1935 minutes and cuts off mid-sentence, and TFC1018568, which is the first page of a new book, in which minutes begin with August 7, 1935 (on TFC1018571)."



Joshua Heslinga, Esquire

February 3, 2011

Page 5

Response

TFC will work with the Diocese/TEC to address and correct, if necessary, this issue as offered above.

“TFC1018588 says that "a history of the church in brief form" was placed in the "back of this book," but no such history appears. Please confirm whether there is actually any history in that book and produce a copy of any such history.”

Response

We are attempting to determine if the referenced document was selected for copying or was missing at the time of the review. To the extent the document exists and can be located it will be made available for review and copying as offered above.

“In the Vestry minutes book beginning at TFC1018880, pages 93-94, 99-100, and 296-99 are missing, and there appears to be only one page between 275-79. (These page numbers refer to pages of the Vestry book, not Bates numbers.)”

Response

TFC will work with the Diocese/TEC to address and correct, if necessary, this issue as offered above.

“In the Vestry minutes book beginning at TFC1019181, pages 182-83 and 260-61 appear to be missing. (These page numbers refer to pages of the Vestry book, not Bates numbers.)”

Response

TFC will work with the Diocese/TEC to address and correct, if necessary, this issue as offered above.

“In the Vestry minutes book beginning at TFC1019542, many pages appear to be missing, specifically: 95-286,292-96, and any pages that may exist after 299. (These page numbers refer to pages of the Vestry book, not Bates numbers.)”

Response

TFC will work with the Diocese/TEC to address and correct, if necessary, this issue as offered above.



Joshua Heslinga, Esquire
February 3, 2011
Page 6

“TFC1000039 appears incomplete in that it ends at page 7.”

Response

TFC will work with the Diocese/TEC to address and correct, if necessary, this issue as offered above.

“Please confirm whether TFC1001917 and TFC1 001919 together form the complete document.”

Response

We are attempting to address this question and will confirm, if possible. To the extent that the referenced documents do not form the complete document, TFC will work with the Diocese/TEC to address and correct, if necessary, this issue as offered above.

Please contact me after you have had an opportunity to review these responses to arrange for a mutually agreeable time to sort through the document issues.

Very truly yours,

/S/

Paul N. Farquharson

PNF/ban

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