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November 8, 2010

VIA HAND DELIVERY

Honorable John T Frey
Fairfax County Circuit Court
4110 Chain Bridge Road
Fairfax, Virginia 22030

Attn: Ms. Robin Brooks

Re: *In Re: Multi-Circuit Episcopal Church Property Litigation* (CL-2007-0248724)
(omnibus case number)

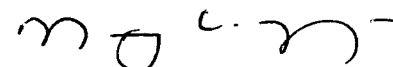
Dear Ms. Brooks:

Enclosed please find an original and one copy of the following:

1. An original and one copy of The Diocese of Virginia's Response to Order Entered October 15, 2010.
2. An original and eleven copies of a Cover Sheet for the Diocese of Virginia's Response to Order Entered October 15, 2010. Please file the original in CL 2007-248724 (the omnibus case file) and a copy each in the remaining ten cases.

Please date-stamp the extra copies indicated and give it to our courier for return to us. Thank you for your assistance in this regard.

Sincerely,



Mary C. Zinsner

cc: Ms. Caitlin Fields (via electronic mail, w/enclosure)
All Counsel of Record (via electronic mail, w/enclosure)

TROUTMAN
SANDERS

Ms. Robin Brooks
November 8, 2010
Page 2

bcc: Henry D. W. Burt, II, Secretary of the Diocese (via electronic mail, w/enclosure)

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VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

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

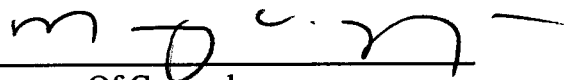
)
) **Case Nos.:** CL 2007-248724,
) CL 2007-1235,
) CL 2007-1236,
) CL 2007-1238,
) CL 2007-1625,
) CL 2007-5250,
) CL 2007-5364,
) CL 2007-5682,
) CL 2007-5683,
) CL 2007-5684, and
) CL 2007-5902

**COVER SHEET FOR
DIOCESE OF VIRGINIA'S RESPONSE TO ORDER ENTERED OCTOBER 15, 2010**

This acts as a coversheet / reference pleading to the complete filing, titled as indicated above, which was sent to the clerk on November 8, 2010, to be filed in CL 2007-248724 (the omnibus case file). That filing and this reference pleading apply to the above-listed cases. For the complete filing, please see the omnibus case file, CL 2007-248724.

Respectfully submitted,

THE PROTESTANT EPISCOPAL CHURCH
IN THE DIOCESE OF VIRGINIA

By: 
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Counsel for the Episcopal Diocese of Virginia

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 counsel indicated with an asterisk below, on this 8th day of November, 2010:

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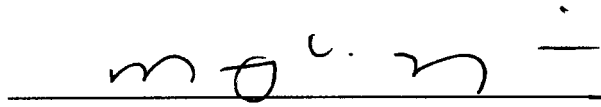
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A handwritten signature in black ink, appearing to read "m e k", is written above a solid horizontal line.

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VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

In re Multi-Circuit Episcopal Church)

Litigation:)

Case Nos.: CL 2007-248724,

CL 2007-1235,

CL 2007-1236,

CL 2007-1238,

CL 2007-1625,

CL 2007-5250,

CL 2007-5364,

CL 2007-5682,

CL 2007-5683,

CL 2007-5684, and

CL 2007-5902

**THE DIOCESE OF VIRGINIA’S RESPONSE
TO ORDER ENTERED OCTOBER 15, 2010**

Pursuant to the Court’s directions in its Order entered on October 15, 2010, the Protestant Episcopal Church in the Diocese of Virginia (Diocese) respectfully submits the following response to confirm that the Diocese wishes to be heard on, and to state the Diocese’s position with respect to, matters to be taken up on November 12.

1. **Proposed scheduling order.** The Diocese believes that the Court should now enter a scheduling order, substantially in the form hereto as Exhibit A, setting a date(s) for trial of all remaining claims and counterclaims. We respectfully ask the Court to enter such an order.

2. **Trial date.** The Diocese’s proposed order does not provide specific dates for the trial(s), as the scheduling obviously depends on the Court’s calendar. The Diocese’s proposed order also is designed to be flexible with respect to the scheduling. The Diocese’s view is that trial should commence as soon as possible after April 4, 2011. Our primary goal is to have all remaining cases heard and decided at the earliest possible date.

3. **Order of proof.** With respect to the issue of order of proof in the trials, the Diocese respectfully submits that the preferences of the Diocese and the Episcopal Church (TEC), as plaintiffs, should be accommodated to the maximum extent possible, given that plaintiffs normally may present their evidence in the order they see fit.

4. **Common evidence.** The Diocese's proposed order provides that the trial should begin with presentation of any evidence by the Diocese and TEC that is applicable to several or all of the Congregations, and of any evidence by the Congregations collectively that is applicable to the Diocese and/or TEC, followed by trials as to any evidence particular to each Congregation and the Congregation's counterclaims. With respect to common evidence, we anticipate that the Diocese and TEC will present substantial evidence applicable to all nine Congregations, both by live testimony and by introduction of documents, regarding the course of "the dealings between the parties" (*Green v. Lewis*, 221 Va. 547, 555, 272 S.E.2d 181, 186 (1980)). We also anticipate that the Diocese and TEC will present a limited amount of evidence, in the form of historical expert testimony and supporting documents, which is applicable to one or more but fewer than all of the Congregations. Some of that evidence may apply only to one of the Congregations. We intend to present historical expert evidence during the trial of common issues in the interest of efficiency, *i.e.*, to avoid having to require our expert witness(es) to travel to Fairfax County several times. We will, of course, coordinate the scheduling of testimony with counsel for the Congregations so as to avoid requiring any attorney to attend trial days that do not apply to his or her clients.

5. **Congregation specific evidence.** After presentation of such common evidence, we anticipate that there will need to be nine separate trial periods, for

presentation of evidence with respect to the Diocese's and TEC's claims against each individual Congregation and the Congregation's counterclaims. We expect that evidence pertinent to each Congregation can be presented in two days or less. Much of our evidence will be documentary. Our expectations are based on the assumption that counsel for the Congregations will be cooperative with respect to stipulations of (1) matters of historical fact that are not subject to any reasonable dispute and (2) the authenticity and admissibility of documents. Based on the history of this litigation, we are optimistic in that regard. We must caution, however, that if our expectations are not borne out by the events, the time required for the trial or trials is likely to expand exponentially.

6. **Accounting discovery.** Finally, the following states our position regarding the Diocese and TEC's requests for accounting. The assets held by the Congregations at that time of their separations from the Diocese and the Episcopal Church are generally identified in stipulations filed in 2008. Those stipulations, however, do not include the balances held in bank, securities, or other financial accounts at the dates of separation. The Congregations should now be required to provide those balances, and the Diocese will serve discovery requesting that information. If the Congregations believe that their liability for any amounts held in those accounts at that time should be reduced by subsequent expenditures, in the event that the Diocese and TEC prevail on their claims, then the Congregations will have the burden of proving the amounts of those expenditures and their entitlement to such reductions. The Diocese also intends to serve discovery requesting information related to such potential reductions. We are hopeful that all facts relevant to the requests for accounting also can be stipulated.

We believe that any accounting-related evidence should be presented at the trial(s) discussed above, so as to minimize delay in entry of final orders.

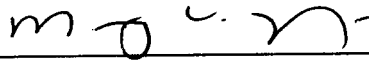
7. **Entry of final orders.** The Diocese believes that final orders can be entered as to each Congregation within a year from today's date. Although trials and decisions can proceed as the Court's schedule allows, in order to minimize future appellate confusion, the Diocese would prefer that all final orders be entered on or about the same date.

8. **Diocese's efforts to facilitate agreement on proposed scheduling order.** We provided our proposed scheduling order to all counsel by EMail on October 26, 2010, and we have invited them to meet with us to discuss the proposed order and anything else that needs to be done at or before the conference on November 12. We have conferred with the Attorney General's Office, and they have indicated that they have no objections to our proposed order. We have received no response from counsel for any of the CANA Congregations, however, except for Mr. Carr. Mr. Carr suggested a number of changes to our proposed order, including changes that would make it applicable only to the cases that involve his client, the Church of Our Saviour at Oatlands. We will confer with him this week to see if our differences can be resolved before Friday.

9. **Additional matters.** The Diocese reserves the right to raise additional matters with the Court as appropriate and to respond to issues raised by the CANA Congregations.

Respectfully submitted,

THE PROTESTANT EPISCOPAL CHURCH
IN THE DIOCESE OF VIRGINIA

By: 
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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 counsel indicated with an asterisk below, on this 8th day of November, 2010:

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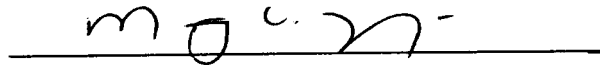
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EXHIBIT A

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

In re Multi-Circuit Episcopal Church Property)	Case Nos.: CL 2007-248724,
Litigation:)	
	)	CL 2007-1235,
	)	CL 2007-1236,
	)	CL 2007-1238,
	)	CL 2007-1625,
	)	CL 2007-5250,
	)	CL 2007-5364,
	)	CL 2007-5682,
	)	CL 2007-5683,
	)	CL 2007-5684, and
	)	CL 2007-5902

ORDER

This Order shall apply to the following cases:

Omnibus case: CL 2007-248724;

The Episcopal Church v. Truro Church, et al.: CL 2007-1625;

The Protestant Episcopal Church in the Diocese of Virginia v. Church of the Epiphany, Herndon, et al.: CL 2007-1235;

The Protestant Episcopal Church in the Diocese of Virginia v. Truro Church, et al.: CL 2007-1236;

The Protestant Episcopal Church in the Diocese of Virginia v. Church of the Apostles, et al.: CL 2007-1238;

The Protestant Episcopal Church in the Diocese of Virginia v. The Church at the Falls - The Falls Church, et al.: CL 2007-5250;

The Protestant Episcopal Church in the Diocese of Virginia v. Church of Our Savior at Oatlands, et al.: CL 2007-5364;

The Protestant Episcopal Church in the Diocese of Virginia v. St. Margaret's Church, et al.: CL 2007-5682;

The Protestant Episcopal Church in the Diocese of Virginia v. St. Paul's Church, Haymarket, et al.: CL 2007-5683;

The Protestant Episcopal Church in the Diocese of Virginia v. Church of the Word, et al.: CL 2007-5684; and

The Protestant Episcopal Church in the Diocese of Virginia, et al. v. St. Stephen's Church, et al.: CL 2007-5902.

For good cause shown, the Court orders the following:

1. Service of Pleadings & Other Papers to Be Served

All service of pleadings and other papers required to be served per Va. Sup. Ct. R. 1:12 in this matter shall be effected by (i) mailing a copy of the pleading, filing, etc. via first class mail to the designated lead counsel at each firm of record, and (ii) sending an electronic correspondence (“e-mail”) to all counsel of record with an attachment of the particular pleading, filing, etc. If the particular pleading or filing is too large or otherwise impractical to send via e-mail, counsel shall serve it by mail as indicated above and send an e-mail informing opposing counsel that the item has been so mailed and will not be e-mailed.

2. Electronic Correspondence (“e-mail”)

All counsel of record who have not previously provided the Court a current e-mail address are ordered promptly to do so. E-mail addresses may be sent to the Court’s law clerk, Ms. Caitlin Fields, at Caitlin.Fields@fairfaxcounty.gov. All counsel of record should be included in all electronic correspondence with Ms. Fields.

3. Filing Procedures

- (a) All filings, motions, briefs, memoranda, etc. should be filed with the Clerk of Court, attention Ms. Robin Brooks. When a pleading or other filing pertains to more than one case, counsel are required to file only one complete copy of such pleading, filing, etc. The copy should list all appropriate case numbers which to which it applies. This complete filing will be filed in the omnibus case file.

Counsel also shall file the appropriate number of copies of a coversheet reference pleading corresponding to the number of cases to which the filing relates, which will be filed in each particular case file to which the complete filing corresponds. For example, if a brief is filed in three individual cases, the original brief shall be filed in the omnibus case file, CL 2007-248724, and counsel shall provide three copies of a coversheet, which shall make reference to the pleading filed in the omnibus case file and shall include the following information from that pleading: its full title / name, the complete case style and case numbers listed on it, and the date of the filing. Coversheets need not and shall not contain their own certificates of service, and counsel shall use their best efforts to insure that coversheets are no more than one page in length.

Counsel shall also send courtesy copies of all filings to the Court’s law clerk, Ms. Fields. Unless the Court requests otherwise, a courtesy copy must be delivered to her attention in Circuit Court Chambers and shall also be e-mailed to Ms. Fields’s attention at the e-mail address above.

- (b) The text of all filings, including all footnotes, must be in at least twelve (12) point type font. The margins of all filings must be standard one inch margins.

- (c) The style of each pleading should include the omnibus style and corresponding case number and the case numbers of each individual case to which the pleading relates. The style of each pleading that applies to fewer than all of these consolidated cases also should include the style as well as the case number of each individual case to which the pleading concerns. The beginning paragraph of all pleadings, filings, etc. should indicate the party or parties on whose behalf the filing is made.
- (d) Whenever a page limitation is imposed jointly on The Episcopal Church (“TEC”) and the Protestant Episcopal Church in the Diocese of Virginia (“the Diocese”), TEC and the Diocese may either (i) file separate briefs and/or legal memoranda which split the applicable page limits, as the parties see fit; or (ii) file a joint brief no longer than the page limitation associated with that particular filing. The style of the pleading, filing, etc. will not be included in the page limitation imposed by the Court.
- (e) Whenever a page limitation is imposed jointly on the CANA Congregations, the congregations may either (i) file separate briefs and/or legal memoranda which split the applicable page limits, as the parties see fit; or (ii) file a joint brief not exceeding the page limitation imposed on that particular filing
- (f) If any party subject to the provisions of subparagraphs 3(d) or (e) of this Order believes that the individual issues require either separate briefs without splitting page limits or other relief, it may submit a motion to the Court, which shall not exceed five (5) pages in length, with service to counsel, stating in detail the grounds for relief and the specific relief requested. Any other party may file a response in opposition to such motion which likewise shall be limited to five (5) pages.
- (g) Each party may file its own memoranda and/or briefs, or it may choose to adopt the position articulated in another party’s briefs and/or memoranda. When a party chooses to adopt a position advanced in another party’s filing, this may be reflected either by (i) submitting a separate filing with the Court stating that the particular party chooses to adopt the position articulated in another party’s brief, or (ii) including a reference in the adopted brief that a particular party is adopting the position stated in that brief. All motions, briefs, pleadings, etc. adopted by other parties should include a reference at the beginning of the document that states that the filing has been adopted by the following parties. At the end of the brief, etc., the attorney who is submitting the brief should include his or her signature block and sign the brief. The adopting parties’ signature block should also be included at the end of the brief. The adopting attorneys may do one of the following to satisfy the signature requirement and to preserve rights and objections: (i) either sign the brief in their appropriate signature block (the Court will accept faxed signatures which may be attached to the original brief), or (ii) have the submitting attorney who is required to sign the brief sign the brief on the adopting attorney’s behalf.

4. Attendance At Hearings

As stated above, each party may file its own memoranda, or it may adopt the position articulated in another party's memoranda. However, if a party does not file a written response or otherwise indicate to the Court that it is adopting the positions advanced by another party, the Court will deem the issue raised in the particular motion at issue conceded by the non-responding party. Further, the Court will not permit a non-responding party to participate in oral argument at the specific hearing. Should a party desire to file a written response or memorandum, but not participate at the Court's hearing, the party may file its memorandum and not attend the hearing.

5. Trial Dates

The Court will conduct separate trials for each congregation of the Diocese's actions and the congregation's counterclaims and defenses in such actions. The trial of TEC's action and the counterclaims and defenses in such action will be conducted simultaneously with the trials of the Diocese's actions to the extent that TEC's action is brought against each individual congregation. Trials are scheduled as follows:

Trial as to any evidence by the Diocese and TEC that is applicable to several or all of the Congregations, and of any evidence by the Congregations collectively as to the Diocese and TEC, shall commence on _____, 2011 (the "Trial Start Date"), at ___ a.m., for ___ days.

Trials as to any evidence particular to each congregation, and the Congregation's counterclaims, shall commence immediately thereafter, in a trial order to be determined by the Diocese and TEC. The parties shall be allotted sufficient time to present evidence particular to each congregation, not to exceed four (4) trial days for all evidence particular to a congregation. Counsel for the Diocese and TEC shall state their planned trial order to the Congregations within ten (10) days after the initial witness and exhibit list exchange deadline in section 10 below. The parties shall meet and confer within fourteen (14) days after that to determine the appropriate number of days of evidence and the anticipated starting date for each congregation.

6. Prior Trial Evidence

Any party which intends to rely on evidence which has previously been admitted in this matter must file and serve a specific designation of such evidence on counsel for all parties to the trial to which such evidence will be applied, no later than fourteen (14) days before the commencement of such trial, otherwise this paragraph shall not apply. Any relevance objections to such evidence must be served no later than seven (7) days before the commencement of such trial, or such relevance objections shall be waived. Other than to overcome a relevance objection stated as provided above, no party shall be required to re-offer any testimony or exhibit which has been admitted at any trial or evidentiary hearing in this matter (which includes all proceedings either presently or previously consolidated under Omnibus case number CL 2007-248724) prior to entry of this Order, provided that the party or parties against whom such

evidence is being used were represented at the trial or evidentiary hearing at which such evidence was admitted. This order does not prohibit any party from presenting again testimony or exhibits previously admitted into evidence, but the parties are admonished to consider judicial economy in deciding whether to present previously admitted evidence.

Stipulations of fact previously entered into by two or more parties remain binding on such parties and may be introduced in evidence if they have not previously been introduced.

7. Dispositive motions

All motions for summary judgment or other dispositive relief must be filed no later than ____ days before the scheduled commencement of the trial with respect to the individual congregation with respect to which such motions apply. If the two-week motions procedures of this Court are not adequate for briefing, the parties shall consult about a briefing schedule and page limits for such motions and then bring the matter to the Court's attention to set a briefing schedule and page limits.

8. Discovery

Discovery concerning all issues related to this litigation may resume immediately upon entry of this Order. The parties shall complete discovery, including depositions, by thirty (30) days before the first scheduled trial listed above. "Complete" means that all interrogatories, requests for production of documents, requests for admissions, and other discovery requests must be served sufficiently in advance of trial to allow a timely response by at least thirty (30) days before the first such trial. Depositions taken in lieu of live testimony at trial shall be completed no later than fifteen (15) days before the commencement of the first trial. Depositions may be taken after the specified time period by agreement of counsel of record or for good cause shown, provided, however, that the taking of a deposition after the deadline established herein shall not provide a basis for continuance of the trial date or the scheduling of motions inconsistent with the normal procedures of the Court.

The fact that a person was deposed previously in this litigation shall not excuse such person from being deposed a second time in connection with the remaining actions. No person shall be required to be deposed more than one time for all remaining actions, however, and counsel shall make all reasonable efforts to consolidate depositions and thereby to avoid burden and inconvenience to party and third-party witnesses.

With respect to discovery requests served prior to the Court's suspension of discovery in its September 3, 2008, Order, concerning issues that remain for decision by this Court, and to which responses have not already been served, the party that served such discovery, if responses are still requested, shall serve a notice of such discovery on the party to whom it was directed identifying (by number and date served) the discovery requests for which responses are still requested and stating that responses

are still requested. The due date for each such response shall be twenty-one (21) days from service of the notice. All such notices must be served within 30 days of the entry of this Order, otherwise any discovery requests previously served are deemed withdrawn.

With respect to discovery requests served prior to the Court's suspension of discovery in its September 3, 2008, Order, concerning issues that remain for decision by this Court, if the party that served such discovery contends that the responding party's or parties' responses are inadequate, the party that served such discovery shall serve a notice of such inadequacy on the responding party or parties, stating specifically the reasons why such responses are inadequate and requesting supplementation. All such notices must be served within 30 days of the entry of this Order, otherwise any claims that previous discovery responses are inadequate are waived.

All parties to this litigation shall serve joint discovery requests, wherever practicable. All discovery must clearly indicate on its face the party or parties to whom the discovery request is made. If discovery is directed at more than one party, each party has an obligation to respond to the discovery request, in accordance with the Rules of the Supreme Court of Virginia. Should parties serve separate but substantively identical discovery requests, the responding party or parties may respond jointly, but such responses must specifically and clearly identify all discovery being responded to and the party or parties responding. While the individual defendants and individual clergy and vestry members of the congregations will continue not to be served with discovery, the congregations will seek, obtain, and produce from the individual defendants and individual clergy and vestry members, both past and present, such materials as may be responsive to the discovery served on the congregations. This paragraph does not preclude either depositions of individual defendants or individual clergy or vestry members or service of subpoenas duces tecum on individual defendants or individual clergy or vestry members.

If discovery requests are made or have been made in connection with particular cases, responses to those discovery requests and documents or materials produced in response to those discovery requests may be used in any of the proceedings before this Court, to the extent that the responses, documents, or materials meet the requirements of law with respect to evidence. Any party's responses to requests for admissions may continue to be used in any case involving that party. Depositions and other discovery previously taken in these consolidated actions may be used in the remaining actions. The parties may not serve discovery requests that are substantially or substantively identical to discovery requests that have previously been served and answered in these consolidated actions.

The parties have a duty seasonably to supplement timely and amend discovery responses, per Va. Sup. Ct. R. 4:1(e). Seasonably means as soon as practical.

Any discovery motion filed shall contain a certification that counsel has made a good faith effort to resolve the matters set forth in the motion with opposing counsel.

No provision of this Order supersedes the Rules of Supreme Court of Virginia governing discovery.

9. Designation of Experts

All parties shall designate experts for each trial no later than seventy (70) days before the first scheduled trial listed above. All parties shall designate counter-experts no later than forty (40) days before the first scheduled trial. A party designating an expert must make the expert available to the opposing side for deposition after the expert has been designated and before the applicable discovery cutoff. If requested, all information discoverable under Rule 4:1(b)(4)(A)(i) of the Rules of the Supreme Court of Virginia shall be provided or the expert will not ordinarily be permitted to express any non-disclosed opinions at trial. Any expert who is designated in a timely fashion to testify in more than one trial may only be deposed once by all opposing parties, unless the parties otherwise agree or the Court orders otherwise.

All parties shall provide copies of any documents which may be introduced into evidence through experts to all counsel for opposing parties no later than thirty (30) days before the first scheduled trial.

10. Exhibit and Witness Lists

At the earlier of ninety (90) days from entry of this Order or seventy (70) days before the Trial Start Date (as defined in section 5, *supra*), the parties shall exchange lists specifically identifying the fact witnesses that they may call for each trial and exhibits that they expect to offer at each trial. The list of witnesses shall include a brief summary of the subject matter of the expected testimony and/or nature of the testimony, and such witnesses shall be made available for deposition prior to the discovery cutoff.

The parties shall exchange final lists specifically identifying each exhibit to be introduced at trial and copies of any exhibits, and final lists of all witnesses that they expect to call at each trial, no later than fifteen (15) days before the Trial Start Date.

The final lists of exhibits and witnesses shall be filed with the Clerk of the Court. Exhibits shall not be filed, except if requested by the Court. Any exhibit or witness not so identified and filed will not be received in evidence, except in rebuttal or for impeachment or unless the admission of such exhibit or testimony of the witness would cause no surprise or prejudice to the opposing party and the failure to list the exhibit or witness was through inadvertence.

Any objections to exhibits or witnesses shall state the legal reasons therefor, including relevancy objections; however, relevancy objections are not waived if not asserted at such time. Such objections shall be filed with the Clerk of the Court and a copy delivered to opposing counsel no later than seven (7) days before the Trial Start Date. Unless an exhibit is objected to by such date, all objections, except relevancy,

are waived. (With respect to relevancy objections, section 6, *supra*, controls as to the service and waiver of relevancy objections regarding prior trial evidence.)

11. Pretrial Conference and Motions in Limine

For each congregation, the parties involved shall confer no later than thirty (30) days before the Trial Start Date to determine whether a final pretrial conference pursuant to Rule 4:13 of the Rules of the Supreme Court of Virginia is necessary and shall promptly inform the Court if they believe that it is.

Motions *in limine* or other pretrial motions shall be filed no later than fourteen (14) days before the Trial Start Date and shall be limited to ten (10) pages. Oppositions to such motions must be filed within seven (7) days after such motions are filed and shall be limited to ten (10) pages. Such motions *in limine* or other pretrial motions may be heard at dates scheduled by the Court upon application of the parties or may be decided without a hearing with the consent of all parties interested in such motions.

12. Good Faith Efforts to Resolve Motions and Stipulations

Any motion filed shall contain a certification that counsel has made a good faith effort to resolve the matters set forth in the motion with opposing counsel.

The Court appreciates counsel's prior efforts to enter into stipulations, which were generally successful, and strongly encourages counsel for all parties to reach stipulations that streamline the presentation of evidence and/or narrow the issues to be decided by the Court. In particular, the Court is mindful that, although evidence regarding the "dealings between the parties" may be extensive (particularly for churches whose history dates back more than 100 years), in many instances the parties will dispute not the actual historical facts or documents but their relevance or legal significance. Accordingly, and in the interests of judicial economy, the parties are encouraged to streamline the presentation of evidence through stipulations.

13. Witness Subpoenas

Subpoenas must be served at least ten (10) days before trial.

14. Continuances

Continuances will only be granted by the Court for good cause shown.

15. Deposition Transcripts to be Used at Trial:

- (a) Counsel of record shall confer and attempt to identify and resolve all issues regarding the use of depositions at trial. It is the obligation of the proponent of any deposition of any non-party witness who will not appear at trial to advise opposing counsel of counsel's intent to use all or a portion of the deposition at trial at the earliest reasonable opportunity. It becomes the obligation of the

opponent of any such deposition to bring any objection or other unresolved issues to the Court for hearing and decision before commencement of trial.

- (b) The parties shall exchange deposition designations no later than fourteen (14) days before the Trial Start Date. Any objections to such designations shall be served no later than seven (7) days before the Trial Start Date.
- (c) Deposition testimony responsive to new matters raised in an opposing party's deposition designation shall be designated no later than seven (7) days before the commencement of each trial.

16. The Commonwealth of Virginia's position in this litigation

The Commonwealth moved to intervene "for the limited purpose of defending the constitutionality of Va. Code 57-9(A)," and the Court granted the Commonwealth's motion "solely for its requested purpose." Letter Opinion (July 16, 2008) at 1 & n.1. That purpose has been fulfilled. The Commonwealth wishes to remain a party to this litigation solely for the purpose of defending the constitutionality of any other state statute, if some other statute's constitutionality is challenged. Accordingly, the Commonwealth shall remain a party to this litigation for that limited purpose. The Commonwealth need not file any pleadings, and it is not required to respond to motions or other filings regarding any other issues. The Commonwealth shall not propound or be required to respond to discovery requests, except as all parties may agree or the Court shall further order. This order is without prejudice to TEC's and the Diocese's previously stated position that the Commonwealth should be allowed to participate only as an *amicus curiae*.

17. Waiver or Modification of Terms of Order

Upon motion, the time limits and prohibitions contained in this in this order may be waived or modified by leave of Court for good cause shown.

Entered this ____ day of _____, 2010.

Randy I. Bellows,
Circuit Court Judge

Endorsement of this Order by counsel of record for the parties is waived in the discretion of the Court pursuant to Rule 1:13 of the Rules of the Supreme Court of Virginia.