

VIRGINIA: IN THE CIRCUIT COURT OF FAIRFAX COUNTY

In re Multiple-Circuit Church Property Litigation

Plaintiff

vs.

Civil Action No. CL 2007-248724

Previous Chancery No. CH

Defendant

SERVE:

FRIDAY MOTIONS DAY - PRAECIPE/NOTICE

Moving Party: [] Plaintiff [x] Defendant [] Other

Title of Motion: Motion to Suspend Execution of the Final Order and Set Bond [x] Attached [] Previously Filed

DATE TO BE HEARD: April 20, 2012 Time Estimate (combined no more than 30 minutes): 30 minutes

Time to be Heard: [] 9:00 a.m. with a Judge [] 9:00 a.m. without a Judge

[x] 10:00 a.m. (Civil Action Cases) Does this motion require 2 weeks notice? [x] Yes [] No

[] 11:30 a.m. (DOMESTIC/Family Law Cases) Does this motion require 2 weeks notice? [] Yes [] No

Case continued from: (Date) continued to: (Date)

Moving party will use Court Call telephonic appearance: [] Yes [x] No

Judge Judge Bellows must hear this motion because (check one reason below):

- [] The matter is on the docket for presentation of an order reflecting a specific ruling previously made by that Judge.
[x] This Judge has been assigned to this entire case by the Chief Judge; or,
[] The Judge has advised counsel that all future motions, or this specific motion, should be placed on this Judge's Docket; or,
[] This matter concerns a demurrer filed in a case where that Judge previously granted a demurrer in favor of demurrant.

PRAECIPE by: Tyler O. Prout SEMMES BOWEN & SEMMES
Printed Attorney Name/ Moving Party Name Firm Name

1577 Spring Hill Road, Suite 200, Vienna, Virginia 22182
Address

(703) 760-9473 (703) 356-6989 74180 tprout@semmes.com
Tel. No. Fax No. VSB No. E-Mail Address (optional)

CERTIFICATIONS

I certify that I have in good faith conferred or attempted to confer with other affected parties in an effort to resolve the subject of the motion without Court action, pursuant to Rule 4:15(b) of the Rules of the Supreme Court of Virginia; and, I have read, and complied with, each of the Instructions for Moving Party on the reverse side of this form.

[Signature]
Moving Party/Counsel of Record

CERTIFICATE OF SERVICE

I certify on the 30th day of March, 2012, a true copy of the foregoing Praecipe was

[] mailed [] faxed [x] delivered to all counsel of record pursuant to the provisions of Rule 4:15(e) of the Rules of the Supreme Court of Virginia.

[Signature]
Moving Party/Counsel of Record

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

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

**THE CHURCH AT THE FALLS - THE FALLS CHURCH'S
MOTION TO SUSPEND EXECUTION OF THE FINAL ORDER
AND TO SET THE SUPERSEDEAS BOND**

COMES NOW The Church at the Falls – The Falls Church (“TFCA”), by counsel, pursuant to Virginia Code § 8.01-676.1 moves this Court to suspend execution of its Final Order, as it applies to TFCA, during the pendency of appeal.

1. The Final Order (attached at Exhibit A, without exhibits) orders TFCA to convey its rights, title and interest in real property, tangible personal property and intangible personal property, including liquid assets, acquired by the congregation as of January 31, 2007. (Exhibit A, Paragraphs C, D and E].
2. TFCA timely noticed an appeal of the Final Order. (Exhibit B hereto).
3. TFCA requests that execution of the Final Order be suspended during the appeal.
4. The Final Order provides for suspension as to the liquid personal property by allowing the posting of cash deposited into the Court registry with a 6% per annum interest component pending appeal. (Ex. A, Paragraph E, p. 7).
5. As to the real property and other personal property, a suspension of execution of

the Final Order is appropriate for three reasons. First, TFCA has approximately 4,000 members, many of whom had been members for years prior to 2007. TFCA and its members regularly conduct worship ministry and other activities on the property. For many years before and after 2007, this congregation repaired, maintained, insured and preserved the property. There is no reason to suspect that TFCA would cease preserving the property during the appeal. Further, it would be incredibly disruptive and wasteful for TFCA to move from the property, purchase new tangible personal property, and purchase or lease new space only to reverse the process if the appeal is successful.

6. Second, The Falls Church continuing Episcopal congregation consists of relatively few members and, despite paying only minimal rent for its current location, has consistently run a deficit. There is no reason to assume that the continuing congregation will have the resources to repair, maintain and preserve the property pending appeal

7. Third, given the state of current precedent, and in an abundance of caution, TFCA wishes to avoid any risk that compliance with the above-cited provisions of the Final Order could be construed as mooted its appeal. At the same time, TFCA does not wish to be viewed as defying the Court's order or to be faced with the untenable choice between disobeying this Court's order or waiving its right of appeal.

8. *Carlucci v. Duck's Real Estate, Inc.*, 220 Va. 164 (1979) and *Citizens Bank and Trust Co. v. Crewe Factory Sales Corp.*, 254 Va. 355 (1997), both indicate that voluntary payment on a money judgment may render an appeal moot. However, Virginia courts have not fully defined the limits of voluntary acts (resulting in a loss of an appeal) and involuntary ones (thereby preserving the appeal). The key distinction, with respect to money judgments, seems to

be whether the payment is prior to or after initiation of enforcement proceedings.¹

9. The Virginia Supreme Court has not addressed the effect on appeal rights when a party complies with an order, such as the Final Order here, rather than a money judgment. The Virginia Supreme Court has held that payment of money pursuant to an order to convey money is not voluntary but, rather, such an order “directs the involuntary transfer of property, interest or rights.” *Hughes v. Cole*, 251 Va. 3, 26, 465 S.E.2d 820, 835 (1996). However, in *Moore v. Moore*, 2011 WL 690890 (Va. Ct. App. 2011), the Court of Appeals noted that the Virginia Supreme Court has not held precisely when a payment is voluntary or involuntary for purposes of appeal rights. 2011 WL 690890 at 4.²

10. TFCA submits that compliance with the Final Order would not moot an appeal. It makes no sense and would undermine the judicial system for parties to be forced to disobey court orders in order to protect their appeal rights. However, this has not been addressed directly by the Virginia Supreme Court. Parties are entitled to judicial certainty and here the road to judicial certainty is paved by a suspension of the Final Order pending appeal.

11. TFCA believes that it protected its right to appeal by including language that its compliance with the Final Order would not waive its rights on appeal. The Final Order, however, does not provide any mechanism for a stay of execution. Thus, in an abundance of

¹ In *Carlucci*, payment was deemed involuntary when made after initiation of enforcement proceedings. In *Citizens Bank & Trust Co.*, payment made prior to initiation of proceedings was deemed voluntary. In *Stephenson v. Musgrave*, 2010 WL 1956700 (Va. Ct. App. 2010), the Court of Appeals found that the husband had voluntarily paid because *inter alia* the trial court had never threatened him with contempt if he failed to pay the award. 2010 WL 1956700 at *2. In *Klein v. Klein*, 2003 WL 22843551 (Va. Ct. App. 2003), the Court of Appeals concluded the husband’s compliance with the money judgment was involuntary when he was faced with *immediate imprisonment*. 2003 WL 22843551, at * 9.

² In *Moore*, the trial court had ordered the Appellant to make certain payments. After noting his objections and noting an appeal, he made the payments ordered by the court. The Court of Appeals held that this was not a voluntary payment.

caution, TFCA files this motion to provide additional assurance against any risk of the appeal being deemed moot upon compliance with the Final Order.

12. Virginia Code § 8.01-676.1 addresses the posting of security for suspension of execution. Code Section 8.01-676.1 provides for the posting of a bond or an irrevocable letter of credit conditioned upon the performance or satisfaction of the judgment and payment of all damages incurred in consequence of such suspension. § 8.01-676.1(C). The amount of the appeal bond or letter of credit is to be set in accordance with applicable laws or court rules up to a limit of \$25 million. § 8.01-676.1 (J).

13. The statute is unclear regarding the amount of or form of security to be posted when, as here, there is an order to take certain action but no money judgment.

14. The purpose of Section 8.01-676.1(c) is to secure payment of the full judgment amount and all damages incurred as a result of the suspension of execution of the Final Order, and to ensure the security of the judgment to which the Diocese and TEC are entitled in the event that TFCA does not succeed in the appeal. *See Tauber v. Com.*, 263 Va. 520, 545 (2002).

14. There is no money judgment in this case to determine the amount of any supersedeas bond. Nevertheless, the purpose of the statute can be satisfied by suspending execution of the Final Order during appeal conditioned on TFCA doing the following:

- A. With the exception of the provisions in paragraph I below, TFCA will, by April 30, 2012, pay the value of the liquid personal property as of January 31, 2007 into the Court registry pending appeal together with sufficient sums to pay interest at the rate of 6 percent per annum on the principal amounts for nine months from May 4, 2012, and will add additional interest at the rate of 6 percent per annum every three months thereafter;
- B. During the pendency of the appeal, TFCA will maintain the real property at the current levels;
- C. During the pendency of the appeal, TFCA will maintain insurance at existing levels with the Diocese named as an additional insured;

- D. During the pendency of the appeal, TFCA will allow the Diocese reasonable access to inspect the property to confirm proper maintenance;
- E. During the pendency of the appeal, TFCA will place in escrow any rents received by TFCA from third parties for use of the property in excess of related expenses;
- F. During the pendency of the appeal, TFCA will permit the continuing Falls Church (Episcopal) congregation to have use of the Historic Church for funerals, weddings and other special services upon request to and approval of the Rector of TFCA, which approval shall not be unreasonably withheld;
- G. During the pendency of the appeal, TFCA will permit the continuing Falls Church (Episcopal) congregation to have periodic use of other church facilities from time to time upon request to and approval of the Rector of TFCA;
- H. During the pendency of the appeal, TFCA will cooperate in good faith to make available to the continuing Falls Church (Episcopal) congregation such tangible personal property as shall be needed for religious services conducted by the continuing Falls Church (Episcopal) congregation pursuant to subparagraphs F and G, above;
- I. If TFCA fails to pay into the Court registry any portion of the January 31, 2007 value of the liquid personal property, that unpaid portion will become a money judgment on May 4, 2012 and execution will not be suspended on that money judgment even though the other provisions of the Final Order will remain suspended during the appeal;
- J. During the appeal, TFCA will not sell, transfer or otherwise dispose of the real property and the tangible personal property; and
- K. During the appeal, TFCA will not cause any liens to be placed on the real property.

WHEREFORE, The Church at the Falls – The Falls Church prays that this Honorable Court enter an order suspending execution of the Final Order upon the conditions stated above and directing plaintiffs not to take any steps to enforce or execute the Final Order until all appeals in this case have been exhausted, and for such further and additional relief as this Court deems just and proper.

Dated: March 30, 2012

Respectfully submitted,

SEMMES, BOWEN & SEMMES PC

By: James A. Johnson *by TJCMA*
James A. Johnson
Paul N. Farquharson
25 South Charles Street
Suite 2400
Baltimore, MD 21201
(410) 539-5040 (telephone)
(410) 539-5223 (facsimile)

By: TJCMA
Tyler O. Pigut
VSB # 74180
1577 Spring Hill Road, Suite 200
Vienna, Virginia 22182
(703) 760-9473
(703) 356-6989
Counsel for The Falls Church

WINSTON & STRAWN, LLP

By: Gordon A. Coffee *by TJCMA*
Gordon A. Coffee (VSB #25808)
Gene C. Schaerr
Steffen N. Johnson
Andrew C. Nichols (VSB #66679)
1700 K Street, N.W.
Washington, DC 20006-3817
(202) 282-5000 (telephone)
(202) 282-5100 (facsimile)
Counsel for The Falls Church

GAMMON & GRANGE, P.C. *by TJCMA*

By: Scott J. Ward *by TJCMA*
Scott J. Ward (VSB #37788)
Timothy R. Obitts (VSB #42370)
8280 Greensboro Drive
Seventh Floor
McLean, VA 22102
(703) 761-5000 (telephone)
Counsel for The Falls Church

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30 day of March, 2012, a copy of the foregoing The Church at the Falls – The Falls Church’s Motion to Suspend Execution of the Final Order and to Set the Supersedeas Bond was sent by electronic mail to:

Bradfute W. Davenport, Jr., Esquire
George A. Somerville, Esquire
Andrea M. Sullivan, Esquire
Brian D. Fowler, Esquire
Nicholas R. Klaiber, Esquire
TROUTMAN SANDERS, LLP
P.O. Box 1122
Richmond, VA 23218

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

Thomas C. Palmer, Esquire
BRAULT PALMER GROVE
WHITE & STEINHILBER, LLP
3554 Chain Bridge Road, Suite 400
Fairfax, VA 22030

Heather H. Anderson, Esquire
Heather H. Anderson, P.C.
P.O. Box 50158
Arlington, VA 22205

R. Hunter Manson, Esq.
P. O. Box 539
876 Main Street
Reedville, VA 22539

George O. Peterson, Esq.
Tania M. L. Saylor, Esq.
Peterson Saylor
4163 Chain Bridge Road
Fairfax, VA 22030

David Booth Beers, Esquire
Adam Chud, Esquire
GOODWIN PROCTER, LLP
901 New York Ave., N.W.
Washington, D.C. 20001

E. Duncan Getchell, Jr., Esquire
Office of the Attorney General
900 East Main Street
Richmond, Virginia 23219

Mary E. Kostel, Esq.
Special Counsel
The Episcopal Church
c/o Goodwin Procter LLP
901 New York Ave., N.W.
Washington, D.C. 20001

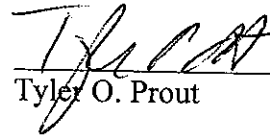
David L. Honadle, Esq.
Vanderpool, Frostick & Nishanian, P.C.
9200 Church Street, Suite 400
Manassas, VA 20110

Mary A. McReynolds, Esq.
(admitted pro hac vice)
1250 Connecticut Avenue, N.W.
Second Floor
Washington, DC 20036

Lauren B. Homer, Esq.
Homer International Law Group, PLLC
1302 Parson Lane
Fairfax, VA 22033

E. Andrew Burcher, Esq.
Walsh, Colucci, Lubeley,
Emrich & Walsh, P.C.
4310 Prince William Parkway, S-300
Prince William, VA 22912

Gregory Sagstetter
Law Clerk to the Honorable Randy I. Bellows
Circuit Court for Fairfax County
4110 Chain Bridge Road
Fifth Floor Judges' Chambers
Fairfax, VA 22030



Tyler O. Prout

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VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

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

FINAL ORDER

THIS MATTER is before the Court for entry of a Final Order in the cases listed above.

UPON CONSIDERATION WHEREOF, and for the reasons stated in the Court's January 10, 2012, Letter Opinion, which is incorporated herein by reference, the Court ADJUDGES, ORDERS and DECREES as follows:

A. (1) The Episcopal Church ("TEC") and the Diocese of Virginia ("Diocese") have contractual and proprietary interests in the real and personal property at issue in this litigation; (2) the defendants The Church At The Falls – The Falls Church, a Virginia non-stock corporation; St. Stephen's Church, a Virginia non-stock corporation, doing business as "St. Stephen's Anglican Church"; Truro Church, a Virginia non-stock corporation; St. Paul's Church, Haymarket, a Virginia non-stock corporation; St. Margaret's Church, a Virginia non-stock corporation; Church of the Apostles, a Virginia non-stock corporation; Church of the Epiphany, Herndon, a Virginia non-stock corporation (collectively, "CANA Congregations") do not have either contractual or proprietary interests in the real or personal property at issue in this litigation; (3) the Court finds no merit in the CANA Congregations' counterclaims for unjust enrichment, quantum meruit and constructive trusts, and the motions of TEC and the Diocese to

EXHIBIT

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strike those claims are granted; and (4) the vestry empowered to elect the directors of The Falls Church Endowment Fund, Inc. is the vestry recognized by the Diocese as the Episcopal vestry of The Falls Church Episcopal Church. Accordingly,

B. The defendant trustees (excluding Trustee William Latham who resigned prior to entry of this Order)¹ and the defendant CANA Congregations hold, and, until the real and personal property at issue in this litigation is conveyed to the Bishop of the Diocese as required by this Order, will continue to hold, the real and personal property at issue in this litigation subject to the contractual and proprietary rights of TEC and the Diocese. The defendant trustees and the CANA Congregations are enjoined from further use of the real and personal property at issue in this litigation in accordance with the deadlines and terms set forth below, excepting personal property identified on Exhibit L attached hereto.

C. On or before April 30, 2012, (1) the defendant trustees and the CANA Congregations shall quitclaim and release all real estate, fixtures, improvements and appurtenances comprising the properties identified in Exhibit A attached hereto to the Bishop of the Diocese by means of quitclaim deeds. The defendant trustees shall use quitclaim deeds substantially in the form of Exhibit B attached hereto with all blanks therein appropriately completed and all exhibits thereto appropriately attached; and the CANA Congregations shall use quitclaim deeds substantially in the form of Exhibit C attached hereto with all blanks therein appropriately completed and all exhibits thereto appropriately attached, and (2) the defendant trustees and the CANA Congregations shall thereupon (except as may otherwise be agreed by the parties) relinquish possession and control over such properties to the Bishop of the Diocese in an orderly fashion. The CANA Congregations and the defendant trustees shall represent and

¹ All future references to trustees or defendant trustees or however such term may be phrased in this Final Order and in any of the exhibits hereto exclude Trustee William Latham. Consequently, the Court finds that Trustee William Latham is not subject to the Final Order.

warrant to the Bishop of the Diocese that to the best of their knowledge, information and belief, after review of their own files, such properties are free and clear of deeds of trust, mechanics' and other monetary liens, leases and parties in possession, except as set forth in Exhibit A attached hereto. The Diocese shall assume the obligations as of the date of conveyance pursuant to this Order on all such indebtedness shown on Exhibit A subject to the consent of the lender or otherwise indemnify the CANA Congregations for such obligations before the quitclaim deeds described herein are executed and recorded.

As to the Church of the Apostles' Braddock Road property and as to St. Margaret's Church Parcel 2 listed on Exhibit A, the Diocese will either assume or pay off the current loan on the property and take title to it, or it will surrender its interest in the property on or before March 30, 2012. Church of the Apostles and St. Margaret's Church shall make loan payments due for the months of February and March 2012 using current funds on hand that would otherwise be payable to the Diocese under this order. If the Diocese surrenders its interest in the Braddock Road property and/or St. Margaret's Church Parcel 2, the property shall be deemed deleted from Exhibit A and will not be subject to any provisions of this Order. On or before April 2, 2012, the defendant trustees who hold record title to the properties which are described on Exhibit A attached hereto as "Church of the Apostles Property," "Church of The Epiphany Property," and "Truro Church Property," and which lie in Fairfax County, together with the respective CANA Congregations whose joinder to the petitions shall be limited by the qualification that it is only to the extent necessary, the Diocese, and TEC, shall submit petitions pursuant to Va. Code Section 57-8 and Va. Code Section 57-15 to the Circuit Court of Fairfax County, or before the judge of such court in vacation, asking for confirmation of the appointment of such defendant trustees as trustees, asking for leave to grant and convey the respective properties to the Bishop of the

Diocese and seeking entry of an order (in the form of Exhibit D attached hereto) confirming the appointment of such defendant trustees and providing for and approving such grants and conveyances.

On or before April 2, 2012, the defendant trustees who hold record title to the properties which are described on Exhibit A attached hereto as "St. Margaret's Church Property" and "St. Paul's Church Property," and which lie in Prince William County, together with the respective CANA Congregations whose joinder to the petitions shall be limited by the qualification that it is only to the extent necessary, the Diocese, and TEC, shall submit petitions pursuant to Va. Code Section 57-8 and Va. Code Section 57-15 to the Circuit Court of Prince William County, or before the judge of such court in vacation, asking for confirmation of the appointment of such defendant trustees as trustees, asking for leave to grant and convey the respective properties to the Bishop of the Diocese and seeking entry of an order (in the form of Exhibit D attached hereto) confirming the appointment of such defendant trustees and providing for and approving such grant and conveyance.

On or before April 2, 2012, the defendant trustees who hold record title to the property which is described on Exhibit A attached hereto as "The Falls Church Property," and which lies in the City of Falls Church, Fairfax County, or Arlington County, together with the CANA Congregation whose joinder to the petitions shall be limited by the qualification that it is only to the extent necessary, the Diocese, and TEC, shall submit a petition pursuant to Va. Code Section 57-8 and Va. Code Section 57-15 to the Circuit Court of Arlington County, or before the judge of such court in vacation, asking for confirmation of the appointment of such defendant trustees as trustees, asking for leave to grant and convey The Falls Church Property to the Bishop of the Diocese and seeking entry of an order (in the form of Exhibit D attached hereto) confirming the

appointment of such defendant trustees and providing for and approving such grant and conveyance.

On or before April 2, 2012, the defendant trustees who hold record title to the property described on Exhibit A attached hereto as "St. Stephen's Church Property," and which lies in Northumberland County, together with the CANA Congregation whose joinder to the petitions shall be limited by the qualification that it is only to the extent necessary, the Diocese, and TEC, shall submit a petition pursuant to Va. Code Section 57-8 and Va. Code Section 57-15 to the Circuit Court of Northumberland County, or before the judge of such court in vacation, asking for confirmation of the appointment of such defendant trustees as trustees, asking for leave to grant and convey the St. Stephen's Church Property to the Bishop of the Diocese and seeking entry of an order (in the form of Exhibit D attached hereto) confirming the appointment of such defendant trustees and providing for and approving such grant and conveyance.

Such petitions and orders shall be in substantially the same form as Exhibits E and F attached hereto with all blanks therein appropriately completed and all exhibits thereto appropriately attached, with such modifications thereto as may be required by the applicable court.

The relinquishment of real and personal property or any other act in compliance with this Order shall not make moot any claims the CANA Congregations may raise on appeal to ownership and control of any real and personal property so relinquished.

D. On or before April 30, 2012, the defendant trustees and the CANA Congregations shall (1) convey to the Bishop of the Diocese all of their respective rights, titles and interests in the tangible and intangible personal property identified in Exhibit G attached hereto (other than liquid personal property that is the subject matter of paragraph E of this Order) and excepting

after acquired property identified in Exhibit L attached hereto, pursuant to bills of sale and assignments substantially in the form of Exhibit H attached hereto with all blanks therein appropriately completed and all exhibits thereto appropriately attached, and (2) deliver and relinquish possession and control over such tangible and intangible personal property to the Bishop of the Diocese in an orderly fashion. The CANA Congregations shall represent and warrant to the Bishop of the Diocese that to the best of their knowledge, information and belief, after review of their own files, such tangible and intangible personal properties are free and clear of liens and encumbrances, except as set forth in Exhibit G attached hereto (which exceptions will also be set forth in properly completed Exhibits A to the bills of sale and assignments to be delivered to the Bishop of the Diocese by the respective defendant trustees and CANA Congregations). Delivery of possession of the premises wherein such tangible personal property is situated shall be deemed delivery of possession of all tangible personal property located on such premises at the time of delivery. The CANA Congregations shall represent and warrant to the Bishop of the Diocese that to the best of their knowledge, information and belief, after review of their own files, they are not aware of any omitted tangible and intangible personal property held by the CANA Congregations or their trustees as of the applicable "Ownership Determination Date" (January 31, 2007, in the cases of The Church at the Falls – The Falls Church, Truro Church, Church of the Apostles, Church of The Epiphany, and St. Stephen's Church; and February 1, 2007, in the cases of St. Margaret's Church and St. Paul's Church) or acquired by them after such date with property that was liquid personal property described in paragraph E of this Order held by them on such date. The CANA Congregations shall also represent and warrant to the Bishop of Diocese that to the best of their knowledge, information and belief, after review of their own files, they and the defendant trustees have conveyed such

tangible and intangible personal property to the Bishop of the Diocese free and clear of liens and encumbrances created by the acts of the defendant trustees and the CANA Congregations, except as set forth in Exhibit G hereto. The foregoing representation by the CANA Congregations as to the defendant trustees shall not be deemed to create any cause of action on behalf of the Diocese arising out of any act of any trustee which is outside the best knowledge, information and belief of the corresponding CANA Congregation after review of its own files. Each defendant trustee, solely with respect to such trustee and not the other trustees, shall also represent and warrant to the Bishop of the Diocese that to the best of such trustee's knowledge, information and belief after review of such trustee's own files, such trustee has conveyed such tangible and intangible personal property to the Bishop of the Diocese free and clear of liens and encumbrances created by the acts of such trustee, except as set forth in Exhibit G attached hereto.

E. On or before April 30, 2012, the defendant trustees and the CANA Congregations shall either (1) convey to the Bishop of the Diocese all of their respective rights, titles and interests in all liquid personal property (e.g., cash, cash equivalents, securities and entitlements, instruments, investments, bank and other deposit accounts, certificates of deposit, endowment funds, and contributions and donations of money received as of the applicable Ownership Determination Date, and including restricted funds, as defined below, except to the extent that payments were made from such funds prior to the date of conveyance pursuant to this Order); or (2) pay to the Bishop of the Diocese the value of same, as of the applicable Ownership Determination Date, via cashier's check or equivalent form; or (3), at the CANA Congregations' election, pay the value of the same into the Court registry pending any appeal together with sufficient sums to pay interest at the rate of 6 percent per annum on the principal amounts for nine months from May 4, 2012. Additional interest at the rate of 6 percent per annum on the

judgment amounts paid into the Court registry shall be made every three months thereafter until the conclusion of such appeals. At the conclusion of such appeals the interest payments shall be reconciled so as to account for any overpayment or underpayment of interest, crediting the CANA Congregations with all interest earned on the amounts deposited. The values of such liquid personal property as of the applicable Ownership Determination Date are to be determined by the parties net of reconciliations including uncleared checks and uncleared deposits and including such legal liabilities incurred as of the applicable Ownership Determination Date but paid thereafter including, but not limited to, payroll, payroll deductions, taxes, withholding, pension contributions, accrued vacation, pre-paid tuition and fees, and funds belonging to third parties, and net of the pro-rated prepaid expenses that provide benefits after the applicable Ownership Determination Date (including but not limited to any prior payments of legal fees but not including any prior payments of insurance premiums). Further deductions are allowed for payments made after the applicable Ownership Determination Date and in accordance with the terms and conditions of restricted funds which are defined as follows: restricted funds are funds held by the CANA Congregations as of the applicable Ownership Determination Date which were subject to restrictions which limited the use of such funds to particular purposes which were not for the benefit of the Congregation, the Diocese, or TEC, leaving no discretion to or for the Congregation or its Vestry, clergy, or other persons associated therewith to use or disburse such funds for the benefit of the Congregations, the Diocese, or TEC. Such restricted funds that remain in the possession of the CANA Congregations as of the date of this Order shall be transferred to the Diocese subject to the same restrictions, and in accordance with all applicable laws. Investment accounts owned by the CANA Congregations and held by the Diocese shall remain with Diocese. The St. Stephen's accounts subject to the interpleader action involving St.

Stephen's and the Diocese shall convey to the Diocese as currently valued, net of interest earned thereon.

To the extent that any accounts are conveyed in any fashion other than by cashier's check or equivalent form, the defendant trustees and the CANA Congregations shall execute appropriate documents to effect such conveyances, including bills of sale and assignments substantially in the form of Exhibit J attached hereto with all blanks therein appropriately completed and all exhibits thereto appropriately attached. The CANA Congregations shall represent and warrant to the Bishop of the Diocese that to the best of their knowledge, information and belief, after review of their own files, such liquid personal property constitutes all liquid personal property acquired and held by the defendant trustees or the CANA Congregations as of the applicable Ownership Determination Date. The CANA Congregations shall also represent and warrant to the Bishop of Diocese that to the best of their knowledge, information and belief, after review of their own files, they and the defendant trustees have conveyed such liquid personal property and interest to the Bishop of the Diocese free and clear of liens and encumbrances created by the acts of the CANA Congregations and the defendant trustees, except as disclosed to the Diocese (which exceptions will also be set forth in properly completed Exhibits A to the bills of sale and assignments to be delivered to the Bishop of the Diocese by the respective defendant trustees and the CANA Congregations). The foregoing representation by the CANA Congregations as to the defendant trustees shall not be deemed to create any cause of action on behalf of the Diocese arising out of any act of any trustee which is outside the best knowledge, information and belief of the corresponding CANA Congregation after review of its own files. Each defendant trustee, solely with respect to such trustee and not the other trustees, shall also represent and warrant to the Bishop of the Diocese that to the best of

such trustee's knowledge, information and belief, after review of such trustee's own files such trustee has conveyed such liquid personal property to the Bishop of the Diocese in which such trustee may have an interest free and clear of liens and encumbrances created by the acts of such trustee, except as disclosed to the Diocese.

By March 15, 2012, the CANA Congregations shall provide the Diocese with their comprehensive position regarding the amounts of liquid property owed to the Diocese pursuant to this Order along with the source documentation. By March 7, 2012 the Diocese shall notify the CANA Congregations of the categories of source documentation that the Diocese requires to conduct its own calculation and evaluation. If, by March 30, 2012, the parties are unable to agree as to an amount to be conveyed by each CANA Congregation, the Diocese shall so advise the Court and may seek to enforce this Final Order as to any such CANA Congregation.

Money judgments are hereby entered as of May 4, 2012 in any amounts due to the Diocese in accordance with this Paragraph E which remain unpaid as of May 1, 2012. Such money judgments, if any, are in favor of the Diocese and against each CANA Congregation which has not paid the full amount owed. The money judgments shall include interest at the judgment rate beginning on May 4, 2012 until paid.

F. The parties shall cooperate with each other as may reasonably be required from time to time for the following purposes: (1) to effectuate the provisions of paragraphs B through E of this Order, (2) to seek and obtain appropriate or necessary consents and approvals from third parties with respect to the transfers, conveyances and assignments described in paragraphs C, D and E of this Order, (3) to cause such third parties to acknowledge and recognize such transfers, conveyances and assignments and the Bishop of the Diocese as the owner and

titleholder of the subject properties for all purposes and (4) to transfer certificates of title to all properties that are subject to certificates of title to the Bishop of the Diocese.

G. Upon or prior to delivering the quitclaim deeds, bills of sale and assignments and other documents required pursuant to this Order, the CANA Congregations shall (a) take or cause to be taken all board, corporate and other actions necessary to authorize and approve all actions required of them pursuant to this Order and (b) deliver to the Bishop of the Diocese certificates of their respective secretaries substantially in the form of Exhibit K attached hereto with blanks therein appropriately completed and exhibits thereto appropriately attached.

H. On or before April 30, 2012, the CANA Congregations shall take or cause to be taken all necessary board, corporate and other actions so as to effect a change to the names by which they hold themselves out to the public such that they do not use and shall not use the terms "Episcopal" or "Episcopalian" in their names. The Court further finds that the parties have agreed that if the CANA Congregations incorporate some derivative of the word "Anglican" in their signage, stationery, and websites, the use of such names does not infringe on the Diocese's property rights. The CANA Congregations' amended counterclaims are dismissed with prejudice in their entirety.

I. The CANA Congregations' Motion for Partial Reconsideration is denied.

J. The Clerks of the Circuit Courts of Fairfax County, Arlington County, Prince William County, Loudoun County and Northumberland County shall enter this Order in the Civil Order books of such counties in regard to each of the following dockets or cases:

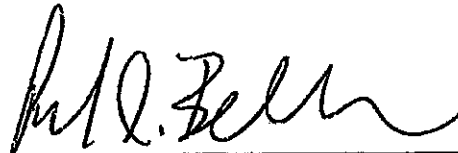
- *The Protestant Episcopal Church in the Diocese of Virginia v. The Church at the Falls – The Falls Church* (Circuit Court of Arlington County, case no. 07-125) (Circuit Court of Fairfax County, case no. CL 2007-5250);
- *The Protestant Episcopal Church in the Diocese of Virginia v. Truro Church* (Circuit Court of Fairfax County, case no. CL 2007-1236);

- *The Protestant Episcopal Church in the Diocese of Virginia v. Church of the Epiphany, Herndon* (Circuit Court of Fairfax County, case no. CL 2007-1235);
- *The Protestant Episcopal Church in the Diocese of Virginia v. Church of the Apostles* (Circuit Court of Fairfax County, case no. CL 2007-1238);
- *The Protestant Episcopal Church in the Diocese of Virginia v. St. Margaret's Church* (Circuit Court of Prince William County, case no. CL 73465) (Circuit Court of Fairfax County, case no. CL 2007-5682);
- *The Protestant Episcopal Church in the Diocese of Virginia v. St. Paul's Church, Haymarket* (Circuit Court of Prince William County, case no. CL 73466) (Circuit Court of Fairfax County, case no. CL 2007-5683);
- *The Protestant Episcopal Church in the Diocese of Virginia v. St. Stephen's Church* (Circuit Court of Northumberland County, case no. CL 07-16) (Circuit Court of Fairfax County, case no. CL 2007-5902); and
- *The Episcopal Church v. Truro Church, et al.* (Circuit Court of Fairfax County, case no. CL 2007-1625)

THIS IS A FINAL ORDER.

THE Clerk will send copies of this Order to all counsel of record.

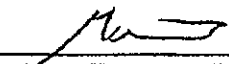
Entered this 1st day of March, 2012.



Circuit Court Judge Randy I. Bellows

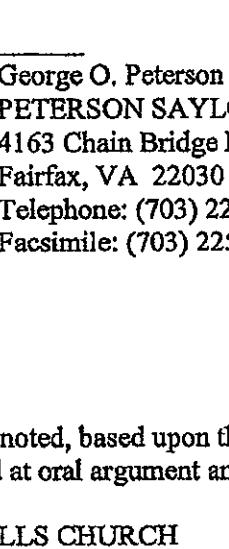
SEEN AND OBJECTED TO, all exceptions noted, based upon the evidence and for the reasons previously stated in motions and briefing and at oral argument and trial:

TRURO CHURCH AND RELATED TRUSTEES

By: 
Gordon A. Coffee (VSB #25808) George O. Peterson
Gene C. Schaerr PETERSON SAYLOR
Steffen N. Johnson 4163 Chain Bridge Road
Andrew C. Nichols (VSB #66679) Fairfax, VA 22030
WINSTON & STRAWN LLP Telephone: (703) 225-3620
1700 K Street, N.W. Facsimile: (703) 225-3621
Washington, D.C. 20006
Telephone: (202) 282-5000
Facsimile: (202) 282-5100

SEEN AND OBJECTED TO, all exceptions noted, based upon the evidence and for the reasons previously stated in motions and briefing and at oral argument and trial:

THE CHURCH AT THE FALLS - THE FALLS CHURCH

By: 
Gordon A. Coffee (VSB #25808) James A. Johnson
Gene C. Schaerr Paul N. Farquharson
Steffen N. Johnson Tyler O. Prout
Andrew C. Nichols (VSB #66679) SEMMES, BOWEN & SEMMES
WINSTON & STRAWN LLP 25 S. Charles Street, Suite 1400
1700 K Street, N.W. Baltimore, MD 21201
Washington, D.C. 20006 Telephone: (410) 576-4712
Telephone: (202) 282-5000 Facsimile: (410) 539-5223
Facsimile: (202) 282-5100

Scott J. Ward, Esq. (VSB #37758)
Timothy R. Obitts, Esq. (VSB #42370)
GAMMON & GRANGE, P.C.
8280 Greensboro Drive, 7th Floor
McLean, VA 22102
Telephone: (703) 761-5000
Facsimile: (703) 761-5023

SEEN AND OBJECTED TO, all exceptions noted, based upon the evidence and for the reasons previously stated in motions and briefing and at oral argument and trial:

ST. STEPHEN'S CHURCH and RELATED TRUSTEES

By: 

Mary A. McReynolds
MARY A. MCREYNOLDS, P.C.
1050 Connecticut Avenue, N.W., Tenth Floor
Washington, DC 20036
Telephone: (202) 429-1770
Facsimile: (202) 772-2358

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

SEEN AND OBJECTED TO, all exceptions noted, based upon the evidence and for the reasons previously stated in motions and briefing and at oral argument and trial:

CHURCH OF THE EPIPHANY and RELATED TRUSTEES

By: 

Mary A. McReynolds
MARY A. MCREYNOLDS, P.C.
1050 Connecticut Avenue, N.W., Tenth Floor
Washington, DC 20036
Telephone: (202) 429-1770
Facsimile: (202) 772-2358

Gordon A. Coffee (VSB #25808)
Gene C. Schaerr
Steffen N. Johnson
Andrew C. Nichols (VSB #66679)
WINSTON & STRAWN LLP
1700 K Street, N.W.
Washington, D.C. 20006
Telephone: (202) 282-5000
Facsimile: (202) 282-5100

SEEN AND OBJECTED TO, all exceptions noted, based upon the evidence and for the reasons previously stated in motions and briefing and at oral argument and trial:

CHURCH OF THE APOSTLES and RELATED TRUSTEES

By: Lauren B. Homer

Lauren B. Homer
Homer International Law Group, PLLC
1302 Parson Lane
Fairfax, VA 22033
Telephone: (703) 961-1177
Facsimile: (703) 348-2176

Gordon A. Coffee (VSB #25808)
Gene C. Schaerr
Steffen N. Johnson
Andrew C. Nichols (VSB #66679)
WINSTON & STRAWN LLP
1700 K Street, N.W.
Washington, D.C. 20006
Telephone: (202) 282-5000
Facsimile: (202) 282-5100

SEEN AND OBJECTED TO, all exceptions noted, based upon the evidence and for the reasons previously stated in motions and briefing and at oral argument and trial:

ST. MARGARET'S CHURCH and ST. PAUL'S CHURCH, HAYMARKET and RELATED TRUSTEES


By: Mary A. McReynolds

Mary A. McReynolds
MARY A. MCREYNOLDS, P.C.
1050 Connecticut Avenue, N.W., Tenth Floor
Washington, DC 20036
Telephone: (202) 429-1770
Facsimile: (202) 772-2358

E. Andrew Burcher (VSB #41310)
WALSH, COLUCCI, LUBELEY,
EMRICH & WALSH, P.C.
4310 Prince William Parkway,
Suite 300
Prince William, Virginia 22192
Telephone: (703) 680-4664
Facsimile: (703) 680-2161

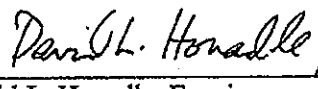
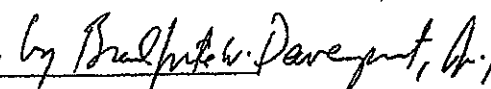
SEEN:

TRUSTEES OF THE CHURCH AT THE FALLS – THE FALLS CHURCH, *including* William W.
Goodrich and Steven Skancke

By: 
Thomas C. Palmer, Jr., Esquire
Brault Palmer Grove Steinhilber & Robbins LLP
3554 Chain Bridge Road, Suite 400
Fairfax, VA 22030

SEEN AND AGREED:

WILLIAM LATHAM, nominal defendant

By:  David L. Honadle, by  Bradford W. Davenport, Jr., with authorization
David L. Honadle, Esquire
Vanderpool, Frostick & Nishanian, P.C.
9200 Church St., Suite 400
Manassas, VA 20110
(703) 369-4738; Fax (703) 369-3653

SEEN AND OBJECTED TO, all exceptions noted, based upon the evidence and for the reasons previously stated in motions and briefing and at oral argument and trial:

THE PROTESTANT EPISCOPAL CHURCH IN THE DIOCESE OF VIRGINIA

SANDRA B. KIRKPATRICK

WILLIAM S. KIRBY

DAWN B. MAHAFFEY

NANCY E. GATES

GEORGE C. FREEMAN, JR.

ANTHONY RABALAIS

MARGARET HORSMAN

DAVID G. KILPATRICK

ROBERT REAMY

SUSAN C. STUBBS

By: 

Bradfute W. Davenport, Jr. (VSB No. 12848)

George A. Somerville (VSB No. 22419)

Andrea M. Sullivan (VSB No. 41944)

Brian D. Fowler (VSB No. 44070)

Nicholas R. Klaiiber (VSB No. 80563)

Troutman Sanders LLP

Post Office Box 1122

Richmond, Virginia 23218-1122

Telephone: (804) 697-1200

Facsimile: (804) 697-1339

Mary C. Zinsner (VSB No. 31397)

Troutman Sanders LLP

1660 International Drive

Suite 600

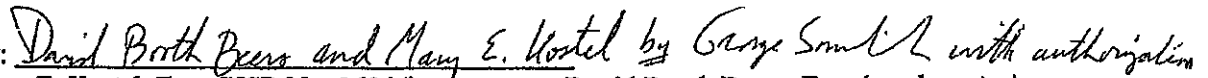
McLean, Virginia 22102

Telephone: (703) 734-4334

Facsimile: (703) 734-4340

SEEN AND OBJECTED TO, all exceptions noted, based upon the evidence and for the reasons previously stated in motions and briefing and at oral argument and trial:

THE EPISCOPAL CHURCH

By: 

Mary E. Kostel, Esq. (VSB No. 36944)

Special Counsel

The Episcopal Church

c/o Goodwin Procter

901 New York Avenue, N.W.

Washington, D.C. 20001

Telephone: (202) 346-4184

Facsimile: (202) 346-4444

David Booth Beers, Esq. (*pro hac vice*)

Goodwin Procter, LLP

901 New York Avenue, N.W.

Washington, D.C. 20001

Telephone: (202) 346-4000

Facsimile: (202) 346-4444

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

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

Case No.: CL 2007-248724,
CL 2007-1235,
CL 2007-1236,
CL 2007-1238,
CL 2007-1625,
CL 2007-5250,
CL 2007-5682,
CL 2007-5683, and
CL 2007-5902

CONSENT ORDER CORRECTING FINAL ORDER

Pursuant to Va. Code § 8.01-428(B), the following errors arising from oversight or inadvertent omissions in the Final Order entered in these consolidated actions on March 1, 2012, are hereby corrected, as follows. Nothing herein alters or affects the finality of the Final Order entered on March 1, 2012.

(1) In Section C, on page 3, begin a new paragraph with the words "On or before April 2, 2012," following the sentence that reads, "If the Diocese surrenders its interest in the Braddock Road property and/or St. Margaret's Church Parcel 2, the property shall be deemed deleted from Exhibit A and will not be subject to any provisions of this Order."

(2) In the penultimate paragraph of Section C, on page 5, "Such petitions and orders shall be in substantially the same form as Exhibits E and F ..." is corrected to read, "Such petitions and orders shall be in substantially the same form as Exhibits E and D"

(3) In Section D, in the last several lines on page 6, the words "or acquired by them after such date with property that was liquid personal property described in paragraph E of this Order held by them on such date" are deleted.

(4) In the third line of the first paragraph of Section E, on page 7, the words "valued as of the applicable Ownership Determination Date" are added, following the words "all liquid personal property" and preceding the "e.g." parenthetical, in the following clause:

(1) convey to the Bishop of the Diocese all of their respective rights, titles and interests in all liquid personal property (e.g., cash, cash equivalents, securities and entitlements, instruments, investments, bank and other deposit accounts, certificates of deposit, endowment funds, and contributions and donations of money received as of the applicable Ownership Determination Date, and including restricted funds, as defined below, except to the extent that payments were made from such funds prior to the date of conveyance pursuant to this Order)

(5) In Section J of the Final Order, on page 11, the words "Loudoun County" are deleted.

(6) In Exhibit E to the final order, at page E-2, in Section 3, the words "Exhibit B attached hereto" are deleted and the words "Exhibit B attached hereto (excluding the exhibits attached to such order)" is substituted in their place.

(7) In Exhibit H to the Final Order, at page H-1, in the first line of the Recitals, "February 29" is deleted and "March 1" is substituted in its place.

(8) In Exhibit H to the Final Order, in the second paragraph of Section 2 at page H-2, the words "or acquired by the Church Parties after such date with property that was Liquid Personal Property held by the Church Parties on such date" are deleted.

(9) In Exhibit J to the Final Order, at page J-1, in the first line of the Recitals, "February 29" is deleted and "March 1" is substituted in its place.

(10) In Exhibit J to the Final Order, in the second paragraph of Section 2 at page J-2, the words "or acquired after such date in exchange for or with the proceeds from the sale or other disposition of property that was Tangible and Intangible Personal Property held by the Church Parties on such date, with the exception of Liquid Personal Property that was used after such date

to acquire Tangible and/or Intangible Personal Property conveyed pursuant to the Other Bill of Sale" are deleted.

(11) In Exhibit K to the Final Order, at page K-5 (Exhibit C to Exhibit K), in the first line of text, "February 29" is deleted and "March 1" is substituted in its place.

(12) In Exhibit L to the Final Order, the personal property inventory of Church of Apostles is amended to reflect that the inventory includes personal property which should be included under Exhibit G to the Final Order, as well as after-acquired property. Property with a designated date of acquisition on Exhibit L was acquired after the demarcation date. The parties shall do a walk through on a mutually agreeable date to identify any other specific after-acquired property not subject to conveyance.

The foregoing corrections are subject to all arguments and objections of record.

The Clerk will send copies of this Order to all counsel of record.

Entered this 16 day of March, 2012, *Nunc Pro Tunc* to March 1, 2012.



Circuit Court Judge Randy I. Bellows

SEEN WITH ALL PREVIOUS OBJECTIONS PRESERVED:

TRURO CHURCH AND RELATED TRUSTEES

By: 

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

George O. Peterson
Tania M. L. Saylor
Michael Marr
Peterson Saylor, PLC
4163 Chain Bridge Road
Fairfax, Virginia 22030
gpeterson@petersonsaylor.com
tsaylor@petersonsaylor.com
mmarr@petersonsaylor.com

SEEN WITH ALL PREVIOUS OBJECTIONS PRESERVED:

THE CHURCH AT THE FALLS - THE FALLS CHURCH

By: 

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

James A. Johnson
Paul N. Farquharson
Scott H. Phillips
Semmes, Bowen & Semmes
25 S. Charles Street, Suite 1400
Baltimore, MD 21201
jjohnson@semmes.com
pfarquharson@semmes.com
sphilips@semmes.com

Tyler O. Prout
Semmes, Bowen & Semmes
1577 Spring Hill Road, Suite 200
Vienna, Virginia 22182
tprout@semmes.com

Scott J. Ward
Timothy R. Obitts
Gammon & Grange, P.C.
8280 Greensboro Drive, 7th Floor
McLean, VA 22102
sjw@gg-law.com
tro@gg-law.com

SEEN WITH ALL PREVIOUS OBJECTIONS PRESERVED:

ST. STEPHEN'S CHURCH and RELATED TRUSTEES

By: 

Mary A. McReynolds
Mary A. McReynolds, P.C.
1250 Connecticut Avenue, N.W., Second Floor
Washington, D.C. 20036-1830
marymcreynolds@mac.com

R. Hunter Manson
P.O. Box 539
876 Main Street
Reedville, VA 22539
manson@kabaliero.com

SEEN WITH ALL PREVIOUS OBJECTIONS PRESERVED:

CHURCH OF THE APOSTLES and CHURCH OF THE EPIPHANY and RELATED TRUSTEES

By: 

Mary A. McReynolds
MARY A. MCREYNOLDS, P.C.
1050 Connecticut Avenue, N.W., Tenth Floor
Washington, DC 20036
Telephone: (202) 429-1770
Facsimile: (202) 772-2358

Gordon A. Coffee (VSB #25808)
Gene C. Schaerr
Steffen N. Johnson
Andrew C. Nichols (VSB #66679)
WINSTON & STRAWN LLP
1700 K Street, N.W.
Washington, D.C. 20006
Telephone: (202) 282-5000
Facsimile: (202) 282-5100

SEEN WITH ALL PREVIOUS OBJECTIONS PRESERVED:

ST. MARGARET'S CHURCH and ST. PAUL'S CHURCH, HAYMARKET and RELATED TRUSTEES

By: 

Mary A. McReynolds
Mary A. McReynolds, P.C.
1250 Connecticut Avenue, N.W., Second Floor
Washington, D.C. 20036-1830
marymcreynolds@mac.com

E. Andrew Burcher
Walsh, Colucci, Lubeley, Emrich & Walsh, P.C.
4310 Prince William Parkway, Suite 300
Prince William, Virginia 22192
eaburcher@pw.thelandlawyers.com

SEEN WITH ALL PREVIOUS OBJECTIONS PRESERVED:

THE COMMONWEALTH OF VIRGINIA EX REL. KENNETH T. CUCCINELLI, IN HIS
OFFICIAL CAPACITY AS ATTORNEY GENERAL

By: E. Duncan Getchell / by mcz with authority
E. Duncan Getchell
Office of the Attorney General
900 East Main Street
Richmond, Virginia 23219
DGetchell@oag.state.va.us

SEEN:

TRUSTEES OF THE CHURCH AT THE FALLS – THE FALLS CHURCH, *including* William W.
Goodrich, Harrison Hutson (now deceased), and Steven Skancke

By: Thomas C. Palmer / by mcz with authority
Thomas C. Palmer, Jr.
Brault Palmer Grove White & Steinhilber LLP
10533 Main Street
P.O. Box 1010
Fairfax, VA, 22038-1010
tpalmer@thebraultfirm.com

SEEN AND AGREED:

WILLIAM LATHAM

By: David L. Honadle / by mcz with authority
David L. Honadle (dhonadle@vfnlaw.com)
Vanderpool, Frostick & Nishanian, PC
9200 Church Street, Suite 400
Manassas, VA 20110

FILED
DCTP

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY 2012 MAR 29 PM 1:32

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

)	Case Nos.: CL 2007-248724, M. T. FREY
)	CL 2007-1235, CIRCUIT COURT
)	CL 2007-1236, FAIRFAX, VA
)	CL 2007-1238,
)	CL 2007-1625,
)	CL 2007-5250,
)	CL 2007-5682,
)	CL 2007-5683, and
)	CL 2007-5902
)	

NOTICE OF APPEAL

Pursuant to Rule 5:9 of the Rules of the Supreme Court of Virginia, The Church At The Falls – The Falls Church, Inc. hereby gives notice of appeal to the Supreme Court of Virginia of the Final Order entered on March 1, 2012 (including the Consent Order Correcting Final Order entered on March 16, 2012) and such additional previous Orders entered by the Court prior to entry of the Final Order, including but not limited to the Court’s Order entered January 3, 2011 denying The Church At The Falls – The Falls Church, Inc.’s request for a jury trial.

The following transcripts were filed prior to the entry of the Final Order:

1. Hearing Transcript from Monday, August 11, 2008 (filed October 2, 2008);
2. Pretrial Motions Transcript from Wednesday, October 8, 2008 (filed October 10, 2008)
3. Trial Transcript from Tuesday, October 14, 2008 (filed October 16, 2008);
4. Trial Transcript from Wednesday, October 15, 2008 (filed October 21, 2008 and replacement original filed October 24, 2008);
5. Trial Transcript from Monday, October 20, 2008 (filed October 24, 2008).
6. Hearing Transcript from May 21, 2007 (filed on January 15, 2009);



7. Hearing Transcript from June 8, 2007 (filed on January 15, 2009);
8. Hearing Transcript from June 29, 2007 (filed on January 15, 2009);
9. Hearing Transcript from August 10, 2007 (filed on January 15, 2009);
10. Hearing Transcript from September 14, 2007 (filed on January 15, 2009);
11. Hearing Transcript from October 5, 2007 (filed on January 15, 2009);
12. Hearing Transcript from October 12, 2007 (filed on January 15, 2009);
13. Teleconference Hearing Transcript from October 15, 2007 (filed on January 15, 2009);
14. Teleconference Hearing Transcript from October 18, 2007 (filed on January 15, 2009);
15. Hearing Transcript from November 2, 2007 (filed on January 15, 2009);
16. Hearing Transcript from November 9, 2007 (filed on January 15, 2009);
17. Trial Transcript from November 13, 2007 (filed on January 15, 2009);
18. Trial Transcript from November 14, 2007 (filed on January 15, 2009);
19. Trial Transcript from November 15, 2007 (filed on January 15, 2009);
20. Trial Transcript from November 19, 2007 (filed on January 15, 2009);
21. Trial Transcript from November 20, 2007 (filed on January 15, 2009);
22. Hearing Transcript from January 4, 2008 (filed on January 15, 2009);
23. Hearing Transcript from January 25, 2008 (filed on January 15, 2009);
24. Hearing Transcript from April 25, 2008 (filed on January 15, 2009);
25. Hearing Transcript from May 16, 2008 (filed on January 15, 2009);
26. Hearing Transcript from May 30, 2008 (filed on January 15, 2009);

27. Hearing Transcript from August 22, 2008 (filed on January 15, 2009);
29. Hearing Transcript from September 19, 2008 (filed on January 15, 2009);
30. Hearing Transcript from September 26, 2008 (filed on January 15, 2009).
31. Trial Transcript from April 25, 2011 (filed on May 13, 2011);
32. Trial Transcript from April 26, 2011 (filed on May 13, 2011);
33. Trial Transcript from April 27, 2011 (filed on May 13, 2011);
34. Trial Transcript from April 28, 2011 (filed on May 13, 2011);
35. Trial Transcript from May 2, 2011 (filed on May 13, 2011);
36. Trial Transcript from May 3, 2011 (filed on May 13, 2011);
37. Trial Transcript from May 4, 2011 (filed on May 13, 2011);
38. Trial Transcript from May 5, 2011 (filed on May 13, 2011);
39. Trial Transcript from May 12, 2011 (filed on May 13, 2011);
40. Trial Transcript from May 16, 2011 (filed on June 15, 2011);
41. Trial Transcript from May 17, 2011 (filed on June 15, 2011);
42. Trial Transcript from May 18, 2011 (filed on June 15, 2011);
43. Trial Transcript from May 19, 2011 (filed on June 15, 2011);
44. Trial Transcript from May 23, 2011 (filed on June 15, 2011);
45. Trial Transcript from May 24, 2011 (filed on June 15, 2011);
46. Trial Transcript from May 25, 2011 (filed on June 15, 2011);
47. Trial Transcript from May 26, 2011 (filed on June 15, 2011);
48. Trial Transcript from May 31, 2011 (filed on June 20, 2011);
49. Trial Transcript from June 1, 2011 (filed on June 20, 2011);

- 50. Trial Transcript from June 2, 2011 (filed on June 20, 2011);
- 51. Trial Transcript from June 6, 2011 (filed on June 20, 2011);
- 52. Trial Transcript from June 7, 2011 (filed on June 20, 2011);
- 53. Notice of Errata in Trial Transcript (filed on October 14, 2011);

The following transcripts were filed after entry of the Final Order:

- 57. Hearing Transcript from December 17, 2010 (filed on March 28, 2012).
- 54. Hearing Transcript from February 16, 2012 (filed on March 28, 2012);
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No additional transcripts will be filed.

Dated: March 29, 2012

Respectfully submitted,

SEMMES, BOWEN & SEMMES PC

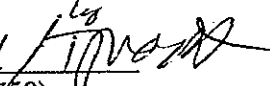
WINSTON & STRAWN, LLP

By: James A. Johnson
James A. Johnson
Paul N. Farquharson
25 South Charles Street
Suite 2400
Baltimore, MD 21201
(410) 539-5040 (telephone)
(410) 539-5223 (facsimile)

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

By: Tyler O. Prout
Tyler O. Prout
VSB # 74180
1577 Spring Hill Road, Suite 200
Vienna, Virginia 22182
(703) 760-9473
(703) 356-6989
Counsel for The Falls Church

GAMMON & GRANGE, P.C.

By: Scott J. Ward ^{ly} 

Scott J. Ward (VSB #37758)

Timothy R. Obitts (VSB #42370)

8280 Greensboro Drive

Seventh Floor

McLean, VA 22102

(703) 761-5000 (telephone)

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P.O. Box 1122
Richmond, VA 23218

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

*Thomas C. Palmer, Esquire
BRAULT PALMER GROVE
WHITE & STEINHILBER, LLP
3554 Chain Bridge Road, Suite 400
Fairfax, VA 22030

*Heather H. Anderson, Esquire
Heather H. Anderson, P.C.
P.O. Box 50158
Arlington, VA 22205

R. Hunter Manson, Esq.
P. O. Box 539
876 Main Street
Reedville, VA 22539

*George O. Peterson, Esq.
Tania M. L. Saylor, Esq.
Peterson Saylor
4163 Chain Bridge Road
Fairfax, VA 22030

*David Booth Beers, Esquire
Adam Chud, Esquire
GOODWIN PROCTER, LLP
901 New York Ave., N.W.
Washington, D.C. 20001

*E. Duncan Getchell, Jr., Esquire
Office of the Attorney General
900 East Main Street
Richmond, Virginia 23219

*Mary E. Kostel, Esq.
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The Episcopal Church
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901 New York Ave., N.W.
Washington, D.C. 20001

*David L. Honadle, Esq.
Vanderpool, Frostick & Nishanian, P.C.
9200 Church Street, Suite 400
Manassas, VA 20110

*Mary A. McReynolds, Esq.
(admitted pro hac vice)
1250 Connecticut Avenue, N.W.
Second Floor
Washington, DC 20036

*Lauren B. Homer, Esq.
Homer International Law Group, PLLC
1302 Parson Lane
Fairfax, VA 22033

Gregory Sagstetter
Law Clerk to the Honorable Randy I. Bellows
Circuit Court for Fairfax County
4110 Chain Bridge Road
Fifth Floor Judges' Chambers
Fairfax, VA 22030

*E. Andrew Burcher, Esq.
Walsh, Colucci, Lubeley,
Emrich & Walsh, P.C.
4310 Prince William Parkway, S-300
Prince William, VA 22912



Tyler O. Prout

V0182873.WPD

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DCTP

2012 MAR 29 PM 1:41

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

JOHN T. FREY
CLERK, CIRCUIT COURT
FAIRFAX, VA

In re Multi-Circuit Episcopal Church Property
Litigation:

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

ONE PAGE COVER SHEET FOR
THE CHURCH AT THE FALLS – THE FALLS CHURCH, INC.’S
NOTICE OF APPEAL

This is a one-page cover sheet references The Church At The Falls – The Falls Church, Inc.’s Notice of Appeal, which was filed in CL 2007-248724 (the omnibus case file), on March 29, 2012. This one-page reference pleading applies to the Omnibus case number: CL2007-248724 and

1. *The Protestant Episcopal Church in the Diocese of Virginia v. Truro Church* (Circuit Court of Fairfax County; CL 2007-1236);
2. *The Protestant Episcopal Church in the Diocese of Virginia v. Church of the Apostles* (Circuit Court of Fairfax County; CL 2007-1238);
3. *The Protestant Episcopal Church in the Diocese of Virginia v. Church of the Epiphany, Herndon* (Circuit Court of Fairfax County; CL 2007-1235);
4. *The Protestant Episcopal Church in the Diocese of Virginia v. St. Paul’s Church, Haymarket* (Circuit Court of Prince William County Case No. CL 73466)(Circuit Court of Fairfax County; CL 2007-5683);

5. *The Protestant Episcopal Church in the Diocese of Virginia v. St. Margaret's Church* (Circuit Court of Prince William Case No. CL 73465)(Circuit Court of Fairfax County; CL 2007-5682);
6. *The Protestant Episcopal Church in the Diocese of Virginia v. Church of the Word* (Circuit Court of Prince William County Case No. CL 73464)(Circuit Court of Fairfax County; CL 2007-5684);
8. *The Protestant Episcopal Church in the Diocese of Virginia v. The Church at The Falls – The Falls Church* (Circuit Court of Arlington County Case No. 07-125)(Circuit Court of Fairfax County; CL 2007-5250);
9. *The Protestant Episcopal Church in the Diocese of Virginia v. St. Stephen's Church* (Circuit Court of Northumberland County Case No. CL 07-16)(Circuit Court of Fairfax County; CL 2007-5902); and

For the complete *The Church At The Falls – The Falls Church, Inc.*'s Notice of Appeal, please see the omnibus case file, CL 2007 – 248724.

Dated: March 29, 2012

SEMMES, BOWEN & SEMMES PC

By: James A. Johnson / [Signature]
James A. Johnson
Paul N. Farquharson
25 South Charles Street
Suite 2400
Baltimore, MD 21201
(410) 539-5040 (telephone)
(410) 539-5223 (facsimile)

By: [Signature]
Tyler O. Prout
VSB # 74180
1577 Spring Hill Road, Suite 200
Vienna, Virginia 22182
(703) 760-9473
(703) 356-6989
Counsel for The Falls Church

Respectfully submitted,

WINSTON & STRAWN, LLP

By: Gordon A. Coffee / [Signature]
Gordon A. Coffee (VSB #25808)
Gene C. Schaerr
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1700 K Street, N.W.
Washington, DC 20006-3817
(202) 282-5000 (telephone)
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Counsel for The Falls Church

GAMMON & GRANGE, P.C.

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Scott J. Ward (VSB #37758)
Timothy R. Obitts (VSB #42370)
8280 Greensboro Drive
Seventh Floor
McLean, VA 22102
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Tyler O. Prout

FILED
DCTP

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

2012 MAR 29 PM 1:33

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

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Case Nos.: CL 2007-248734
CL 2007-1235, JOHN T. FREY
CL 2007-1236, CIRCUIT COURT
CL 2007-1238, FAIRFAX, VA
CL 2007-1625,
CL 2007-1625,
CL 2007-5250,
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25 South Charles Street
Suite 2400
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By: Gordon A. Coffee
Gordon A. Coffee (VSB #25808)
Gene C. Schaerr
Steffen N. Johnson
Andrew C. Nichols (VSB #66679)
1700 K Street, N.W.
Washington, DC 20006-3817
(202) 282-5000 (telephone)
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Counsel for The Falls Church

By: Tyler O. Pibut
Tyler O. Pibut
VSB # 74180
1577 Spring Hill Road, Suite 200
Vienna, Virginia 22182
(703) 760-9473
(703) 356-6989
Counsel for The Falls Church

GAMMON & GRANGE, P.C. / 65

By: Scott J. Ward *[Signature]*

Scott J. Ward (VSB #37758)

Timothy R. Obitts (VSB #42370)

8280 Greensboro Drive

Seventh Floor

McLean, VA 22102

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P.O. Box 1122
Richmond, VA 23218

*Mary C. Zinsner, Esquire
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1660 International Drive, Suite 600
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*Thomas C. Palmer, Esquire
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Fairfax, VA 22030

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Heather H. Anderson, P.C.
P.O. Box 50158
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Fairfax, VA 22030

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Homer International Law Group, PLLC
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Gregory Sagstetter
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Fifth Floor Judges' Chambers
Fairfax, VA 22030

*E. Andrew Burcher, Esq.
Walsh, Colucci, Lubeley,
Emrich & Walsh, P.C.
4310 Prince William Parkway, S-300
Prince William, VA 22912


Tyler O. Prout

V0182873.WPD

FILED
DCTP

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY 2012 MAR 29 PM 1:34

In re Multi-Circuit Episcopal Church)	Case Nos.: CL 2007-24872, JOHN T. FREY
Litigation:)	CL 2007-1235, CLERK, CIRCUIT COURT
)	CL 2007-1236, FAIRFAX, VA
)	CL 2007-1238,
)	CL 2007-1625,
)	CL 2007-5250,
)	CL 2007-5682,
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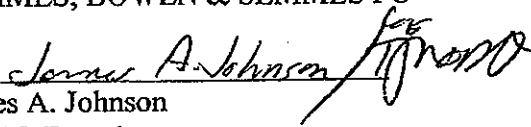
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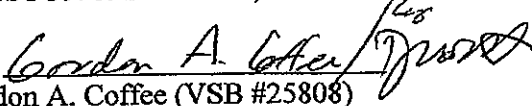
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Suite 2400
Baltimore, MD 21201
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901 New York Ave., N.W.
Washington, D.C. 20001

*David L. Honadle, Esq.
Vanderpool, Frostick & Nishanian, P.C.
9200 Church Street, Suite 400
Manassas, VA 20110

*Mary A. McReynolds, Esq.
(admitted pro hac vice)
1250 Connecticut Avenue, N.W.
Second Floor
Washington, DC 20036

*Lauren B. Homer, Esq.
Homer International Law Group, PLLC
1302 Parson Lane
Fairfax, VA 22033

Gregory Sagstetter
Law Clerk to the Honorable Randy I. Bellows
Circuit Court for Fairfax County
4110 Chain Bridge Road
Fifth Floor Judges' Chambers
Fairfax, VA 22030

*E. Andrew Burcher, Esq.
Walsh, Colucci, Lubeley,
Emrich & Walsh, P.C.
4310 Prince William Parkway, S-300
Prince William, VA 22912



Tyler D. Prout

V0182873.WPD

FILED
DCTP

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY 2012 MAR 29 PM 1:35

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

)	Case Nos.: CL 2007-248704	JOHN T. FREY
)		CLERK, CIRCUIT COURT
)		FAIRFAX, VA
)		CL 2007-1236,
)		CL 2007-1238, ✓
)		CL 2007-1625,
)		CL 2007-5250,
)		CL 2007-5682,
)		CL 2007-5683, and
)		CL 2007-5902
)		

NOTICE OF APPEAL

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No additional transcripts will be filed.

Dated: March 29, 2012

Respectfully submitted,

SEMMES, BOWEN & SEMMES PC

WINSTON & STRAWN, LLP

By: James A. Johnson / JAJ
James A. Johnson
Paul N. Farquharson
25 South Charles Street
Suite 2400
Baltimore, MD 21201
(410) 539-5040 (telephone)
(410) 539-5223 (facsimile)

By: Gordon A. Coffee / GAC
Gordon A. Coffee (VSB #25808)
Gene C. Schaerr
Steffen N. Johnson
Andrew C. Nichols (VSB #66679)
1700 K Street, N.W.
Washington, DC 20006-3817
(202) 282-5000 (telephone)
(202) 282-5100 (facsimile)
Counsel for The Falls Church

By: Tyler O. Prout / TOP
Tyler O. Prout
VSB # 74180
1577 Spring Hill Road, Suite 200
Vienna, Virginia 22182
(703) 760-9473
(703) 356-6989
Counsel for The Falls Church

GAMMON & GRANGE, P.C.

By: Scott J. Ward ¹⁴⁵ / 1/20/10

Scott J. Ward (VSB #37758)

Timothy R. Obitts (VSB #42370)

8280 Greensboro Drive

Seventh Floor

McLean, VA 22102

(703) 761-5000 (telephone)

Counsel for The Falls Church

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of March, 2012, a copy of the foregoing Notice of Appeal was 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:

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George A. Somerville, Esquire
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Brian D. Fowler, Esquire
Nicholas R. Klaiber, Esquire
TROUTMAN SANDERS, LLP
P.O. Box 1122
Richmond, VA 23218

*Mary C. Zinsner, Esquire
TROUTMAN SANDERS, LLP
1660 International Drive, Suite 600
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Tyler O'Prout

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VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY 2012 MAR 29 PM 1:36

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

)	Case Nos.: CL 2007-248724	JOHN T. FREY
)	CL 2007-1235	CLERK, CIRCUIT COURT
)	CL 2007-1236,	FAIRFAX, VA
)	CL 2007-1238,	
)	CL 2007-1625,	✓
)	CL 2007-5250,	
)	CL 2007-5682,	
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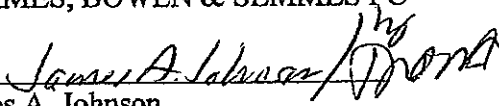
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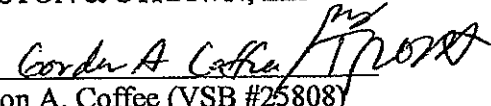
Dated: March 29, 2012

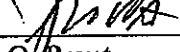
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SEMMES, BOWEN & SEMMES PC

WINSTON & STRAWN, LLP

By: 
James A. Johnson
Paul N. Farquharson
25 South Charles Street
Suite 2400
Baltimore, MD 21201
(410) 539-5040 (telephone)
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Gordon A. Coffee (VSB #25808)
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Steffen N. Johnson
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1700 K Street, N.W.
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1577 Spring Hill Road, Suite 200
Vienna, Virginia 22182
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Suite 2400
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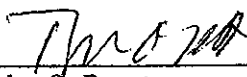
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Homer International Law Group, PLLC
1302 Parson Lane
Fairfax, VA 22033

Gregory Sagstetter
Law Clerk to the Honorable Randy I. Bellows
Circuit Court for Fairfax County
4110 Chain Bridge Road
Fifth Floor Judges' Chambers
Fairfax, VA 22030

*E. Andrew Burcher, Esq.
Walsh, Colucci, Lubeley,
Emrich & Walsh, P.C.
4310 Prince William Parkway, S-300
Prince William, VA 22912



Tyler Q. Prout

V0182873.WPD

FILED
DCTP

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY 2012 MAR 29 PM 1:37

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

)	Case Nos.: CL 2007-248723	JOHN T. FREY
)		CLERK, CIRCUIT COURT
)		FAIRFAX, VA
)	CL 2007-1236,	
)	CL 2007-1238,	
)	CL 2007-1625,	
)	CL 2007-5250,	
)	CL 2007-5682, ✓	
)	CL 2007-5683, and	
)	CL 2007-5902	
)		

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No additional transcripts will be filed.

Dated: March 29, 2012

Respectfully submitted,

SEMMES, BOWEN & SEMMES PC

WINSTON & STRAWN, LLP

By: James A. Johnson
James A. Johnson
Paul N. Farquharson
25 South Charles Street
Suite 2400
Baltimore, MD 21201
(410) 539-5040 (telephone)
(410) 539-5223 (facsimile)

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

By: Tyler O. Prout
Tyler O. Prout
VSB # 74180
1577 Spring Hill Road, Suite 200
Vienna, Virginia 22182
(703) 760-9473
(703) 356-6989
Counsel for The Falls Church

GAMMON & GRANGE, P.C.

By:

ms
Scott J. Ward
Scott J. Ward (VSB #37158)

Timothy R. Obitts (VSB #42370)

8280 Greensboro Drive

Seventh Floor

McLean, VA 22102

(703) 761-5000 (telephone)

Counsel for The Falls Church

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of March, 2012, a copy of the foregoing Notice of Appeal was 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:

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Andrea M. Sullivan, Esquire
Brian D. Fowler, Esquire
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TROUTMAN SANDERS, LLP
P.O. Box 1122
Richmond, VA 23218

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

*Thomas C. Palmer, Esquire
BRAULT PALMER GROVE
WHITE & STEINHILBER, LLP
3554 Chain Bridge Road, Suite 400
Fairfax, VA 22030

*Heather H. Anderson, Esquire
Heather H. Anderson, P.C.
P.O. Box 50158
Arlington, VA 22205

R. Hunter Manson, Esq.
P. O. Box 539
876 Main Street
Reedville, VA 22539

*George O. Peterson, Esq.
Tania M. L. Saylor, Esq.
Peterson Saylor
4163 Chain Bridge Road
Fairfax, VA 22030

*David Booth Beers, Esquire
Adam Chud, Esquire
GOODWIN PROCTER, LLP
901 New York Ave., N.W.
Washington, D.C. 20001

*E. Duncan Getchell, Jr., Esquire
Office of the Attorney General
900 East Main Street
Richmond, Virginia 23219

*Mary E. Kostel, Esq.
Special Counsel
The Episcopal Church
c/o Goodwin Procter LLP
901 New York Ave., N.W.
Washington, D.C. 20001

*David L. Honadle, Esq.
Vanderpool, Frostick & Nishanian, P.C.
9200 Church Street, Suite 400
Manassas, VA 20110

*Mary A. McReynolds, Esq.
(admitted pro hac vice)
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Second Floor
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VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY 2012 MAR 29 PM 1:37

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Litigation:**

)	Case Nos.: CL 2007-248704, N. T. FREY
)	CL 2007-1238, J. B. CIRCUIT COURT
)	CL 2007-1236, FAIRFAX, VA
)	CL 2007-1238,
)	CL 2007-1625,
)	CL 2007-5250,
)	CL 2007-5682,
)	CL 2007-5683, and
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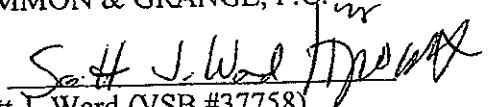
By: James A. Johnson / Prout
James A. Johnson
Paul N. Farquharson
25 South Charles Street
Suite 2400
Baltimore, MD 21201
(410) 539-5040 (telephone)
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1700 K Street, N.W.
Washington, DC 20006-3817
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Tyler O. Prout
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(703) 760-9473
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James A. Johnson
Paul N. Farquharson
25 South Charles Street
Suite 2400
Baltimore, MD 21201
(410) 539-5040 (telephone)
(410) 539-5223 (facsimile)

By: Gordon A. Coffee / Prout
Gordon A. Coffee (VSB #25808)
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Andrew C. Nichols (VSB #66679)
1700 K Street, N.W.
Washington, DC 20006-3817
(202) 282-5000 (telephone)
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Counsel for The Falls Church

By: Tyler O. Prout
Tyler O. Prout
VSB # 74180
1577 Spring Hill Road, Suite 200
Vienna, Virginia 22182
(703) 760-9473
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Scott J. Ward

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