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November 8, 2010

BY HAND

Ms. Caitlin Fields, Law Clerk to the Honorable Randy I. Bellows
Judges' Chambers, Circuit Court of Fairfax County
Fairfax Judicial Center, 5th Floor
4110 Chain Bridge Rd
Fairfax, Virginia 22030-4009

In Re: *Multi-Circuit Church Property Litigation*
(Omnibus Case No. CL 2007-0248724)

Dear Ms. Fields:

Enclosed are copies of the Statement of Position of the Church of Our Saviour at Oatlands filed this date in the omnibus case and the following cases, in compliance with Judge Bellows' Order entered on October 15, 1010:

1. *The Episcopal Church v. Truro Church et al.* (Circuit Court of Fairfax County; CL 2007-1625);
2. *The Protestant Episcopal Church in the Diocese of Virginia v. Church of Our Saviour at Oatlands* (Circuit Court of Loudoun County Case No. 44148) (Circuit Court of Fairfax County; CL 2007-5364);

Best regards.

Very truly yours,



James E Carr

JEC/jec
enclosures

Ms. Caitlin Fields, Law Clerk to the Honorable Randy I. Bellows
Circuit Court of Fairfax County
Re: Multi-Circuit Church Property Litigation
(Case No. CL 2007-0248724)
November 8, 2010
Page 2 of 2

cc:

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Fairfax Judicial Center
4110 Chain Bridge Rd
Fairfax, Virginia 22030-4009

In Re: *Multi-Circuit Church Property Litigation*
(Omnibus Case No. CL 2007-0248724)

Ladies/Gentlemen:

Enclosed for filing in the Omnibus Case No. CL 2007-0248724, is an original Statement of Position of The Church of Our Saviour at Oatlands In Accordance with This Court's Order Entered October 15, 2010, along with a Cover Sheet for filing in Case Nos.:

1. *The Episcopal Church v. Truro Church et al.* (Circuit Court of Fairfax County; CL 2007-1625);
2. *The Protestant Episcopal Church in the Diocese of Virginia v. Church of Our Saviour at Oatlands* (Circuit Court of Loudoun County Case No. 44148) (Circuit Court of Fairfax County; CL 2007-5364);

If you have any questions concerning the foregoing, please advise.

Best regards.

Very truly yours,


James E. Carr

JEC/jec
enclosures

Office of the Clerk
Circuit Court of Fairfax County
Re: Multi-Circuit Church Property Litigation
(Case No. CL 2007-0248724)
November 8, 2010
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Robert C. Dunn, Esq.
E. Duncan Getchell, Esq.

VIRGINIA :

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

IN RE: MULTI-CIRCUIT CHURCH
PROPERTY LITIGATION

Civil Case Number:

CL 2007- 0248724

FILED IN: Multi-Circuit Church Property Litigation CL2007-0248724; *The Protestant Episcopal Church in the Diocese of Virginia v. Church of Our Saviour at Oatlands* (No. CL 2007-5364); and *The Episcopal Church v. Truro Church et al.*, (No. CL 2007-1625).

**STATEMENT OF POSITION OF THE CHURCH OF OUR SAVIOUR AT OATLANDS
IN ACCORDANCE WITH THIS COURT'S ORDER ENTERED OCTOBER 15, 2010**

COMES NOW the Defendant and Counterclaimant, the Church of Our Saviour at Oatlands, (hereinafter also referred to as "Our Saviour"), and for its statement of position in accordance with this Honorable Court's Order entered on October 15, 2010, states as follows:

I. PROCEDURAL POSITION OF THE CHURCH OF OUR SAVIOUR AT OATLANDS:

During the Section 57-9 phase of proceedings, the CANA Congregations operated essentially as one, filing joint pleadings and taking joint positions, with limited exceptions. This approach was consistent with the fact that the Section 57-9 phase of proceedings involved almost entirely common matters of law and fact that were most appropriately addressed with joint pleadings and actions. Pleadings were usually briefed and argued by one or a few counsel on behalf of all the CANA Congregations, acting in unison.

The declaratory judgment action phase of proceedings constitutes a totally different situation. For the Church of Our Saviour at Oatlands, it engages issues of fact and law which are

particular to that Congregation. For example, the deed by which Our Saviour received conveyance of its real property is unique as to date and content. This deed does not duplicate the deed of any other CANA Congregation, or cross-reference or engage the interest of any other Congregation. For another example, the history of Church of Our Saviour's interactions (or, "course of conduct") with the TEC and Episcopal Diocese of Virginia is totally specific to Our Saviour, and the details of the same are totally different from any other Congregation's history. There may be a limited number of common legal issues which can be determined in a vacuum as to all CANA Congregations. But other than these limited issues, the matters in controversy with Our Saviour require separate consideration and determination from those matters in controversy with the other Congregations.

The Church of Our Saviour has an overall legal strategy to pursue in this phase of proceedings that is particular to its own legal and factual issues. Our Saviour's strategy does not incorporate pursuing a jury trial. Our Saviour's strategy does not incorporate legal representation which is shared with or subject to the consensus of others. To the extent that the other CANA Congregations have chosen a different path, Our Saviour is unable to go forward with them on a consolidated basis.

It is the position of the Church of Our Saviour at Oatlands that the declaratory action claims of the TEC and Episcopal Diocese of Virginia, and the Counterclaims of the Congregation are most appropriately tried in the current forum, before this Honorable Court, in the interest of continuity and the best economy of judicial resources. However, the Church of Our Saviour at Oatlands respectfully submits that the case of Our Saviour needs to be dealt with as a case separate from those in which the remaining CANA congregations have determined to operate jointly and cooperatively together. The Church of Our Saviour at Oatlands respectfully

requests that it be allowed to proceed to determination by individual bench trial of all issues remaining in controversy which specifically relate to Our Saviour's declaratory judgment case, that Our Savaieur be regarded procedurally as an individual party apart from the other CANA Congregations, that it be given the opportunity to file and argue dispositive or other motions apart from any other Congregation, and that it be able to conduct and respond to discovery in its own capacity, apart from whatever discovery may be undertaken by the other CANA Congregations.

The undersigned counsel believes trial of Our Saviour's case will require only one to two days maximum. Taking into account time for depositions and other necessary discovery, and the briefing and determination of partial summary judgment or other dispositive motions, trial of Our Saviour's case should be ready to proceed well in advance of the combined trials of the other Congregations, as early as March, 2011, should the calendar of the Court permit. The historical documentation concerning Our Saviour is not extensive, and has already been provided in response to earlier discovery requests from the TEC and Episcopal Diocese. If not already stipulated, such documentation is expected to be capable of stipulation for trial.

Our Saviour desires an early trial of its case. Our Saviour further wishes to avoid the expense of counsel sitting through jury trials specific to other CANA Congregations before Our Saviour is able to have the more modest bench trial of its own case.

Should the Court find at the status call on November 12 the foregoing requested treatment of Our Saviour is opposed by any party, the Church of Our Saviour at Oatlands is prepared to bring on for Court determination a formal motion requesting separate trial and rights of proceeding individually, under Virginia Code Section 8.01-267.5 and 8.01-267.6.

II. MATTERS FOR WHICH THE CHURCH OF OUR SAVIOUR AT OATLANDS REQUESTS ATTENTION OF THE COURT:

A. Determination of whether an issue exists as to the treatment of the Church of Our Saviour at Oatlands as an individual party for litigation purposes as indicated above. If any issue does exist, to establish a schedule for filing, response to and an early hearing on Our Saviour's motions pursuant to Virginia Code Section 8.01-267.1 et seq., as hereinabove stated.

B. Granting Our Saviour the opportunity to be heard on those elements of a scheduling Order governing filing, copying and service, discovery and other procedural guidelines which Our Saviour believes important to be included (or excluded). (A proposed Order from the Protestant Episcopal Church in the Diocese of Virginia has been received to which Our Saviour has responded with requested revisions). Our Saviour would further request that the Court enter a scheduling Order that is specific to Our Saviour.

C. Granting Our Saviour the opportunity to be heard on the scheduling of an individual bench trial and the associated pre-trial event dates for Our Saviour's case. (Our Saviour's aforesaid revisions to the proposed Order from the Episcopal Diocese have included such items).

D. If convenient to the Court, establishing a means by which the Church of Our Saviour may approach the Court, along with opposing counsel, to establish a briefing schedule and page limitations for any dispositive motions to be filed by Our Savior, through arranged conference call or correspondence with the Court.

Dated: November 8, 2010

Respectfully submitted,

CHURCH OF OUR SAVIOUR AT OATLANDS

By: _____

James E. Carr, Esquire, VSB# 014567

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*Counsel for Church of Our Saviour at Oatlands
And Related Trustees*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 8th day of November, 2010 he caused all counsel to be served with copies of the foregoing Statement of Position of The Church of Our Saviour at Oatlands' in Accordance with this Court's Order entered on October 15, 2010, and cover sheet for filing, by electronic mail to the listed counsel of record and to lead counsel by first class postage prepaid mail:

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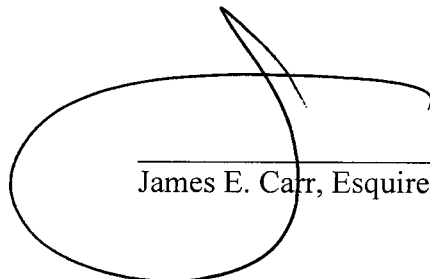
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With a copy by electronic mail and hand-delivered to:

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Law Clerk to the Honorable Randy I. Bellows
Circuit Court of Fairfax County
Fairfax Judicial Center
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Fifth Floor Judges' Chambers
Fairfax, VA 22030-4009
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James E. Carr, Esquire

VIRGINIA :

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

IN RE: MULTI-CIRCUIT CHURCH
PROPERTY LITIGATION

Civil Case Number:

CL 2007 – 0248724

FILED IN: *The Protestant Episcopal Church in the Diocese of Virginia v. Church of Our Saviour at Oatlands* (No. CL 2007-5364); and *The Episcopal Church v. Truro Church et al.*, (No. CL 2007-1625).

**COVER SHEET FOR STATEMENT OF POSITION OF
THE CHURCH OF OUR SAVIOUR AT OATLANDS IN
ACCORDANCE WITH THIS COURT'S ORDER ENTERED OCTOBER 15, 2010**

This will serve as a one page cover sheet pleading for the **STATEMENT OF POSITION OF THE CHURCH OF OUR SAVIOUR AT OATLANDS IN ACCORDANCE WITH THIS COURT'S ORDER ENTERED OCTOBER 15, 2010**, which is being filed in CL 2007-248724 (the omnibus case file), on November 8, 2010. The foregoing pleading and this corresponding one-page reference pleading applies to the **Multi-Circuit Church Property Litigation Omnibus case number CL 2007-48724** and the following cases: *The Protestant Episcopal Church in the Diocese of Virginia v. Church of Our Saviour at Oatlands* (No. CL 2007-5364); and *The Episcopal Church v. Truro Church et al.*, (No. CL 2007-1625). For the complete foregoing pleading, please see the Omnibus case file, CL 2007 – 248724.

Dated: November 8, 2010

Respectfully submitted,

CHURCH OF OUR SAVIOUR AT OATLANDS
By Counsel



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*Counsel for Church of Our Saviour at Oatlands
And Related Trustees*

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

IN RE: MULTI-CIRCUIT CHURCH
PROPERTY LITIGATION

Civil Case Number:

CL 2007 – 0248724

FILED IN: *The Protestant Episcopal Church in the Diocese of Virginia v. Church of Our Saviour at Oatlands* (No. CL 2007-5364); and *The Episcopal Church v. Truro Church et al.*, (No. CL 2007-1625).

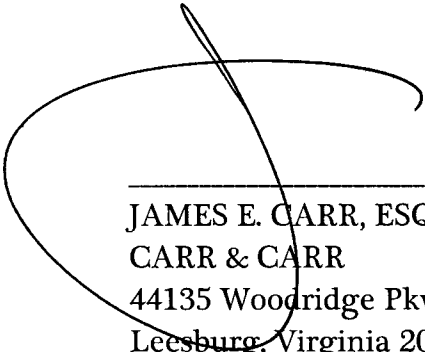
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Dated: November 8, 2010

Respectfully submitted,

CHURCH OF OUR SAVIOUR AT OATLANDS
By Counsel



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