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December 7, 2010

**BY HAND**

Office of the Clerk  
Circuit Court of Fairfax County  
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 Response of the Church of Our Saviour at Oatlands to the Episcopal Diocese of Virginia and Episcopal Church's Memorandum regarding the Motion of the Church of Our Saviour at Oatlands for Separate Trial, along with original Cover Sheets 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/tlc  
enclosures

Office of the Clerk  
Circuit Court of Fairfax County  
Re: Multi-Circuit Church Property Litigation  
(Case No. CL 2007-0248724)  
December 7, 2010  
Page 2 of 2

cc:

Ms. Caitlin Fields, Law Clerk to the Honorable Randy I. Bellows  
Bradfute W. Davenport, Jr., Esq.  
George A. Somerville, Esq.  
Joshua D. Heslinga, Esq.  
Heather H. Anderson, Esq.  
Mary E. Kostel, Esq.  
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**BY HAND**

Ms. Caitlin Fields, Law Clerk to the Honorable Randy I. Bellows  
Judges' Chambers, Circuit Court of Fairfax County  
Fairfax Judicial Center, 5<sup>th</sup> 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 Response of the Church of Our Saviour at Oatland's Response to the Episcopal Diocese of Virginia and Episcopal Church's Memorandum regarding the Motion of the Church of Our Saviour for Separate Trial filed this date in the omnibus case and the cover sheets filed in the following cases:

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,

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Circuit Court of Fairfax County  
Re: Multi-Circuit Church Property Litigation  
(Case No. CL 2007-0248724)  
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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).

**RESPONSE OF THE CHURCH OF OUR SAVIOUR AT  
OATLANDS TO THE EPISCOPAL DIOCESE OF VIRGINIA AND  
EPISCOPAL CHURCH'S MEMORANDUM REGARDING THE CHURCH  
OF OUR SAVIOUR AT OATLANDS' MOTION FOR FOR SEPARATE TRIAL**

COMES NOW the Defendant and Counterclaimant, the Church of Our Saviour at Oatlands, (hereinafter also referred to as "Our Saviour"), and for its Response to the Episcopal Diocese of Virginia and Episcopal Church's Memorandum regarding Our Saviour's Motion for Separate trial states as follows:

1. Contrary to the argument of the Episcopal Diocese of Virginia and the Episcopal Church, the entry of the original order of consolidation of these church property cases pursuant to Virginia Code Section 8.01-267.1, et. seq. does not handcuff the Court from organizing the trial of the individual cases in such manner as the Court deems appropriate. In fact, as previously noted in Our Saviour's Motion, the provisions of 8.01-267.1, et. seq. specifically authorize the Court to award separate or bifurcated trials of any claims or counterclaims (see Section 8.01-267.6,) and to generally organize and manage the pending litigation in a manner consistent with

the right to a fair trial and avoidance of unnecessary cost and delay (see Section 8.01-267.1).

2. The Diocese and TEC concede that the various deeds of the CANA Congregations are not identical, that “separate evidentiary presentations [on historical governing documents] with reference to each Congregation will help to avoid potential confusion”, and that “much of the evidence of the dealings between the parties will be unique to each Congregation” (see pages 2 and 3 of their Memorandum). In fact, as previously discussed in Our Saviour’s Motion, the case of Our Saviour is one of facts and issues particular to that Congregation. There are no meaningful proffers set forth in the Memorandum of the Diocese and TEC which would indicate a true necessity for Our Saviour to be submitted to the “common evidence” presentation the Diocese and TEC desire. It would only appear from the Memorandum that presentation of the same evidence in a separate trial for Our Saviour would be an inconvenience to the Diocese and TEC. In contrast, Our Saviour submits that a denial of a separate trial will cause substantial prejudice to Our Saviour. By absorption into the more protracted and complex trials of the other CANA Congregations, Our Saviour will be denied the opportunity to move forward more promptly with its own case, will be forced to incur significant additional legal expenses while in attendance for proceedings not its own, and will potentially encounter the procedural problems discussed in Our Saviour’s separate Brief on Scheduling Order.

3. As to all other statements and arguments set forth in the Memorandum filed in opposition to Our Saviour’s Motion, Our Saviour rests upon the contents of its Motion.

WHEREFORE, upon the foregoing, and the Motion for Separate Trial previously filed, the Church of Our Saviour at Oatlands prays this Honorable Court grant the Motion and award to the Congregation a bench trial of up to two days length which is separate and in advance of the trials of the other CANA Congregations.

Dated: December 7, 2010

Respectfully submitted,

**CHURCH OF OUR SAVIOUR AT OATLANDS**

By: \_\_\_\_\_

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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 7thth day of December, 2010 he caused all counsel to be served with copies of the foregoing Response of The Church of Our Saviour at Oatlands' to the Memorandum Regarding Our Saviour's Motion For Separate Trial, 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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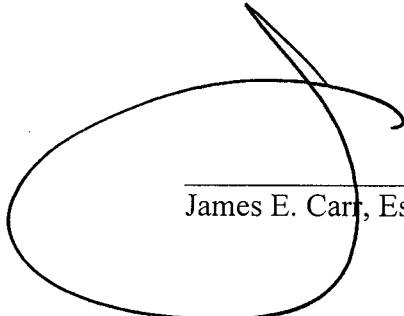
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*With a copy by electronic mail and hand-delivered to:*

Ms. Caitlin Fields  
Law Clerk to the Honorable Randy I. Bellows  
Circuit Court of Fairfax County  
Fairfax Judicial Center  
4110 Chain Bridge Road  
Fifth Floor Judges' Chambers  
Fairfax, VA 22030-4009  
Caitlin.Fields@fairfaxcounty.gov



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 RESPONSE OF THE CHURCH OF OUR  
SAVIOUR AT OATLANDS TO THE EPISCOPAL DIOCESE OF VIRGINIA AND  
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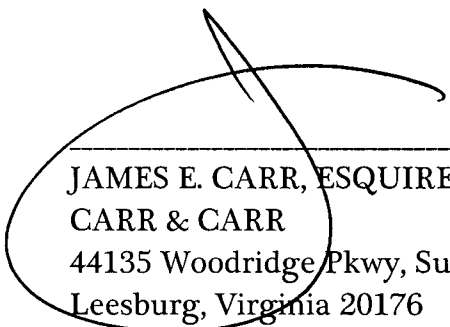
This will serve as a one page cover sheet pleading for the **RESPONSE OF THE CHURCH OF OUR SAVIOUR AT OATLANDS TO THE EPISCOPAL DIOCESE OF VIRGINIA AND EPISCOPAL CHURCH'S MEMORANDUM REGARDING THE CHURCH OF OUR SAVOUR AT OATLANDS' MOTION FOR FOR SEPARATE TRIAL**, which is being filed in CL 2007-248724 (the omnibus case file), on December 7, 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: December 7, 2010

Respectfully submitted,

**CHURCH OF OUR SAVIOUR AT OATLANDS**  
By Counsel



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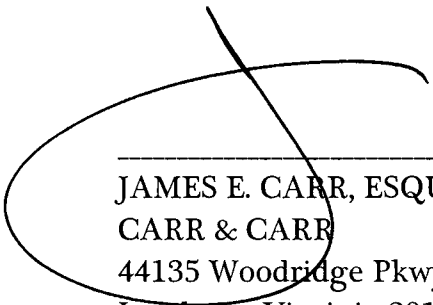
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