

LAW OFFICES OF  
**CARR & CARR**

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS  
LANSDOWNE PROFESSIONAL PARK  
44135 WOODRIDGE PARKWAY, SUITE 260  
LEESBURG, VIRGINIA 20176-1244  
Email: Northvajim@aol.com

JAMES E. CARR, P.C.  
ANN B. CARR, P.C..

Phone: (703) 777-9150  
Facsimile : (703) 726-0125

November 24, 2010

**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 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,

James E. Carr

JEC/tlc  
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 24, 2010  
Page 2 of 2

cc:

Bradfute W. Davenport, Jr., Esq.  
George A. Somerville, Esq.  
Joshua D. Heslinga, Esq.  
Heather H. Anderson, Esq.  
Mary E. Kostel, Esq.  
Soyong Cho, Esq.  
Adam Chud, Esq.  
Mary C. Zinsner, Esq.  
Scott H. Phillips, Esq.  
Paul N. Farquharson, Esq.  
James A. Johnson, Esq.  
R. Hunter Manson, Esq.  
E. Andrew Burcher, Esq.  
Thomas C. Palmer, Esq.  
Gordon A. Coffee, Esq.  
Steffen N. Johnson, Esq.  
Gene C. Schaerr, Esq.  
Andrew C. Nichols, Esq.  
Scott J. Ward, Esq.  
Timothy R. Obitts, Esq.  
Dawn W. Sikorski, Esq.  
George O. Peterson, Esq.  
Tania M.L. Saylor, Esq.  
Mary A. McReynolds, Esq.  
Robert C. Dunn, Esq.  
E. Duncan Getchell, Esq.

LAW OFFICES OF  
**CARR & CARR**

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

LANSDOWNE PROFESSIONAL PARK  
44135 WOODRIDGE PARKWAY, SUITE 260  
LEESBURG, VIRGINIA 20176-1244

Email: Northvajim@aol.com

JAMES E. CARR, P.C.  
ANN B. CARR, P.C..

Phone: (703) 777-9150  
Facsimile : (703) 726-0125

November 24, 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 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)  
November 24, 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.  
Soyong Cho, Esq.  
Adam Chud, Esq.  
Mary C. Zinsner, Esq.  
Scott H. Phillips, Esq.  
Paul N. Farquharson, Esq.  
James A. Johnson, Esq.  
R. Hunter Manson, Esq.  
E. Andrew Burcher, Esq.  
Thomas C. Palmer, Esq.  
Gordon A. Coffee, Esq.  
Steffen N. Johnson, Esq.  
Gene C. Schaerr, Esq.  
Andrew C. Nichols, Esq.  
Scott J. Ward, Esq.  
Timothy R. Obitts, Esq.  
Dawn W. Sikorski, Esq.  
George O. Peterson, Esq.  
Tania M.L. Saylor, Esq.  
Mary A. McReynolds, Esq.  
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).

**MOTION OF CHURCH OF OUR SAVIOUR  
AT OATLANDS 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 Motion for Separate Trial states as follows:

1. The Church of Our Saviour at Oatlands is seeking a trial separate from the other CANA Congregations on all declaratory judgment claims and counterclaims now pending in regard to Our Saviour, consistent with the provisions of Virginia Code Section 8.01-267.1, et. seq. Those provisions specifically permit the Court to award separate or bifurcated trials of any claims or counterclaims (see Section 8.01-267.6). Those provisions also authorize the Court to organize and manage pending litigation consistent with the right to a fair trial and avoidance of unnecessary cost and delay (see Section 8.01-267.1).

2. As previously detailed in the Statement of Position filed on November 8, 2010, the Church of Our Saviour intends to pursue a legal strategy particular to its own legal and factual

circumstances. This strategy does not contemplate pursuing a jury trial, nor engaging in legal representation which is shared with or subject to the consensus of the other CANA Congregations. Accordingly, Our Saviour is unable to proceed on a consolidated basis with the other CANA Congregations.

3. The archives of Our Saviour's history are limited, and all archival documents were turned over to the Episcopal Diocese of Virginia two years ago. Judging from what has been produced in response to Our Saviour's declaratory judgment discovery, the Diocese only has a limited number of documents which are specific to Our Savior. Our Saviour's witnesses are limited in number. Judging from what has been produced in response to Our Saviour's earlier discovery, the Episcopal Diocese and TEC are presumed to have little to no fact witnesses of their own to call specific to Our Saviour. It is believed that Our Saviour's case will have only a fraction of the factual breadth and complexity that will attend the other CANA Congregation cases. Realistically, Our Saviour's case should be capable of completion by both sides well within two days. If, as now anticipated, much of the factual evidence can be presented by written stipulation, and/or stipulation of documents, this estimate would be further, and perhaps dramatically, reduced. If, certain legal issues are determined by Our Saviour's intended motion for partial summary judgment, or other dispositive motions, this estimate would be reduced still further.

4. As the smallest of the CANA Congregations involved in these church property proceedings, Our Saviour desires to proceed as quickly and efficiently as possible to the presentation and determination of its own particular case, in conservation of those resources it still has remaining after three years of litigation. An early bench trial of Our Saviour's case in advance of the far lengthier and more complex trials of the other CANA Congregations would be

consistent with that goal. On the other hand, if the trial of Our Saviour's case was staged with the trials of all of the other CANA Congregations, Our Saviour would incur the substantial additional legal expenses associated with appearing and participating in the protracted trials of those other Congregations, who are proceeding on a consolidated basis apart from Our Saviour. Also in such event, a procedural due process issue will be presented for Our Saviour, as detailed in the separate Brief as To Scheduling Order Issues filed contemporaneously herewith.

5. It would appear that the other CANA Congregations have no opposition to Our Saviour's request for a trial which is held totally separate from their own. However, it also would appear that the Episcopal Diocese opposes this request. The Episcopal Diocese contends that before any trial specific to a particular Congregation is held the Episcopal Diocese must present evidence it regards to be common to all the CANA Congregations. The Episcopal Diocese states that it does not wish to put on the same evidence twice, once in Our Saviour's case, and then again in the other CANA Congregation cases.

6. The opposition of the Episcopal Diocese does not appear to be focused on the right of Our Saviour to conduct its case in the manner it chooses, that is, by bench trial apart from the other Congregations who have chosen to proceed on a consolidated basis. Rather, the focus of the Episcopal Diocese appears to be on the issue of scheduling convenience to the Diocese and the TEC, whatever the resulting prejudice to Our Saviour. That prejudice will occur in the form of delay and substantial additional legal expenses incurred by Our Saviour in the determination of its case, and the threat of the procedural problem detailed in the scheduling order issue brief filed contemporaneously herewith.

7. If the Episcopal Diocese insists upon a presentation of evidence at the same time and same place against all of the Congregations, regardless of whether those cases are bench or jury,

and regardless of the consequences to Our Saviour, it would seem appropriate for the Episcopal Diocese and TEC to proffer precisely what it is that requires such common presentation at one fixed time, and why such a presentation could not be presented also in an earlier separate trial for Our Saviour. Under the categories of items to be considered under *Green v. Lewis* and other applicable case law, individual deeds or other items among the land records have already been stipulated to multiple times or can be presented through stipulation or the certification process that the Virginia Code provides. Constitutions and canons have already been presented multiple times in this case and can be introduced by stipulation (subject to relevance or other objections and with reservation of right as to weight or other legal arguments). If “relationship” or “course of conduct” evidence is to be presented by the Episcopal Diocese and TEC it should be evidence of the specific “relationship” or “course of conduct” between the Episcopal Diocese or TEC and Our Saviour. Beyond all of that, it remains unknown what “common evidence” requires presentation by the Episcopal Diocese and TEC at one time and one place against all the Congregations, and why it could not be presented in a separate trial for Our Saviour.

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

Dated: November 24, 2010



Respectfully submitted,

**CHURCH OF OUR SAVIOUR AT OATLANDS**

By. \_\_\_\_\_

James E. Carr, Esquire, VSB# 014567  
CARR & CARR  
44135 Woodridge Parkway, Suite 260  
Leesburg, Virginia 20176  
703-777-9150 Phone  
703-726-0125 Facsimile  
northvajim@aol.com

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

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 24th day of November, 2010 he caused all counsel to be served with copies of the foregoing Motion of The Church of Our Saviour at Oatlands' 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:

Bradfute W. Davenport, Jr., Esq. (lead counsel)  
brad.davenport@troutmansanders.com  
George A. Somerville, Esq.  
george.somerville@troutmansanders.com  
Joshua D. Heslinga, Esq.  
Joshua.Heslinga@troutmansanders.com  
TROUTMAN SANDERS, LLP  
P.O. Box 1122  
Richmond, VA 23218

Mary C. Zinsner, Esq.  
mary.zinsner@troutmansanders.com  
TROUTMAN SANDERS, LLP  
1660 International Drive, Suite 600  
McLean, VA 22102

Thomas C. Palmer, Esq.(lead counsel)  
TPalmer@TheBraultFirm.com  
BRAULT PALMER GROVE  
WHITE & STEINHILBER, LLP  
3554 Chain Bridge Rd, Suite 400  
Fairfax, VA 22030-1010

E. Andrew Burcher, Esq.(lead counsel)  
eaburcher@thelandlawyers.com  
WALSH, COLUCCI, LUBELEY,  
EMRICH & WALSH, PC  
4310 Prince William Pkwy  
Suite 300  
Prince William, Virginia 22192

Mary E. Kostel, Esq. (lead counsel)  
MKostel@goodwinproctor.com  
Soyong Cho, Esq.  
scho@goodwinproctor.com  
Adam Chud, Esq. (pro hac vice)  
achud@goodwinprocter.com  
GOODWIN PROCTER, LLP  
901 New York Ave., N.W.  
Washington, D.C. 20001

Heather H. Anderson, Esq.  
Heather H. Anderson, P.C.  
handersonlaw@gmail.com  
P.O. Box 50158  
Arlington, VA 22205

R. Hunter Manson, Esq. (lead counsel)  
manson@kaballero.com  
PO Box 539  
876 Main Street  
Reedville, Virginia 22539

James A. Johnson, Esq.(lead counsel)  
JJohnson@semmes.com  
Paul N. Farquharson, Esq.  
PFarquharson@semmes.com  
Scott H. Phillips, Esq.  
SPhillips@semmes.com  
SEMMES BOWEN & SEMMES, PC  
Suite 1400  
25 South Charles Street  
Baltimore, Maryland 21201

Gordon A. Coffee, Esq. (lead counsel)  
GCoffee@winston.com  
Steffen N. Johnson, Esq.  
SJohnson@winston.com  
Gene C. Schaerr, Esq.  
Gschaerr@winston.com  
Andrew C. Nichols, Esq.  
ANichols@winston.com  
WINSTON & STRAWN LLP  
1700 K Street, N.W.  
Washington, D.C. 20006

Scott J. Ward, Esq. (lead counsel)  
SJW@GG-Law.com  
Timothy R. Obitts, Esq.  
TRO@GG-Law.com  
Dawn W. Sikorski, Esq.  
DWS@GG-Law.com  
GAMMON & GRANGE, PC  
8280 Greensboro Drive  
7<sup>th</sup> Floor  
McLean, Virginia 22102

E. Duncan Getchell, Esq. (lead counsel)  
dgetchell@oag.state.va.us  
Stephen R. McCullough, Esq.  
SMcCullough@oag.state.va.us  
Office of the Attorney General  
900 East Main Street  
Richmond, Virginia 23219

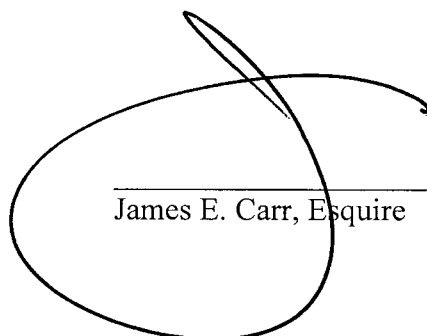
George O. Peterson, Esq. (lead counsel)  
GPeterson@petersonsaylor.com  
Tania M.L. Saylor, Esq.  
tsaylor@petersonsaylor.com  
Peterson Saylor, PLC  
4163 Chain Bridge Road  
Fairfax, VA 22030

Mary A. McReynolds, Esq. (lead counsel)  
Mary A. McReynolds, PC  
MaryMcReynolds@mac.com  
1050 Connecticut Ave, NW  
10<sup>th</sup> Floor  
Washington, DC 20036

Robert C. Dunn, Esq. (lead counsel)  
rdunn@robdunnlaw.com  
Law Office of Robert C. Dunn  
707 Prince Street  
PO Box 117  
Alexandria, Virginia 22313-0117

*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 MOTION OF THE CHURCH OF  
OUR SAVIOUR AT OATLANDS FOR SEPARATE TRIAL**

This will serve as a one page cover sheet pleading for the **MOTION OF THE CHURCH OF OUR SAVIOUR AT OATLANDS FOR SEPARATE TRIAL**, which is being filed in CL 2007-248724 (the omnibus case file), on November 24, 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 24, 2010

Respectfully submitted,

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



---

JAMES E. CARR, ESQUIRE, VSB#14567

CARR & CARR

44135 Woodridge Pkwy, Suite 260

Leesburg, Virginia 20176

703-777-9150 Phone

703-726-0125 Facsimile

[northvajim@aol.com](mailto:northvajim@aol.com)

*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).

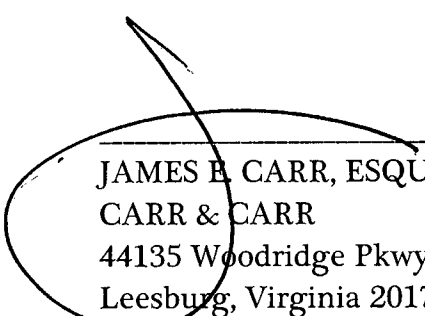
**COVER SHEET FOR MOTION OF THE CHURCH OF  
OUR SAVIOUR AT OATLANDS FOR SEPARATE TRIAL**

This will serve as a one page cover sheet pleading for the **MOTION OF THE CHURCH OF OUR SAVIOUR AT OATLANDS FOR SEPARATE TRIAL**, which is being filed in CL 2007-248724 (the omnibus case file), on November 24, 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 24, 2010

Respectfully submitted,

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



---

JAMES E. CARR, ESQUIRE, VSB#14567  
CARR & CARR  
44135 Woodridge Pkwy, Suite 260  
Leesburg, Virginia 20176  
703-777-9150 Phone  
703-726-0125 Facsimile  
northvajim@aol.com

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