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September 5, 2008

**VIA HAND-DELIVERY**

Fairfax County Circuit Court  
ATTENTION: Robin Brooks  
4110 Chain Bridge Road  
Fairfax, Virginia 22030-4009

RE: *Multi-Circuit Episcopal Church Property Litigation*, (Circuit Court of Fairfax County, CL-2007-0248724);

*In re: Truro Church*; (Circuit Court of Fairfax County; CL 2006-15792);

*In re: Church of the Apostles*; (Circuit Court of Fairfax County; CL 2006-15793);

*In re: Church of the Word, Gainesville*; (Circuit Court of Prince William County; CL73464) (Circuit Court of Fairfax County; CL 2007-11514);

*The Protestant Episcopal Church in the Diocese of Virginia v. Church of the Epiphany, Herndon* (Circuit Court of Fairfax County; CL 2007-1235);

*The Protestant Episcopal Church in the Diocese of Virginia v. Truro Church* (Circuit Court of Fairfax County; CL 2007-1236);

*The Protestant Episcopal Church in the Diocese of Virginia v. Christ the Redeemer Church* (Circuit Court of Fairfax County; CL 2007-1237);

*The Protestant Episcopal Church in the Diocese of Virginia v. Church of the Apostles* (Circuit Court of Fairfax County; CL 2007-1238);

*The Episcopal Church v. Truro Church et al.* (Circuit Court of Fairfax County; CL 2007-1625);

Letter to Clerk of the Court  
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*In re: Church at the Falls, The Falls Church;* (Circuit Court of Fairfax County; CL 2007-5249);

*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);

*The Protestant Episcopal Church in the Dioceses of Virginia v. Potomac Falls Church* (Circuit Court of Loudoun County Case No. 44149)(Circuit Court of Fairfax County; CL 2007-5362);

*In re: Church of Our Savior at Oatlands;* (Circuit Court of Fairfax County; CL 2007-5363);

*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);

*In re: Church of the Epiphany;* (Circuit Court of Fairfax County; CL 2007-556);

*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);

*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);

*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);

*In re: St. Margaret's Church;* (Circuit Court of Fairfax County; CL 2007-5685);

*In re: St. Paul's Church, Haymarket;* (Circuit Court of Fairfax County; CL 2007-5686);

*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

*In re: St. Stephen's Church;* (Circuit Court of Fairfax County; CL 2007-5903).

Letter to Clerk of the Court  
September 5, 2008  
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Dear Ms. Brooks:

I am enclosing for filing in the above-styled case an original, The CANA Congregations' Opening Brief on Voting Issues, plus twenty-one (21) copies of the one-page cover sheets to be placed in the file for the above-styled cases.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

SANDS ANDERSON MARKS & MILLER, PC



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**VIRGINIA:**

**IN THE CIRCUIT COURT FOR FAIRFAX COUNTY**

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

)  
) **Civil Case Numbers:**  
) CL 2007-248724,  
) CL 2006-15792,  
) CL 2006-15793,  
) CL 2007-556,  
) CL 2007-1235,  
) CL 2007-1236,  
) CL 2007-1237,  
) CL 2007-1238,  
) CL 2007-1625,  
) CL 2007-5249,  
) CL 2007-5250,  
) CL 2007-5362,  
) CL 2007-5363,  
) CL 2007-5364,  
) CL 2007-5682,  
) CL 2007-5683,  
) CL 2007-5684,  
) CL 2007-5685,  
) CL 2007-5686,  
) CL 2007-5902,  
) CL 2007-5903, and  
) CL 2007-11514

**THE CANA CONGREGATIONS' OPENING BRIEF ON VOTING ISSUES**

The Falls Church, Truro Church, Church of Our Saviour at Oatlands, Church of the Apostles, Church of the Epiphany, Church of the Word, St. Margaret's Church, Christ the Redeemer Church, St. Stephen's Church, Potomac Falls Church, and St. Paul's Church (collectively, "CANA Congregations"), by their counsel, hereby file this opening brief on the voting issues identified by the Court at the August 22, 2008, Hearing.

**1. Which party bears the burden of proof and production related to the voting issues in the § 57-9 actions and what is the standard of proof?**

The CANA Congregations acknowledge that they have the burden of establishing that a congregational majority voted to sever ties with ECUSA and the Diocese and to affiliate instead with CANA and the Anglican District of Virginia (ADV). *See Cheshire v. Giles*, 144 Va. 253, 261 (1926) (referencing party who invokes the division statute as bearing the burden of proof). The CANA Congregations further acknowledge that they have the burden of showing that the vote was fairly taken. Just as they bear the burden of proof, the CANA Congregations bear the initial burden of production. But to the extent that ECUSA and the Diocese allege that (1) particular votes were improperly counted or not counted (thus affecting the vote numerator), or (2) voters were improperly included in, or excluded from, the list of eligible voters (thus affecting the vote denominator), they bear the burden of production. *Redford v. Booker*, 166 Va. 561, 570 (1936) (“A *prima facie* case is made out, and the burden then rests upon the contestants to produce evidence if this presumption is to be overcome.”)

The relevant evidentiary standard is proof by a preponderance of the evidence, the ordinary standard in Virginia civil cases. *Bedget v. Lewin*, 202 Va. 535, 539 (1961); *Burstein v. Morriss*, 2007 WL 2301658, 4 (Va. App. 2007) (“At common law, in a civil context, the phrase ‘burden of proof’ has long plainly meant a ‘preponderance of the evidence.’” (citation omitted)). Nothing in the language of Va. Code § 57-9 or in the cases construing the statute imposes a higher evidentiary burden.

**2. What factors should the Court examine in determining whether the votes taken by the CANA Congregations filing Va. Code § 57-9 Petitions were “fairly taken”?**

This Court has asked for guidance concerning the “factors” that it should consider in determining whether the CANA Congregations’ disaffiliation votes were “fairly taken.” Ultimately, the determination of the validity of those votes must be limited to the requirements of

Va. Code § 57-9(A). Based on guidance from *Baber v. Caldwell*, 207 Va. 694, 700 (1967) (referencing the lower court “being satisfied that the meeting was duly called and held”), and in light of the equitable nature of the proceeding, however, whether the votes were fairly taken would appear to depend upon factors such as: (a) whether the congregants were given reasonable notice of the issues on which the vote was being taken and the date(s) of the vote; (b) whether congregants were given reasonable notice of the eligibility requirements for the disaffiliation vote; (c) whether the eligibility standards used for the disaffiliation vote were generally consistent with the pre-existing eligibility standards for congregational votes set forth in ECUSA’s and the Diocese’s canons; (d) whether the congregation’s vote was taken in a manner reasonably protecting the secrecy of individual votes; (e) whether the congregation provided some reasonable means of allowing persons who were not on the eligible voter rolls to establish their eligibility to vote or to cast a provisional ballot; and (f) whether the tallying of the votes was conducted in an impartial and even-handed manner.

Other factors, while not directly relevant to whether the vote satisfied § 57-9(A), may further confirm the fairness of the overall process surrounding the congregational votes. Those include factors such as: (a) whether the Diocese was notified of the vote; (b) whether the Diocese objected to the congregation’s voter eligibility criteria or other aspects of the process associated with the congregation’s disaffiliation vote; and (c) whether persons who opposed disaffiliation from ECUSA and the Diocese were given opportunity, prior to the vote, to communicate their views to the congregation.

The CANA Congregations expect that the evidence under all of the foregoing factors will confirm that their division votes were more than “fairly taken.”

**3. How should the Court construe the term “members” in Va. Code § 57-9(A)?**

Section 57-9(A) provides two eligibility criteria for votes taken pursuant to the statute:

the voter must be (1) an adult (*i.e.*, over 18), and (2) a “member of [the] congregation.” Neither the statute nor any other provision in Title 57 defines, however, who constitutes a “member of [the] congregation” eligible to vote on which branch to join. Accordingly, the Court should rely on the ordinary meaning of the term, as applied to votes involving churches. *See Murphy v. Norfolk Community Servs. Bd.*, 260 Va. 334, 339 (2000) (“An undefined term must be given its ordinary meaning, considered in the context in which the term is used.”).

For purposes of this case, a “member of [the] congregation” eligible to vote in the elections conducted by the CANA Congregations should be defined as an “adult communicant in good standing,” as determined by each CANA Congregation. Such a definition is consistent with (1) the canons of the Diocese regarding voter eligibility; (2) ECUSA’s canons, which defer to local dioceses or state law with respect to voting criteria; (3) past practice in the Diocese, ECUSA, and the CANA Congregations; and (4) the definition set forth in a written Protocol for Departing Congregation (the “Protocol”) jointly developed by representatives of the Diocese and the CANA Congregations to guide the disaffiliation votes.

Notwithstanding their canons and their earlier agreement that “[a]ll adult communicants in good standing, registered in the particular church in question, shall be entitled to vote at the congregational meeting” (CANA Exh. 67 at p.2), ECUSA and the Diocese are now urging a much broader definition of “member” that has never been used for voting by congregations in the Diocese. At the August 22, 2008, hearing, counsel for the Diocese took the position (for the first time) that the definition of a “member” of the Episcopal Church under an ECUSA canon provides the definition for “member” of a specific congregation under § 57-9(A). This position both (1) conflates membership in a congregation with membership in the broader church and (2) defines “member” for purposes of the statute without regard to Diocesan rules and practice

concerning congregational votes. In practice, it would have a significant impact on the number of persons who would have been eligible to participate in the disaffiliation votes held by the CANA Congregations and on the Congregations' ability to administer a fair vote.

Under the newly-expressed ECUSA and Diocese view, any person who is baptized in any Episcopal church, or whose baptism has been recorded in an Episcopal Church, is considered a "member" of the Episcopal Church. *See* ECUSA Canon I.17, § 1. Membership is easily secured, but is not easily lost. Once a person's baptism is recorded in the register of one of the congregations of the Episcopal Church, a person is not required to preserve any affiliation whatsoever with the Church as a whole, let alone with the congregation where the baptism was recorded, to retain the status of "member." Indeed, the instructions to parochial reports advise that a congregation can remove a "member" from its register only if the person dies or expressly seeks to transfer his or her membership elsewhere. *See* Ex. A (Workbook & Instructions) at 1.

Thus, one who was baptized as an infant, but who had not attended an Episcopal (or any) church for 30 years, would remain a "member." Likewise, one who had moved to another State or otherwise had not been seen in church in several years, and whose contact information was unknown, would remain a "member" (even though it would be impossible to communicate any necessary information concerning a vote to such an artificial "electorate"). Indeed, one who had renounced the faith altogether would remain a "member."

Nothing in the statute itself or the available legislative history supports the notion that the General Assembly intended that individuals with no current connection to a voting congregation would have the right to decide something so fundamental as its denominational affiliation and the ownership of its property. To the contrary, the statute requires that those who vote be "members of [the] congregation"—*i.e.*, members of a local entity, "an assembly of persons: gathering;



especially: an assembly of persons met for worship and religious instruction.” *Merriam Webster’s Online Dictionary*;<sup>1</sup> see also I *The New Shorter Oxford English Dictionary* 479 (1993) (defining “congregation” in relevant part as “[a] body of people assembled for religious worship or to hear a preacher; *the body of people regularly attending a particular church*” (emphasis added)). Membership within the meaning of the statute thus entails at least *some* current local connection. Indeed, had the CANA Congregations sought to solicit votes from people who had not attended the church since their baptism—which would almost certainly include people who had moved away or had left the faith—the Diocese and ECUSA would have cried foul.

In analogous circumstances, the Virginia Supreme Court has indicated that being a member of a congregation requires at least some level of current participation in the affairs of the congregation. See *Brown v. Virginia Advent Christian Conference*, 194 Va. 909, 912 (1953) (in dismissing the plaintiffs’ challenge to the dismantling of a church building, court noted that two of the plaintiffs who claimed to be members of the congregation had not attended services for years). Similarly, cases interpreting other parts of the Virginia Code have defined a “member” to be limited to those who actively participate in the organization at issue. See *Fowler v. Fairfax County Police Officers Ret. Sys.*, 57 Va. Cir. 553, 555-56 (Fairfax 2000) (County effort to define “members of the police department” to include those who were not active members of the force conflicted with plain reading of statute).

The position urged by the Diocese and ECUSA also ignores (1) the different strata of congregational participation that their own canons recognize, which strata vary with the extent of the individual’s participation in parish life, and (2) the restrictions that those canons impose on who may vote in church elections. Specifically, ECUSA Canon I.17, § 2, provides that members

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<sup>1</sup> Available at: <http://www.merriam-webster.com/dictionary/congregation>.

who have received communion at least three times during the preceding year are considered “communicants.” ECUSA Canon I.17, § 3, states that communicants who have been faithful in worship, unless for good cause prevented, and been faithful in working, praying and giving are considered “communicants in good standing.”

Rather than extend voting rights to all “members,” the ECUSA canons leave voting eligibility standards to be set by local dioceses (or state law) and administered by congregations. *See* ECUSA Canon I.14, § 1. Consistent with the practice of other dioceses, the Diocese does not allow any “member” of the Episcopal Church to vote in local congregational elections. Indeed, only “adult communicants in good standing” in a congregation are permitted to vote in vestry elections for the congregation. As Diocesan Canon 11, § 5, states:

All adult communicants in good standing, registered in the particular Church in which they offer to vote, shall be entitled to vote at the election of Vestry members. The voting shall be by ballot in person and, unless otherwise provided by the meeting, a majority of the votes cast shall be necessary to a choice. There shall be no voting by proxy. But no election shall be valid unless the participating qualified votes number at least ten per cent of the number of active communicants qualified to vote reported for the previous year.

The Diocesan Canons impose this same requirement to determine eligibility to vote not just at vestry elections but *at all other meetings of the congregation*. *See* DVA Canon 11, § 13.

The position of ECUSA and the Diocese is essentially that, in light of their ecclesiastical definition of “member,” persons who are not allowed to vote under Diocesan or congregational standards—or, indeed, have not darkened the door of the church since they were baptized as infants—nevertheless should be counted as eligible voters in a congregational vote on whether to disaffiliate from the denomination. Nothing in the statutory history of § 57-9, however, suggests that the General Assembly, by using the term “member,” was consciously adopting the broadest ECUSA definition of the term, thus encompassing persons who were inactive in the congregation and indifferent (or even hostile) to the congregation’s mission. Moreover, nothing in the history

of § 57-9 indicates that the General Assembly intended to adopt the denomination's definition of "member" while simultaneously rejecting its voting eligibility standards. Nor can ECUSA and the Diocese point to any First Amendment case law that compels such a reading of the statute. In short, there is no support for the canonical cherry-picking sought by ECUSA and the Diocese.

Quite apart from the fact that their definition cannot be squared with the ordinary meaning of being a "member of [the] congregation," ECUSA and the Diocese are also estopped, from an equitable perspective, from urging a different and broader standard for eligible voters at this juncture. *See Employers Commercial Union Ins. Co. v. Great American Ins. Co.*, 214 Va. 410 413 (1973) ("One who has, with knowledge of the options open to him, elected to assume one position is thereafter estopped to assume an inconsistent position to the prejudice of another who has been led to rely upon his first position."). As the Virginia Supreme Court has recognized, congregational elections implicate equitable considerations. *See Reid v. Gholson*, 229 Va. 179, 190 (1985) (discussing intervention of equity court given conduct of one faction in congregational dispute); *Baber v. Caldwell*, 207 Va. at 700 (noting right of circuit court to enter injunction after § 57-9 vote).

The rationale for equitable estoppel here is straightforward. As the evidence at the November 2007 trial revealed, the CANA Congregations and the Diocese formed a Special Committee to consider whether the CANA Congregations could find a way to remain affiliated with the Diocese and ECUSA. Tr. 485-496. The three members appointed by the Diocese included Russ Palmore, a partner with Troutman Sanders and the Diocese's Chancellor, which is an officer under Diocesan Canons. *See* CANA Ex. 67 at 4; Trial Tr. 479:16-486:9 (Yates) (identifying Palmore as "the Chancellor of the Diocese," the "Chairman" of the Special Committee, and the "lead author" of its unanimous report); ECUSA/Diocese Exh. 3, Diocese Const. Art. VI. After

nine months of meetings, the Special Committee concluded that, for some congregations, separation from the Diocese and ECUSA was increasingly likely. *See* CANA Ex. 67 at 2. The Special Committee accordingly developed the Protocol for departing congregations. The provisions of the Protocol included 10 steps the congregations were to follow, including among other things a period of reflection (“discernment”) and procedures to allow representatives of the Diocese to address the congregations. *Id.*

As noted above, the Protocol also affirmed that “[a]ll adult communicants in good standing, registered in the particular church in question, shall be entitled to vote at the congregational meeting.” *Id.* As the evidence at next month’s trial will show, at no time prior to the votes in December 2006 or January 2007 did the Diocese give notice that it had changed its view on who should be eligible to vote. In reliance on the language of the Protocol regarding voter eligibility standards, and in the absence of any objection from the Diocese, the CANA Congregations took a number of steps to ensure that those who qualified (or might qualify) as “communicants in good standing” were given notice of, and the opportunity to participate in, the vote. ECUSA and the Diocese now are proffering a different definition of “member,” not because of any concern that voters were disenfranchised, but rather to dilute the votes of those who participated in the election. Under these circumstances, ECUSA and the Diocese are estopped from contending that, in determining whether a majority voted in favor of disaffiliation, the denominator for the vote should comprise a much broader category of individuals than (1) had been agreed to by the Diocese and (2) ever been used in previous congregational votes. *Employers Commercial Union Ins. Co.*, 214 Va. at 413. Indeed, their efforts to change the rules two years after the votes were tallied is fundamentally inconsistent with the concept of an election fairly taken.

4. **How should the Court construe the phrase “by a vote of a majority of the whole number,” in Va. Code § 57-9(A)?**

Section 57-9(A) provides that “[i]f a division has heretofore occurred or shall hereafter occur in a church or religious society, to which any such congregation whose property is held by trustees is attached, the members of such congregation over 18 years of age may, by a vote of a majority of the whole number, determine to which branch of the church or society such congregation shall thereafter belong.” There are two possible interpretations of the phrase “whole number”: (1) a majority of those voting, and (2) a majority of eligible voters. Under the former interpretation, “whole number” would relate back to the term “vote,” and thus would require only a majority of those voting to approve disaffiliation. Under the latter interpretation, “whole number” would relate back to the phrase “members of such congregation,” whether or not they actually vote, and thus would require a majority of all eligible voters to approve disaffiliation.

Prior Virginia Supreme Court precedent supports the first of these interpretations, under which the statute requires a comparison of “yes” votes to actual votes, rather than to all eligible voters. In *Baber v. Caldwell*, the Court explained that the circuit court could approve resolutions “adopted by a majority of the members of the congregation who were [1] present at the meeting and [2] entitled to voted as provided in Code § 57-9.” 207 Va. at 700 (emphasis added). While the case arose under § 57-9(B)—which by its terms requires a vote by “a majority of the members of such congregation, entitled to vote”—the Court required that members be present at the meeting in addition to being “entitled to vote.” An examination of the remainder of the Court’s opinion provides no indication that attendance at the meeting was a condition imposed by the congregation’s constitution or ordinary prior practice. For purposes of § 57-9(B), therefore, the Virginia Supreme Court defined the denominator as consisting of those persons who were eligi-

ble to vote *and* who chose to do so, rather than just the former.<sup>2</sup>

Ultimately, however, the Court may not need to resolve whether the Court's decision in *Baber* applies to § 57-9(A). The CANA Congregations expect that the evidence at trial will show that they satisfied either reading of the statute, particularly if the term "members" is properly defined to exclude those who no longer maintained any current connection with the CANA Congregations at the time of their votes. If so, the evidence will support judgment in the CANA Congregations' favor regardless of how the phrase "whole number" is interpreted.

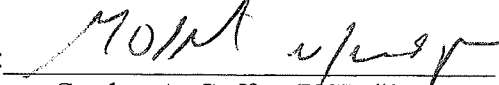
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<sup>2</sup> *See also* DVA Canon 11, § 5 ("The voting shall be by ballot in person and, unless otherwise provided by the meeting, a majority of the votes cast shall be necessary to a choice.").

Dated: September 5, 2008

Respectfully submitted,

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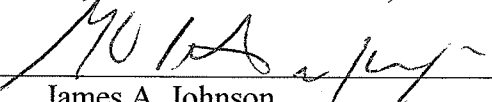
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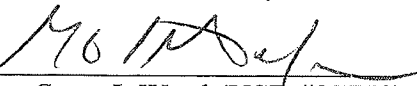
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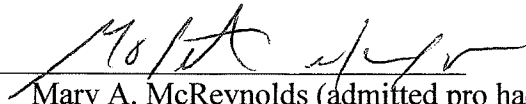
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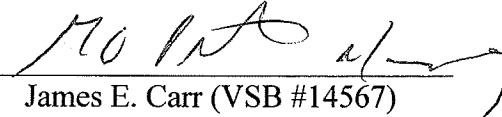
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 5th day of September, 2008, a copy of the foregoing CANA Congregations' Opening Brief on Voting Issues was sent by electronic mail and first-class mail, postage prepaid, to:

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\_\_\_\_\_  
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**LINE-BY-LINE WORKBOOK & INSTRUCTIONS  
FOR THE 2005 PAROCHIAL REPORT  
PAGE 2: MEMBERSHIP, ATTENDANCE, AND SERVICES**

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**MEMBERSHIP (DEFINED BY CANON I.17)**

“All persons who have received the Sacrament of Holy Baptism with water in the Name of the Father, and of the Son, and of the Holy Spirit, whether in this Church or in another Christian Church, and whose Baptisms have been duly recorded in this Church,” are members thereof. (Canon I.17.1)

*Note:* A person’s baptism, when duly recorded in the *Register of Church Membership and Rites* (also known as the *Parish Register* or *Church Register*) of the recording congregation, is his/her record of membership in the Episcopal Church.

**ACTIVE BAPTIZED MEMBERS OF THE REPORTING CONGREGATION**

For statistical purposes the Episcopal Church counts only *active baptized members*. Counting active members avoids double-counting of persons who are registered in another congregation and did not obtain a letter of transfer. Counting only active members also avoids counting persons who are not currently contributing to the corporate worship and communal life of the reporting congregation. Inactive members should be noted as inactive in the *Register of Church Membership and Rites* and should not be counted in the Parochial Report. By canon law they should remain on the membership rolls, however, until removed by reason of transfer or death.

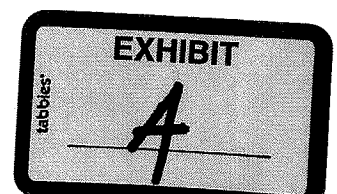
A member, whether active or inactive, should not be removed from the *Register of Church Membership and Rites* except for the following reasons:

- Removal by reason of transfer (see Canon I.17.4)
- Death

**Active Baptized Members defined:** *Any person whose baptism is recorded in the Register of Church Membership and Rites (Parish Register) and contributes to or participates in the worship and communal life of the reporting congregation, regardless of how much or how little, should be considered active and counted in this report.*

**Reasons why a member should be removed to inactive status:**

- **Domicile unknown**—a member no longer attends and cannot be contacted by mail or phone.
- **Member has not attended the congregation** for more than a year and has not contributed either financially or in service to the parish.
- **The person attends another congregation**, but your congregation has never received a request for transfer.
- **The person is attending a church affiliated with another denomination**, and no longer gives to your congregation or participates in your congregation’s worship.



**MEMBERSHIP, ATTENDANCE AND SERVICES OF THE REPORTING CONGREGATION**

*Line-by-line instructions for page 2, Box M04 and Items 1 through 21*

**Active Baptized Members of the Reporting Congregation Reported Last Year** (this number will appear on the electronic data entry form and may also appear pre-printed in Box M04 of the hard copy Parochial Report form mailed with this workbook):

<b>Using Last Year's Report:</b> Baptized Members of the Reporting Congregation	<b>Using the 2004 Parochial Report, record the Number of Baptized Members Reported as of December 31, 2004.</b> (Use the number recorded in 2004 Parochial Report, Box M04.)
Members Reported Last Year = M04. <input style="width: 100px; height: 20px;" type="text"/>	

At top of page 2 enter the record of active baptized members you reported at the end of last year as of December 31 from Box M04 of last year's Parochial Report. *Even if you disagree with this figure, enter the amount you reported at the end of last year.* You will have an opportunity to correct last year's membership in the increase and decrease sections of this report.

**Then, using the congregation's Register of Church Membership and Rites, enter the number of increases and decreases in active membership that occurred during the report year in boxes 1 and 2 of the 2005 Parochial Report.**

**Box 1** All increases to active membership during the report year:

<b>Using the Register of Church Membership and Rites:</b> During the Report Year	<b>1. Increases during year:</b> All members added to the baptized members section of the congregation's Membership Register during 2005 by: baptism, confirmation/reception, or transfer; and those persons restored from inactive status or not counted in last year's membership count.
Increases in Membership	Total Increases = 1. <input style="width: 100px; height: 20px;" type="text"/>

**All persons added to the Register of Church Membership and Rites during the report year should be included in Box 1.**

A person is added to the *Register of Church Membership and Rites (Parish Register)* for the following four reasons:

- **Baptism** \_\_\_\_\_
- **Letter of Transfer** \_\_\_\_\_

When a person moves into your congregation with a letter of transfer, s/he should be recorded in the baptismal section of your *Register of Church Membership and Rites*. Please note that if s/he in fact has been confirmed or received, this should be noted opposite the person's name on the same line under the column heading "Confirmed/Received."

- **On request, provided no letter of transfer is received** \_\_\_\_\_

A name may be added to a *Register of Church Membership and Rites* without a letter of transfer, provided that an energetic but unsuccessful effort has been made to obtain one.

- **Confirmation or reception by a bishop if, and only if, their baptisms have not been previously recorded** \_\_\_\_\_

If, and only if, at the time of confirmation or reception the person is added to the baptismal section of the register, he/she should be counted as an increase. The Bishop may receive a person in three different ways, according to the sections of the cited canon. Count those persons received by the Bishop during the report year through: (a) baptism and confirmation; (b) reception after confirmation by any bishop in apostolic succession; (c) reception of any baptized person into the Episcopal Church who has made a mature public commitment in another Church. Remember to indicate that the new member is confirmed in the appropriate column opposite the new member's name in the baptized members' section of the register.

**Other Increases in reported active membership:**

In addition to those persons added to the baptized member's section of the **Register of Church Membership and Rites**, the following increases in *active membership* should be included:

- **Restored to active status** \_\_\_\_\_

Count those persons restored from inactive status to active status in the Register of Church Membership and Rites during the report year. "Active" and "inactive" are defined on page 1 of this workbook.

- **Corrections to last year's membership count** \_\_\_\_\_

If your congregation under-reported membership last year, add the members that were not included in last year's active member total to the amount reported in Box 1.

**Box 1** Total increases during the year: 1.

Add all increases you have noted above for the total increase during the year and record in Box 1 on page 2 of the Parochial Report form.

**Box 2** All decreases in active membership during the report year:

During the Report Year	<b>2. Decreases during year:</b> <i>All baptized members lost by death, transferred to another congregation, removed to inactive status, removed for other reasons, or not removed from last year's membership count.</i>
Decreases in Membership	Total Decreases = 2. <input style="width: 100px;" type="text"/>

**All persons removed from the Register of Church Membership and Rites (Parish Register) should be included on line 2.**

A person is removed from the *Register of Church Membership and Rites* during the report year for the following reasons:

- **Death (record number of member deaths)** \_\_\_\_\_

Include those persons whose baptisms were removed from your Membership Register during the year because they died.

- **Transferred out** \_\_\_\_\_

Count those persons who left the parish by official letter of transfer during the report year and were removed from the *Register of Church Membership and Rites*.

Other decreases in Active Membership that should be included are as follows:

- **Baptized Members who were changed to inactive status** \_\_\_\_\_

Count those persons who have been moved to inactive status in your register. "Active" and "inactive" are defined on page 1 of this workbook.

- **Members whose active status changed for other reasons** \_\_\_\_\_

Count those persons who have been "removed from active status" for disciplinary reasons.

Remember that becoming inactive is not a reason for removing a name from the baptized members' section of the *Register of Church Membership and Rites*. Rather, indicate inactive status in the appropriate column of the register.

- **Corrections to last year's membership count** \_\_\_\_\_

If your congregation over-counted membership last year, include the corrections to the amount to be reported in box 2.

**Box 2** Total Decreases during the year: 2.

Add all decreases you have noted above for the total decreases in active membership during the year. Record the total in Box 2 on page 2 of the Parochial Report form.

**Box M05** Total active baptized members at year-end

$$\text{Last year} + \text{Increases} - \text{Decreases} = \text{This year}$$

$$\text{Box M04} + \text{Box 1} - \text{Box 2} = \text{Box M05}$$

Active Baptized Members of Reporting Congregation At year-end

**M05.** Add the Increases entered in box 1 to the amount in Box M03. Then subtract decreases entered in box 2 for the total active membership as of December 31, 2005.

Total Active Baptized Members (end of report year) = M05.

To the membership number carried forward from last year's report (Box M04) add the increases in box 1, and subtract the decreases in box 2. Record the total in Box M05.

**This is your active baptized membership count as of December 31, 2005 and your beginning of the year count for the Parochial Report for next year (2006).**

**Box 3**

**All communicants in good standing regardless of age**

Communicants in Good Standing of the Reporting Congregation

**3. All communicants in good standing:** *all baptized members (of the reporting congregation), who have received Holy Communion in this church at least three times during the preceding year, and have been faithful "in corporate worship, unless for good cause prevented," and "in working, giving and praying for the spread of the Kingdom of God."*

**All communicants (Adults and Youth) in good standing = 3.**

To be a *Communicant* one must be a baptized member of the reporting congregation. To be a Communicant one also must have received Holy Communion in this church at least three times during 2005. (See Canon I.17.2a)

*Communicants in Good Standing* are those communicants, "who for the previous year have been faithful in corporate worship, unless for good cause prevented, and have been faithful in working, praying and giving for the spread of the Kingdom of God." (See Canon I.17.3) **On Line 3, count all active members who are communicants in good standing regardless of age.**

Since the persons entered in line 3 have been previously counted as active baptized members, the line 3 total normally will be less than M05 (active baptized members). Under some circumstances line 3 might be the same as M05, but a congregation should never have more communicants in good standing than active baptized members.

**Line 4, Communicants in good standing who are members under 16 years of age:**

Youth in Good Standing

**4. Those communicants in good standing (counted on line 3) who are under 16.**

**Communicants in Good Standing who are 15 years old or younger = 4. \_\_\_\_\_**

Count those communicants in good standing, who were counted on line 3, who are 15 years old or younger.

**Line 5, Others who are active:**

Others Active

**5. Others who are active** *whose baptisms are not recorded in the Parish Register, or in another Episcopal Congregation.*

**Others = 5. \_\_\_\_\_**

**On Line 5,** count those persons, who share in the life of the congregation but do not fit the preceding membership categories. Include all adults and children who have not changed their denominational affiliation but attend your congregation and have not been added to the baptized members' section of the *Register of Church Membership and Rites*. This includes persons who are awaiting baptism and are active in the congregation. Do not count persons who are members of another Episcopal Congregation awaiting transfer.

***This concludes the membership section of Page 2***

**Attendance and Services:**

Use your congregation's Service Register for the following attendance and services information.

**Box 6 Average Sunday Attendance**

<b>Using the Register of Church Services:</b>	
Average Sunday Attendance For 2005	6. <b>Sunday (and Saturday Evening) Attendance:</b> Divide total Sunday attendance by number of Sundays
	Avg. Sunday Attendance = 6. <input type="text"/>

To obtain the average Sunday attendance for the year, compute (add up) the total number of persons (children and adults) who attended all public Sunday services (include Saturday evening Eucharists if they are considered Sunday services). Using your *Service Register* will be easier if you bring forward a weekly subtotal of Sunday attendance for the year. Do not include those persons who attended Church School but did not attend any part of the Sunday service or a scheduled Sunday service for Church School students. Divide the total number of those attending all Sunday services by the number of Sundays in the report year in which services were offered and enter the average Sunday attendance in Box 6. Seasonal chapels will divide by the number of Sundays that services were held.

**Line 7, Easter Attendance**

Easter Attendance in 2005	7.	Easter attendance	(7) <input type="text"/>
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On line 7, count, as recorded in the service book, the total number of persons, children and adults, who attended Sunday services for Easter, include Saturday evening Easter Vigil.

**Sacraments and Services:  
Lines 8 through 10, Holy Eucharist Services**

Number of Holy Eucharists Celebrated during 2005	8. Sunday & Saturday Evening Eucharists	(8) <input type="text"/>
	9. Weekday Eucharists	(9) <input type="text"/>
	10. Private Eucharists	(10) <input type="text"/>

On line 8 include the number of Saturday evening Eucharists as well as all Sunday Eucharists. Note that this figure (and others in this section) refers to services, not to people attending services.

On line 9 count the number of the scheduled public weekday Eucharists recorded in the *Register of Church Services*. Include Eucharists following Morning Prayer which constitute complete and separate services.

On line 10 count Eucharists that are part of a marriage or burial service, including complete and separate Eucharists, which precede or follow a marriage or burial service. "Private services" refer to Eucharists that are either: (a) not regularly scheduled; (b) celebrated in homes and institutions; or (c) have Holy Communion administered by Lay Eucharist Ministers. Include Holy Communion administered by clergy from the Reserved Sacrament.



**Lines 11 through 14, Other Services**

Daily Offices and Other Services held during 2005	11. Daily Offices on Sunday	(11) _____
	12. Daily Offices on Weekdays	(12) _____
	13. Marriages	(13) _____
	14. Burials	(14) _____

On line 11 count all Sunday, and on line 12 count all weekday, services of Morning and Evening Prayer, and other daily services (Compline, Noonday Office, etc.), even when followed by or used with the Eucharist.

On Lines 13 and 14, count marriages and burials recorded in your *Register of Church Services*, even if they are counted on line 10 because a Eucharistic Service was included. Line 14 is not necessarily the same as the number removed by reason of death from your *Membership Register*. Line 14 should be obtained from your *Register of Church Services*. Some who are buried may not have been members, and some members who died may not have been buried at the reporting site.

**Baptisms, Confirmations and Receptions during the year:**

<b>Using the Register of Church Membership and Rites:</b>		
Baptisms during 2005	15. Baptisms 16 years and older	(15) _____
	16. Baptisms under 16 years of age	(16) _____

Count all baptisms recorded for the report year, adults (16 and older) on line 15 and youth (15 and younger) on line 16.

Confirmations during 2005	17. Confirmations 16 years and older	(17) _____
	18. Confirmations under 16 years of age	(18) _____
Received during 2005	19. Received by a Bishop	(19) _____

On lines 17 and 18 count the number of persons whose recorded confirmations took place during the report year. On line 17, count persons aged 16 and older. On line 18, record persons aged 15 and younger. For the purposes of this report, use the age (estimate if not known) on the last day of the reporting year for the age category.

On line 19 record the number of persons received by a bishop, because they are recognized as a member of the One, Holy, Catholic and Apostolic Church, and received into the fellowship of this Communion. Count those persons who have received the laying on of hands by a bishop in apostolic succession and received by a bishop of this Church, Canon I.17.1 (d).

**Lines 20 and 21, Education:**

<b>Education:</b>		
Children and Youth	20. Total Church School Students enrolled	(20) _____

On Line 20, count the number of children and youth in all grades who are enrolled. Do not include weekday parish Day School Students unless they were enrolled in Church School.

Adult Education	21. Did you have (a) scheduled Sunday or weekday adult education program(s)?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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For line 21 indicate by "yes" or "no" whether your congregation provided any regularly scheduled adult Christian Education program(s) during the report year.

**THIS CONCLUDES THE LINE-BY-LINE INSTRUCTION WORKBOOK  
FOR PAGE 2**

- **FILL OUT PAGE 2 OF THE PAROCHIAL REPORT FORM USING ANY NOTES YOU HAVE MADE IN THIS WORKBOOK.**
- **FILE YOUR REPORT ONLINE AT THIS WEB SITE: [HTTP://PR.DFMS.ORG](http://pr.dfms.org)**
- **OR, MAIL THE COMPLETED FORM TO YOUR DIOCESE, TYPED OR HANDWRITTEN, TOGETHER WITH PAGE 1, CERTIFICATION, AND PAGE 3, THE FINANCIAL REPORT. DO NOT SEND THIS REPORT TO THE GENERAL CONVENTION OFFICE OR THE DFMS RESEARCH OFFICE.**
- **KEEP THIS WORKBOOK OR A PHOTOCOPY OF THE COMPLETED FORM FOR YOUR RECORDS.**
- **YOU MAY REVIEW YOUR DATA FOR PRIOR YEARS AT THIS WEBSITE: [HTTP://PR.DFMS.ORG](http://pr.dfms.org) USING YOUR UEID AND PASSWORD. SELECT THE VIEW/PRINT OPTION.**

**Questions and Answers about Average Sunday Attendance**

**Who should be included in this count?** All persons of whatever age, lay or clerical, who participated in all or part of your services, in the nave, choir, or sanctuary on Sunday mornings (or Saturday evening if that is, in effect, an anticipatory Sunday Service).

**Do I count Easter?** Yes, as it always falls on Sunday.

**Do I count Christmas?** No (unless Christmas Day falls on a Sunday; in that case, count your Christmas Eve services as well as any services on Christmas Day).

**We have a service every Wednesday at 10:00 am and observe other holy days during the week. What about them?** Do not include attendance on those days.

**Grades 1-5 start out in church and then leave before the sermon for Church School. What about them?** Count them. They are in church for part of a Sunday service.

**We celebrate the Sunday Eucharist on Saturday night and have an early service at 7:30 a.m. on Sunday. Should I count those who attend?** Yes.

**We had a winter storm, which caused us to cancel our regular Sunday services last winter. Do we count that day as zero attendance in the total and divide by 52?** No, you should not count that Sunday, since services were cancelled. Instead take your total attendance and divide by 51 Sundays instead of the 52 Sundays you would normally average.

**What about marriages and funerals?** Do not count them.

**Our parish has a scheduled Sunday Liturgy and Eucharist for our Church School Students? They did not attend any part of the regular church service. Should I count them? Yes.**

**We have a special service for the EYF on Sunday evenings twice a month. Should we count them? No.**

**What is the simple way to compute average Sunday attendance? Go through the Register of Church Services and highlight the number in attendance at each Sunday morning service during the year. Add up the numbers and divide the total by the number of Sundays in the year (usually 52).**

***Please use your good judgment when tackling questions that may not seem to fit your congregation. When in doubt, first contact your diocesan office. Maria Christodoulou at (800) 334-7626 at the Episcopal Church Center is also available to answer questions about the Parochial Report.***

**VIRGINIA:**

**IN THE CIRCUIT COURT FOR FAIRFAX COUNTY**

**In re:** )  
**Multi-Circuit Episcopal Church** ) **Civil Case Numbers:**  
**Litigation** ) CL 2007-248724,  
 ) CL 2006-15792,  
 ) CL 2006-15793,  
 ) CL 2007-556,  
 ) CL 2007-1235,  
 ) CL 2007-1236,  
 ) CL 2007-1237,  
 ) CL 2007-1238,  
 ) CL 2007-1625,  
 ) CL 2007-5249,  
 ) CL 2007-5250,  
 ) CL 2007-5362,  
 ) CL 2007-5363,  
 ) CL 2007-5364,  
 ) CL 2007-5682,  
 ) CL 2007-5683,  
 ) CL 2007-5684,  
 ) CL 2007-5685,  
 ) CL 2007-5686,  
 ) CL 2007-5902,  
 ) CL 2007-5903, and  
 ) CL 2007-11514

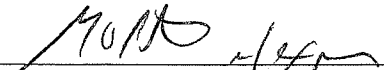
**THE CANA CONGREGATIONS' OPENING BRIEF ON VOTING ISSUES**

This acts as a one-page cover sheet reference pleading to the complete CANA Congregations' Opening Brief on Voting Issues, and filed in CL 2007-248724 (the omnibus case file), on September 5, 2008. The CANA Congregations' Opening Brief on Voting Issues, and this corresponding one-page reference pleading applies to the Omnibus case number: CL 2007 – 248724 and the following cases:

1. *In re: Truro Church*; (Circuit Court of Fairfax County; CL 2006-15792);
2. *In re: Church of the Apostles*; (Circuit Court of Fairfax County; CL 2006-15793)

3. *In re: Church of the Word, Gainesville;* (Circuit Court of Prince William County; CL73464) (Circuit Court of Fairfax County; CL 2007-11514);
4. *The Protestant Episcopal Church in the Diocese of Virginia v. Church of the Epiphany, Herndon* (Circuit Court of Fairfax County; CL 2007-1235);
5. *The Protestant Episcopal Church in the Diocese of Virginia v. Truro Church* (Circuit Court of Fairfax County; CL 2007-1236);
6. *The Protestant Episcopal Church in the Diocese of Virginia v. Christ the Redeemer Church* (Circuit Court of Fairfax County; CL 2007-1237);
7. *The Protestant Episcopal Church in the Diocese of Virginia v. Church of the Apostles* (Circuit Court of Fairfax County; CL 2007-1238);
8. *The Episcopal Church v. Truro Church et al.* (Circuit Court of Fairfax County; CL 2007-1625);
9. *In re: Church at the Falls, The Falls Church;* (Circuit Court of Fairfax County; CL 2007-5249);
10. *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);
11. *The Protestant Episcopal Church in the Dioceses of Virginia v. Potomac Falls Church* (Circuit Court of Loudoun County Case No. 44149)(Circuit Court of Fairfax County; CL 2007-5362);
12. *In re: Church of Our Savior at Oatlands;* (Circuit Court of Fairfax County; CL 2007-5363);
13. *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);
14. *In re: Church of the Epiphany;* (Circuit Court of Fairfax County; CL 2007-556);
15. *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);
16. *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);

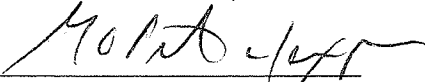
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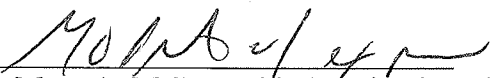
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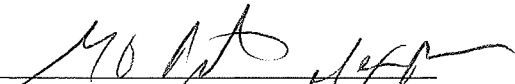
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Related Trustees*



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 5<sup>th</sup> day of September, 2008 a copy of the foregoing one-page Cover Sheet for CANA Congregations' Opening Brief on Voting Issues, was sent by electronic mail and first-class mail, postage prepaid, to:

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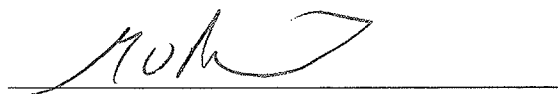
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With a courtesy copy by electronic mail and hand-delivered to:

Sara Silverman  
Law Clerk to the Honorable Randy I. Bellows  
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Fairfax, VA 22030



George O. Peterson