

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

| | | | |
|--|---|-------------------|-------------------|
| In re: |) | Case Nos.: | CL 2007-248724, |
| Multi-Circuit Episcopal Church Litigation |) | | 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 EPISCOPAL CHURCH'S AND THE DIOCESE'S
OPENING BRIEF REGARDING
PROPERTY SUBJECT TO THE ST. STEPHEN'S 1874 DEED**

Bradfute W. Davenport, Jr. (VSB # 12848)
William H. Hurd (VSB # 16769)
George A. Somerville (VSB # 22419)
Joshua D. Heslinga (VSB # 73036)
Troutman Sanders LLP
Post Office Box 1122
Richmond, Virginia 23218-1122
Telephone: (804) 697-1200
Facsimile: (804) 697-1339

Mary C. Zinsner (VSB # 31397)
Elizabeth Billingsley (VSB # 70808)
Troutman Sanders LLP
1660 International Drive
Suite 600
McLean, Virginia 22102
Telephone: (703) 734-4334
Facsimile: (703) 734-4340

Counsel for The Protestant Episcopal Church in the Diocese of Virginia

Heather H. Anderson (VSB # 38093)
Adam M. Chud (*pro hac vice*)
Soyong Cho (VSB # 70896)
Goodwin Procter LLP
901 New York Avenue, N.W.
Washington, D.C. 20001
Telephone: (202) 346-4000
Facsimile: (202) 346-4444

Counsel for the Episcopal Church

In prior decisions, this Court has held that the requirements of Va. Code § 57-9(A) were met by the CANA Congregations, that § 57-9(A) is constitutional, and that § 57-9(A) moots the “neutral principles” approach to church property law employed in *Norfolk Presbytery v. Bollinger*, 214 Va. 500, 201 S.E.2d 752 (1974), and subsequent cases. The Court now must decide whether § 57-9(A) also trumps other Virginia church property case law, the plain language and intent of the November 20, 1874, deed (the “Deed”) with respect to the property that is the subject of that deed (the “Property”), and the rights of the members of St. Stephen’s that continue to operate as an Episcopal congregation.¹

I. The Deed creates a trust and use restriction that requires the Property to be held and used by the Episcopal congregation in Heathsville. That congregation continues to exist and is before the Court seeking enforcement of the Deed.

On October 2, 1874, the Circuit Court of Northumberland County, on the motion of seven individuals identified by the Court as “the vestry of the Protestant Episcopal Church in the County of Northumberland,” appointed nine persons (including all seven members of the vestry) as “Trustees of the said Protestant Episcopal Church.” Stipulation ¶¶ 1, 2. The next month, the Deed then did “bargain, sell and convey” the Property to those nine persons “as trustees duly legalized and appointed.” *Id.* ¶ 4. The Deed explicitly provided that the Trustees were

To have and to hold the said lot, parcel or piece of land with all and singular the privileges & appurtenances thereto belonging unto the said parties of second party their assigns and successors who may be legally appointed from time to time, *In trust nevertheless and for the sole use and benefit of the religious society and congregation known as the Protestant Episcopal Church for the purpose of erecting a house for divine worship and such other houses as said congregation may need,*

¹ This dispute may be decided without trial because the parties have entered into Stipulations of Fact Regarding St. Stephen’s Church 1874 Deed (the “Stipulation”) and a Supplemental Stipulation Between St. Stephen’s Church and the Protestant Episcopal Church in the Diocese of Virginia and the Episcopal Church Regarding St. Stephen’s Church 1874 Deed (the “Supplemental Stipulation”).

and further provided that “*said church or house for divine worship when so built shall be used and enjoyed by said religious society or congregation according to the laws and canons of said church* not inconsistent with the laws and constitution of Virginia” Stipulation ¶ 4 (emphases added).

The “house of divine worship” was erected thereafter. *Id.* ¶ 5. It was initially named “Emmanuel P.E. Church.” The Rt. Rev. Francis M. Whittle, Bishop of the Diocese, consecrated it in 1881 as St. Stephen’s Church. *Id.* ¶ 5 & Ex. 3. From the completion of construction until the present, St. Stephen’s has operated and used the building as a church. *Id.* ¶ 5.

In December 2006, a majority of the members of St. Stephen’s voted to disaffiliate from and sever all ties with the Episcopal Church and the Diocese. *See* Order (entered Sept. 26, 2008); Report of Congregational Determination Pursuant to Va. Code § 57-9 (filed Dec. 18, 2006) ¶ 56 (“By a majority vote ... the members of St. Stephen’s Church over 18 years of age adopted the resolutions on the ballot and determined to sever ties with TEC and the Diocese...”) & Ex. 20. Within two weeks, those members of St. Stephen’s who wished to remain affiliated with the Episcopal Church and the Diocese reorganized St. Stephen’s, elected a new vestry, and began holding separate worship services. Stipulation ¶ 7. St. Stephen’s Episcopal Church continues to operate within the Episcopal Church and the Diocese and is recognized by the Episcopal Church and the Diocese as the continuation of the St. Stephen’s congregation existing in Heathsville prior to the vote to disaffiliate. *Id.*; Supplemental Stipulation ¶ 1.

Members of St. Stephen’s Episcopal Church are before the Court in this consolidated litigation. Certain individual members of St. Stephen’s Episcopal Church – Sandra B. Kirkpatrick, William S. Kirby, Dawn B. Mahaffey, Nancy E. Gates, George C. Freeman, Jr., Anthony Rabalais, Margaret Horsman, David G. Kilpatrick, Robert Reamy, and Susan C.

Stubbs – are parties to the declaratory judgment action related to St. Stephen’s. *See* Complaint (filed Jan. 31, 2007). There are members of two real congregations before the Court and whose future is at issue. And the Court now has before it the stipulated facts needed to decide which St. Stephen’s congregation has the right to use the Property.

II. Normal principles of deed interpretation and the Supreme Court of Virginia’s repeated enforcement of restrictions on church property similar to those in the Deed make clear that, in the absence of § 57-9(A), the Property would remain with the continuing Episcopal congregation.

Well-established principles of deed interpretation require a court to determine and enforce the intent of the parties as expressed in the instrument. *E.g., Davis v. Henning*, 250 Va. 271, 274, 462 S.E.2d 106, 108 (1995) (citations omitted):

In construing deeds, it is the duty of the court to “ascertain the intention of the parties, gathered from the language used, and the general purpose and scope of the instrument in the light of surrounding circumstances. When such intention appears by giving the words their natural and ordinary meaning, technical rules of construction will not be invoked.” Similarly, in the absence of ambiguity, as here, parol evidence is inadmissible to determine the intent or meaning of the document.

In *Browning v. Blue Grass Hardware Co.*, 153 Va. 20, 149 S.E. 497 (1929), the Court listed

“certain well established rules ... to be remembered” in deed construction, including:

(1) That all parts of the deed must be considered and that construction adopted which will carry out the intent of the parties, which intent must be gathered from the language used; that the true inquiry is not what the grantor meant to express, but what the words do express....

(3) That it is the duty of the court to give the proper meaning to every word used in the instrument if possible.

(4) That if it appears that two provisions of a deed are in irreconcilable conflict, the last provision yields to the first and the first must be given its full effect.

(5) And when a provision is made in a deed in clear, explicit and unambiguous words, it cannot be revoked by implication by a later clause in the deed, but if revoked at all, must be by terms as clear, decisive and explicit as the terms by which the first estate was given.

Id. at 26-27, 149 S.E. at 498-99 (internal quotation marks and paragraph numbers omitted).

Here, the intent of the parties to the Deed is clear, explicit, unambiguous, and unmistakable: the property was to be held “In trust nevertheless and for the sole use and benefit of the religious society and congregation known as the Protestant Episcopal Church” and “shall be used and enjoyed by said religious society or congregation according to the laws and canons of said church.” Stipulation ¶ 4. The Deed explicitly references “a unit or component of the Protestant Episcopal Church in the United States of America within the then existing diocese.” *The Diocese of Sw. Va. of the Protestant Episcopal Church v. Buhrman*, 5 Va. Cir. 497, 503 (Clifton Forge 1977), *pet. refused*, June 15, 1978 (Rec. No. 780347).

As a result, “a reasonable interpretation of these deeds leads inescapably to the conclusion that the trustees cannot hold title to the subject property for persons or groups who are withdrawn from and not under the authority of The Episcopal Church.” *Id.* See also *Green v. Lewis*, 221 Va. 547, 553, 272 S.E.2d 181, 184 (1980):

a reference to the original deed discloses that Lee Chapel has been an A.M.E. Zion Church for more than 100 years. The grantors conveyed the property to “Trustees of the A.M.E. Church of Zion.” The conveyance was for the purpose of erecting an A.M.E. Church of Zion (to be known as Lee Chapel), not a church of some other denomination, or an independent church. And this is what occurred. The church was organized, the building was constructed, and it functioned as an A.M.E. Zion Church until October 1977.

Three 19th century Virginia Supreme Court cases apply the same logic and reach the same conclusion – that deeds like the one at issue here restrict use of the property to those individuals that remain members of the specified denomination *and* of the congregation.

First, prior to enactment of the original division statute, but after the Methodist Episcopal Church had divided, the Virginia Supreme Court interpreted a deed

provid[ing] that the trustees are to hold the property conveyed to them, and their successors forever, in trust that they shall build or cause to be built thereon a house or place of worship for the use of the members of the Methodist Episcopal church in the United States of America, according to the rules and discipline

which from time to time may be agreed upon and adopted by the ministers and preachers of the said church, at their general conferences....

Brooke v. Shacklett, 54 Va. (13 Gratt.) 301, 314 (1856). The Court concluded that “[t]he primary object of the whole transaction ... must necessarily have been to provide and secure a place of worship according to the Methodist Episcopal discipline for the local society of that denomination.” *Id.* at 316 (emphasis added). The Court then undertook to “decid[e] which of the two parties litigant are entitled to the use of the property which the deed conveys.” *Id.* at 319.

In the absence of a denominational division, the Court explained that

the dispute must have been determined by enquiring, not which of the two parties constituted a majority, or represented the wishes of a majority, of the members of the society, but which of the two preachers had been appointed and assigned to the society in accordance to the laws of the church; which of the two parties was acting in conformity with the discipline of the church, and submitting to its lawful government.

Id. at 321. After discussing the division, the Court concluded that it would use the “same mode of enquiry ... that would have determined [the dispute] before,” *id.* at 324, and held that the faction that remained within the denomination had “the same right to enjoy the church property which was held by their societies before the division, in exclusion of those who repudiate the authority of the [denomination].” *Id.* at 327.

Second, in *Hoskinson v. Pusey*, 73 Va. (32 Gratt.) 428 (1879), the Virginia Supreme Court was again confronted with two factions of a Methodist Episcopal Church congregation claiming the right to control local church property. The Court stated that “[t]he deed is the same in substance as the deed in *Brooke & others v. Shacklett* and the construction must be the same.” *Id.* at 431 (citation omitted). The Court stated that the deed was “for the members, as such, of the congregation of the Methodist Episcopal Church, who, from their residence at or near the place of public worship, may be expected to use it for that purpose.” *Id.* To resolve the question

of which group met that description, the Court asked:

Who, then are the *cestuis que trust* under the deed in question, the beneficiaries entitled to the control and use of the ... church building? Looking to the deed alone, the answer would be, those who are the members of the congregation or local society, and, as such, members of the [denomination]. According to the test applied in *Den v. Bolton*, 18 N.J.L. 210, cited with approbation in the opinion of Judge Daniel in *Brooke & others v. Shacklett, supra*, “to constitute a member of any church, two points at least are essential, without meaning to say that others are not so, a profession of its faith and a submission to its government.”

Id. at 431-32. Of the two factions before the Court, the appellees “profess its faith, receive the pastors assigned by it, and submit to its discipline and government.” *Id.* at 432. The Court observed, however, that “[o]n the other hand, it is not pretended that the appellants, and those they represent, are members of that church. They neither recognize its authority, nor submit to its government, but deny and resist both. The proof is clear, and the fact is not disputed, that they are and claim to be members of another and distinct organization” *Id.* After a congregational vote in favor of adhering to that other organization, the Methodist Episcopal Church South, the “greater part of” the members of the congregation took control of the building and had their own trustees appointed. *Id.* at 434-35. Rejecting each of the various arguments of the majority, the appellants, the Court affirmed the decree in favor of the appellees, the members that adhered to the denomination specified in the deed. *See id.* at 444.

Third, in *Finley v. Brent*, 87 Va. 103, 12 S.E. 228 (1890), the Court again resolved a church property dispute between factions of a congregation by determining which faction continued to adhere to the denomination specified in the deed. The deed in *Finley*

was a grant in trust to trustees ... of a lot or parcel of land described therein, “on which the new Methodist Protestant Church, in Heathsville, was erected, in the said county of Northumberland, for the use and benefit of the religious congregation of the Methodist Protestant Church at Heathsville, which will assemble there for the purpose of worship,” to have and to hold the same “in trust for the sole and exclusive use and benefit of religious congregation of regular

orthodox Methodist Protestants which may thereafter assemble there to worship, when the said house is completed, or at any church which may hereafter be built at or near the present site or situation, for the purpose of religious worship of the Methodist Protestants, and for no other use or purpose whatever.”

Id. at 104, 12 S.E. 228-29. The Court recognized that the deed created an express trust, and it sought to “construe and enforce this trust.” *Id.* at 105, 12 S.E. at 229. To resolve the dispute, the Court “look[ed] to the terms of the deed creating the trust set forth above.” *Id.* It explained that the terms restricted use to a congregation within the specified denomination:

The terms are for the purpose of Methodist Protestants, and for no other use or purpose whatever. The grant is to trustees of the Methodist Protestant Church; the trust is “for the sole and exclusive use and benefit of the religious congregation of regular orthodox Methodist Protestants which may hereafter assemble there to worship.” Must the court enforce the trust according to its terms, to the end designated in the instrument creating it? It is the province of the courts to construe contracts as they are made.

Id. at 105-06, 12 S.E. at 229. Citing *Hoskinson* and *Brooke*, the *Finley* Court held that the majority “could change their religious faith, had the right to go to any denomination to which their belief or choice led, and they could take with them all property which belonged to them; but they were without power to change the character of the trust in question.” *Id.* at 106, 12 S.E. at 229. It was the appellants who adhered to the denomination specified in the deed; the majority appellees did not. *Id.* at 107-08, 12 S.E. at 230. Accordingly, the appellants prevailed under the deed’s denominational restriction. *See id.* at 108, 12 S.E.2d at 230 (“The trust deed in this case must be held to be, under the Constitution and law of this Commonwealth, a valid and binding contract, enforceable as such according to its terms; and, according to its terms, it is a grant to the appellants ... and should be enforced according to its terms, and not otherwise”).

Today, as in *Finley*, this Court has before it a deed for a church in Heathsville, Virginia. And again as in *Finley*, the Deed states a trust for a congregation within a particular denomination and expresses purpose and use restrictions. *See* Stipulation ¶ 4:

To have and to hold the said lot, parcel or piece of land ... In trust nevertheless and for the sole use and benefit of the religious society and congregation known as the Protestant Episcopal Church for the purpose of erecting a house for divine worship and such other houses as said congregation may need. And said church or house for divine worship when so built shall be used and enjoyed by said religious society or congregation according to the laws and canons of said church not inconsistent with the laws and constitution of Virginia

As in prior cases, the Deed references the discipline, rules, or “laws and canons” of the specified denomination. *Id.* As in *Finley*, a minority of the St. Stephen’s congregation continues as actively worshipping Episcopalians, while the majority “profess[es] to adhere to a different denomination, and den[ies] the government and discipline” of the Episcopal Church. 87 Va. at 107. *Finley* should control. The majority faction has the power to leave but not to change the terms of the deed. The Court should enforce the deed as written and award the property to the Diocese and the minority that remains a part of the Episcopal Church.

III. Va. Code § 57-9(A) should not be held to trump the above result.

The only argument that St. Stephen’s Church has to avoid all of the above is that regardless of the Deed’s clear language stating express trust and use restrictions, § 57-9(A) trumps the Deed (or any similar provision in a post-1867 deed). That argument failed on constitutional grounds in *Finley*, but this Court has ruled that the same constitutional defect does not exist in this case. *See* Contracts Clause Letter Opinion (Aug. 19, 2008). None of the Court’s opinions addresses the question of whether the existence of § 57-9(A) is controlling in cases involving disputes between members of congregations where deeds express an otherwise enforceable trust and denominational restriction, however. *See, e.g., id.* at 15-16.

As a matter of statutory construction, nothing in § 57-9(A) suggests that it was meant to destroy the ability to create express trust and use restrictions on church property through deed

provisions. Nothing in the statute precludes donating property to or for a congregation in the Episcopal Church, and no other, through a deed provision like that here.

Holding that § 57-9(A) preempts restrictions in deeds would ignore the rules of deed interpretation discussed above and override the parties' expressed intent. It also would do great violence to the language of this particular deed. *See, e.g., Halsey v. Fulton*, 119 Va. 571, 575, 89 S.E. 912, 913 (1916) ("Words deliberately put into a deed, and put there for a purpose, are not to be lightly considered nor arbitrarily put aside. The words in the deed before us were deliberately written in the instrument, are there for a purpose, and are not without meaning").

Such a broad and mandatory construction of § 57-9(A) also would not fit how statutory enactments are usually interpreted. First, Virginia law presumes that the General Assembly does not intend to overturn the law as appellate courts have stated it. *See, e.g., Weathers v. Commonwealth*, 262 Va. 803, 805, 553 S.E.2d 729, 730 (2001) ("When the General Assembly acts in an area in which one of its appellate courts already has spoken, it is presumed to know the law as the court has stated it and to acquiesce therein"). Here, Virginia law regarding denominational restrictions on church property in deeds was first stated in *Brooke* in 1856, eleven years before the original division statute was enacted, and has been reinforced in many later cases, as discussed above. It strains credulity to argue that § 57-9(A), which does not mention deeds at all, has ever been intended to overturn the church property deed interpretation law in *Brooke* and later cases.

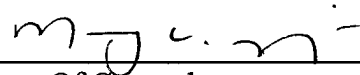
Second, Virginia law confirms that even where legislative enactments touch upon a subject, the parties to a contract retain the freedom to order their affairs in a different manner. *See, e.g., Jampol v. Farmer*, 259 Va. 53, 58, 524 S.E.2d 436, 439 (2000) (statute providing that terms of a certificate of deposit "may" be amended according to statute did not preclude parties

from amending terms in an alternate manner); *Mahoney v. NationsBank of Va., N.A.*, 249 Va. 216, 220-21, 455 S.E.2d 5, 7-8 (1995) (contracting party may not invoke statutory U.C.C. provision to override contract terms); *Board of Supervisors v. Sampson*, 235 Va. 516, 520-22, 369 S.E.2d 5, 7-8 (1988) (contract term setting time for initiating lawsuit controlled, notwithstanding statutory right to bring suit under longer statute of limitations); *Pettus v. Hendricks*, 113 Va. 326, 330-31, 74 S.E. 191,193 (1912) (association's charter controlled eligible class of beneficiaries notwithstanding statute that permitted larger class of individuals to be beneficiaries because statute did not modify charter).

The Deed here could not be any clearer that the parties intended to dedicate and restrict the property "In trust ... and for the sole use and benefit of the religious society and congregation known as the Protestant Episcopal Church." The Court should follow the repeated interpretations of similar deeds by the Virginia Supreme Court and enforce the parties' intent as expressed in the Deed, by holding that the property is not subject to St. Stephen's Church's § 57-9 Petition but rather must continue to be held and used by the Episcopal congregation in Heathsville.

Respectfully submitted,

THE PROTESTANT EPISCOPAL CHURCH
IN THE DIOCESE OF VIRGINIA

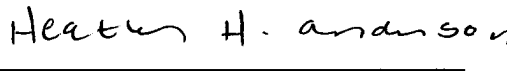
By: 
Of Counsel

Bradfute W. Davenport, Jr. (VSB # 12848)
William H. Hurd (VSB # 16769)
George A. Somerville (VSB # 22419)
Joshua D. Heslinga (VSB # 73036)
Troutman Sanders LLP
Post Office Box 1122
Richmond, Virginia 23218-1122
Telephone: (804) 697-1200
Facsimile: (804) 697-1339

Mary C. Zinsner (VSB # 31397)
Elizabeth Billingsley (VSB # 70808)
Troutman Sanders LLP
1660 International Drive
Suite 600
McLean, Virginia 22102
Telephone: (703) 734-4334
Facsimile: (703) 734-4340

Counsel for the Protestant Episcopal Church in the Diocese of Virginia

THE EPISCOPAL CHURCH

By:  /mcz
Of Counsel

Heather H. Anderson (VSB # 38093)
Adam M. Chud (*pro hac vice*)
Soyong Cho (VSB # 70896)
Goodwin Procter
901 New York Avenue, N.W.
Washington, D.C. 20001
Telephone: (202) 346-4000
Facsimile: (202) 346-4444
Counsel for the Episcopal Church

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing document were sent by electronic mail to all counsel named below and by first-class mail to the lead counsel at each firm (indicated with an asterisk below), on this 28th day of October, 2008:

* Gordon A. Coffee, Esquire (gcoffee@winston.com)
Gene C. Schaerr, Esquire (gschaerr@winston.com)
Steffen N. Johnson, Esquire (sjohnson@winston.com)
Andrew C. Nichols, Esquire (anichols@winston.com)
Winston & Strawn LLP
1700 K Street, N.W.
Washington, D.C. 20006
*Counsel for Truro Church, Church of the Epiphany,
Church of the Apostles, The Church at The Falls – The Falls Church, and
associated individuals*

* George O. Peterson, Esquire (gpeterson@sandsanderson.com)
J. Jonathan Schraub, Esquire (jjschraub@sandsanderson.com)
Heather A. Jones, Esquire (hjones@sandsanderson.com)
Tania M.L. Saylor, Esquire (tsaylor@sandsanderson.com)
Sands Anderson Marks & Miller, P.C.
1497 Chain Bridge Road, Suite 202
McLean, Virginia 22101
Counsel for Truro Church and certain associated individuals

* Mary A. McReynolds, Esquire (marymcreynolds@mac.com)
Mary A. McReynolds, P.C.
1050 Connecticut Avenue, N.W., 10th Floor
Washington, D.C. 20036
*Counsel for St. Margaret's Church, St. Paul's Church, Church of the Epiphany,
Church of the Apostles, St. Stephen's Church, and associated individuals*

* E. Andrew Burcher, Esquire (eaburcher@pw.thelandlawyers.com)
Walsh, Colucci, Lubeley, Emrich & Walsh, P.C.
4310 Prince William Parkway, Suite 300
Prince William, Virginia 22192
Counsel for St. Margaret's Church, St. Paul's Church, and Church of the Word

* James E. Carr, Esquire (NorthVaJim@aol.com)

Carr & Carr
44135 Woodridge Parkway, Suite 260
Leesburg, Virginia 20176

Counsel for the Church of Our Saviour at Oatlands and associated individuals

* R. Hunter Manson, Esquire (manson@kaballero.com)

PO Box 539
876 Main Street
Reedville, Virginia 22539

Counsel for St. Stephen's Church and associated individuals

* Scott J. Ward, Esquire (sjw@gg-law.com)

Timothy R. Obitts (tro@gg-law.com)
Robert W. Malone (rwm@gg-law.com)
Gammon & Grange, P.C.
8280 Greensboro Drive

Seventh Floor
McLean, Virginia 22102

Counsel for The Church at The Falls – The Falls Church and certain associated individuals, Christ the Redeemer Church, and Potomac Falls Church

* James A. Johnson, Esquire (jjohnson@semmes.com)

Paul N. Farquharson, Esquire (pfarquharson@semmes.com)
Scott H. Phillips, Esquire (sPhillips@semmes.com)
Semmes Bowen & Semmes, P.C.

Suite 1400
25 South Charles Street
Baltimore, Maryland 21201

Counsel for The Church at The Falls – The Falls Church and certain associated individuals

* Edward H. Grove, III, Esquire (egrove@thebraultfirm.com)

Brault Palmer Grove Steinhilber & Robbins LLP
3554 Chain Bridge Road
Suite 400
Fairfax, VA 22030

Counsel for certain trustees of The Church at The Falls – The Falls Church (Episcopal)

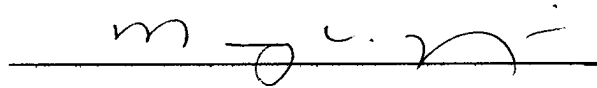
* Robert C. Dunn, Esquire (rdunn@robdunnlaw.com)

LAW OFFICE OF ROBERT C. DUNN
707 Prince Street
P. O. Box 117
Alexandria, Virginia 22313-0117

Counsel for Marjorie Bell, trustee of Church of the Epiphany (Episcopal)

* Stephen R. McCullough, Esquire (SMccullough@oag.state.va.us)
William E. Thro, Esquire (WThro@oag.state.va.us)
Office of the Attorney General
900 East Main Street
Richmond, Virginia 23219

*Counsel for the Commonwealth of Virginia ex. rel. Robert F. McDonnell, in his
official capacity as Attorney General*

A handwritten signature in black ink, appearing to read "W. E. Thro", is written above a solid horizontal line.

1777569.2