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

TRURO CHURCH'S OPPOSITION TO THE MOTION TO RECONSIDER RULING FROM THE BENCH ON OCTOBER 8, 2008
FILED BY THE DIOCESE AND THE EPISCOPAL CHURCH

COME NOW the Petitioners Truro Church and Related Trustees (hereafter "Truro Church") and file their Opposition to the Motion to Reconsider Ruling from the Bench on October 8, 2008 filed by The Protestant Episcopal Church in the Diocese of Virginia ("Diocese") and The Protestant Episcopal Church in the United States of America ("ECUSA").

I. PERTINENT FACTUAL HISTORY

On September 22, 2006, the Trustees of Christ the Redeemer Episcopal Church, by and through counsel, filed a Petition for Leave to Make a Gift of Church Property in accordance with

§57-15 of the Code of Virginia. The Petition specifically requested that the Court authorize the Trustees "to make a gift of and transfer . . . [church] Property . . . to Truro Church. . . ." In support of the Petition, and as evidence of the wishes of the congregation, Affidavits of the Senior Warden and a Trustee, along with a copy of the church Resolutions were attached to the Petition. On September 29, 2006 the Court granted the Petition, and by final Order of the same date authorized the Trustees of Christ the Redeemer Episcopal Church to make a gift of and transfer the church property to Truro Church. Nearly three months thereafter, pursuant to the final Order obtained from the Court in the §57-15 proceeding, the Trustees of Christ the Redeemer Episcopal Church conveyed the subject church property to Truro Church by Quitclaim Deed of Gift. Shortly thereafter, Truro Church filed its § 57-9 Petition, and the Diocese and ECUSA filed pleadings to intervene in that action.

With respect to the applicable property held by Truro, the Diocese and ECUSA, as interveners in Truro's §57-9(A) Petition action, asserted that the property conveyed to Truro by Christ the Redeemer Episcopal Church pursuant to the September 29, 2006 final Order was not subject to Truro's 57-9(A) Petition. On October 8, 2008 in Pre-Trial Motions relating to the disputed property, the Diocese and ECUSA argued that the deeds transferring the subject property from Christ the Redeemer Episcopal Church to Truro were invalid as they violated §57-15 of the Virginia Code.[1] Tr. (Oct. 8, 2008) at 47. Specifically, the Diocese and ECUSA asserted that Christ the Redeemer Episcopal Church failed to get the authorization of the constituted authorities for the transfer of the property and therefore violated §57-15. Id. As a result of this alleged failure to comply with §57-15, the Diocese and ECUSA sought the

[1] The Diocese and ECUSA specifically asserted that the "first deed" dated December 13, 2006, was invalid for failure to comply with the provisions of §57-15 at the October 8, 2008 hearing. Tr. (Oct. 8, 2008) at 47. The Motion to Reconsider asserts that both the December 13, 2006 and the December 21, 2006, deeds were invalid. Mtn to Recon. ¶ 1.

revocation or revision of the September 29, 2006 final Order which authorized the transfer of the subject property:[2]

> THE COURT: Why is the first deed invalid in your view?
> MR. HESLINGA: Because 57-15 says that has to be the wish of the duly- constituted authorities of the church.
>
> THE COURT: But hasn't that ship sailed already?
> I mean, Judge Keith issued his order in September 2006. It sounds to me like you're asking me two years later to go back and vacate that decision.
> MR. HESLINGA: Well, that gets to the second point here, which is that those proceedings were ex parte. The Diocese was never notified that Christ the Redeemer was doing this.
> THE COURT: Well, whether they were ex parte or not, the ability of a Court to revise or vacate a final order is jurisdictional. It's jurisdictional. So if I don't have jurisdiction, I can't do it.
> MR. HESLINGA: There are exceptions to that.

---

[2] Prior to making the assertion that the September 29, 2006 Order should be vacated or voided, the Diocese and ECUSA argued that the Court should uphold the Order.

> THE COURT: He signed an order. Now, that order is a final order now. I don't have the ability, it seems to me, or the jurisdiction to reach that and to validate that order.
> But it seems to me that's what you're saying I ought to be doing. That, in other words, if the Diocese believed that that order was invalid, didn't the Diocese have to seek to intervene back in September 2006 or within 21 days of that order file something to address that issue?
>
> MR. HESLINGA: Actually, Your Honor, I'd say I'm asking you to uphold Judge Keith's order,

Tr. (October 8, 2006) at 44-5.

Tr. (Oct. 8, 2008) at 47-8. Following consideration of the applicable law and the arguments of counsel, this Court properly ruled that it did not have jurisdiction to review the September 29, 2006 final Order.

The matter went to trial on October 14, 2008 and this Court ruled that the Christ the Redeemer Episcopal Church property was within the scope of Truro Church's Va. Code § 57-9 Petition. The Diocese and ECUSA thereafter filed a Motion to Reconsider the Court's ruling.

II. ARGUMENT

The Diocese and ECUSA set forth three main arguments in their Motion to Reconsider. First, they assert that the Court improperly relied upon Rule 1:1 of the Supreme Court of Virginia when deciding that it did not have jurisdiction to review the September 29, 2006 final Order. Secondly, in an effort to greatly expand the scope of Virginia Code §8.01-428(B), they argue that the Court has jurisdiction to "re-open[ ] the proceedings to correct the error" in the Order based upon the contention that Christ the Redeemer Episcopal Church and the Court "overlooked the requirement that a transfer [of church property] be the wish of the duly constituted authorities" to include the Diocese and ECUSA. Mtn to Recon. ¶ 6. Lastly, they argue that the Court has the authority to revise the September 29, 2006 Order pursuant to §8.01-428(D) based upon the notion that Christ the Redeemer Episcopal Church procured the Order through fraud on the Court.[3] Each of the foregoing arguments is either misplaced or inapplicable under the facts here.

---

[3] Notably, although the Diocese and ECUSA now attempt to have the September 29, 2006 Order invalidated based upon alleged fraud on the Court, counsel confirmed at the October 8, 2008 hearing that there is no evidence to support such an allegation:

> THE COURT: Well, whether they were ex parte or not, the ability of a Court to revise or vacate a final order is jurisdictional. It's jurisdictional. So if I don't have jurisdiction, I

A. RULE 1:1 PROHIBITS MODIFICATION, REVOCATION AND/OR SUSPENSION OF THE SEPTEMBER 29, 2006 ORDER

Rule 1:1 of the Supreme Court of Virginia states, "[a]ll final judgments, orders and decrees . . . shall remain under the control of the trial court and subject to be modified, vacated, or suspended for twenty-one days after the date of entry, and no longer." VA S. Ct. R. 1:1 (2008). In interpreting this Rule the Virginia Supreme Court has consistently held "that the provisions of Rule 1:1 are mandatory in order to assure the certainty and stability that the finality of judgments brings. Once a final judgment has been entered and the twenty-one day time period of Rule 1:1 has expired, the trial court is thereafter without jurisdiction in the case." Safrin v. Travaini Pumps USA, Inc., 269 Va. 412, 418, 611 S.E.2d 352, 355 (2005); *see also* Hass Publishing Cos. v. Quantum Communications, Inc., 58 Va. Cir. 319 (Fairfax 2002). In this instance, the September 29, 2006 Order was the final order in the action initiated by Christ the Redeemer Episcopal Church's §57-15 Petition. Accordingly, that Order, as a final Order, was

---

can't do it.
MR. HESLINGA: There are exceptions to that. I don't want to go so far as to say fraud on the Court, but I think you could find that, because they came into the Court saying the congregation is the authority. We have the authority to do this. And the Court in this kind of ex parte proceeding accepts the representation generally of the congregation that whatever the required steps are have been complied with and enters the order allowing them to do it.
And in this case their petition alleging that was wrong, and so the Court entered its order based on -- I don't know if I would go so far to say a misrepresentation, because **I don't think we're going to have any evidence on what they intended when they wrote the petition.**
But the Court certainly entered the order based on something that was not true.

Tr. (Oct. 8, 2008) at 48-9 (emphasis added).

not subject to modification or revocation more than 21 days after entry as thereafter the Court lost jurisdiction to effectuate any such tasks.

In an effort to bypass Rule 1:1, the Diocese and ECUSA urge the Court's adoption of the holding in Niklason v. Ramsey. 233 Va. 161, 353 S.E.2d 783 (1987). However, the facts in Niklason are wholly distinguishable from the issue presented here, and the Court in Niklason made it clear that the holding was limited to its facts. As cited by the Diocese and ECUSA, the Supreme Court of Virginia in Niklason explained that

> Rule 1:1 does not apply **in the situation presented in this appeal.** Ramsey and Boardman had nothing whatever to do with the fiduciary dispute, which concerned the validity of Ellowene's will and the division of her estate. Ramsey and Boardman's claims were against Hugh. The fact that a second, separate lawsuit with different parties and issues directly **impacted** upon a previous suit does not mean that Rule 1:1 is implicated. That Rule does not address itself to **this situation.**

Id. at 164, 353 S.E.2d at 785 (emphasis added). In Niklason there was no direct attack on the final order entered in the fiduciary matter. The creditors, Ramsey and Boardman, were not parties to that proceeding nor did they seek to modify, vacate or suspend the final order. As noted by the Virginia Supreme Court, the issues raised in the action filed by the creditors merely impacted the final order entered in the fiduciary matter. Here, the Diocese and ECUSA, after having first asked the Court to enforce the September 29, 2006 Order, *see* October 8 Tr. p. 45:13-4, then waged a direct attack on the September 29, 2006 final Order, and specifically seek to have the order modified, vacated or suspended — actions which are prohibited by Rule 1:1. Furthermore, as noted above, the holding in Niklason, a case not cited by any other reported case in the Commonwealth, was limited to the facts of that specific case. Accordingly, reliance on Niklason to decide the issue presented in the Diocese and ECUSA's Motion to Reconsider would be misplaced.

B. THE SEPTEMBER 29, 2006 FINAL ORDER DOES NOT CONTAIN A CLERICAL ERROR AND THEREFORE §8.01-428(B) IS INAPPLICABLE

Although Rule 1:1 contains a policy of finality, the Virginia Supreme Court has recognized that the policy is not absolute, and may be overcome if there is a statutory provision that provides an alternative remedy. Charles v. Commonwealth, 270 Va. 14, 19, 613 S.E.2d 432, 434 (2005) (noting Rule 1:1 prohibits modification of a final order more than 21 days after entry, unless otherwise provided by statute); *see also* Davis v. Mullins, 251 Va. 141, 466 S.E.2d 90 (1996) (noting there are only limited exceptions to the preclusive effect of Rule 1:1); McEwen Lumber Co., v. Lipscomb Bros. Lumber Co., et. al., 234 Va. 243, 360 S.E.2d 845 (1987) (confirming that Rule 1:1 is applied rigorously unless a statute creates a clear exception); School Board of the City of Lynchburg v. Caudill Rowlett Scott, Inc., 237 Va. 550, 379 S.E.2d 319 (1989) (Rule 1:1 is applied rigorously and statutory exceptions to the finality of judgments are narrowly applied). One such statute is Virginia Code §8.01-428. Section 8.01-428 provides specific methods whereby a party can seek relief from a judgment or final order after the trial court has lost jurisdiction as established by Rule 1:1 of the Supreme Court of Virginia. The Diocese and ECUSA argue that application of §8.01-428, specifically provisions (B) and (D), provide this Court with the requisite jurisdiction to modify the September 29, 2006 final Order. That argument is incorrect.

Section 8.01-428(B), headed "clerical mistakes," states, "[c]lerical mistakes in all judgments or other parts of the record and errors therein arising from oversight or from inadvertent omission may be corrected by the court at anytime on its own initiative or upon motion of any party and after such notice, as the court may order." VA. CODE §8.01-428(B) (2007). The Diocese and ECUSA assert that if Christ the Redeemer Episcopal Church and the trial court "overlooked the requirement that a transfer of church property be the wish of duly

constituted authorities", to include the Diocese and ECUSA, then such would qualify as an error resulting from "oversight or inadvertence", and §8.01-428(B) would serve to provide this Court with jurisdiction to correct the error. Mtn to Recon. ¶ 6. That is incorrect.

The Virginia Supreme Court has consistently construed §8.01-428 narrowly. Caudill Rowlett Scott, Inc., 237 Va. at 554, 379 S.E.2d at 321; McEwen Lumber Co., 234 Va. at 247, 360 S.E.2d at 848. Specifically, when addressing the application of §8.01-428(B), the Virginia Supreme Court has confirmed that clerical mistakes, as defined by this section, may be scrivener's errors, such as "a typographical mistake made by a court reporter in transcribing a trial transcript, counsel's failure to prepare an order for entry by the trial court, and a misstatement on the record by the trial court regarding the length of incarceration a defendant was ordered to serve." Westgate at Williamsburg Condo. Assoc., Inc., v. Philip Richardson Co., Inc., 270 Va. 566, 621 S.E.2d 114 (2005) (*quoting* Zhou v. Zhou, 38 Va.App. 126, 133-34, 562 S.E.2d 336, 339 (2002)). The Virginia Court of Appeals explained further that §8.01-428(B)

> does not authorize a court to reconsider what judgment it *might* have rendered while it still retained jurisdiction . . . and then to enter that judgment *nunc pro tunc.* However, it does authorize a court to correct the record to speak the truth, by placing upon the record evidence of *judicial action which has actually been taken* . . . at the proper time, action which does not involve the reacquisition of jurisdiction. . . . A court's exercise of authority under Code § 8.01-428(B) is appropriate when competent evidence clearly support[s] the conclusion that an error of oversight or inadvertence has been made.

Quash v. Quash, No. 0710-01-2, 2002 WL 338737, at *1 (Va. Ct. App. March 5, 2002) (citations omitted); *see also* Caudill Rowlett Scott, Inc., 237 Va. at 554-55, 379 S.E.2d at 322.

In the instant action the Diocese and the ECUSA urge this Court to significantly broaden the reach of §8.01-428(B) and to do precisely what the Virginia Supreme Court has said it cannot

do – to reconsider what judgment it might have rendered while it retained jurisdiction. In order to accomplish what the Diocese and ECUSA urge, this Court would have to hear additional evidence. Mtn to Recon. ¶ 8. Section 8.01-428(B) does not permit the presentation of additional evidence to substantively change a final order. As noted above, it merely allows the court to change clerical errors or errors of oversight and inadvertent omission to ensure that the record accurately reflects the judicial action which has actually been taken. *See* Caudill Rowlett Scott, Inc., 237 Va. at 554-55, 379 S.E.2d at 322. The September 29, 2006 final Order accurately reflects the judicial action taken in response to Christ the Redeemer Episcopal Church's 57-15 Petition. There is absolutely no evidence that there is a clerical error or an error of oversight or inadvertent omission, as defined by §8.01-428(B), that could be used as the basis for modifying the September 29, 2006 final Order.

C. THE DIOCESE AND ECUSA HAVE NOT FILED AN INDEPENDENT ACTION AND THEREFORE THE SEPTEMBER 29, 2006 ORDER CANNOT BE SET ASIDE UNDER §8.01-428(D)

Virginia Code §8.01-428(D) "specifically preserves the long recognized right to bring an **independent action** in equity to relieve a party from detrimental consequences flowing from an earlier judgment which allegedly resulted from fraud on the court." Gulfstream Building Assoc., Inc., et. al. v. Britt, et. al., 239 Va. 178, 182, 387 S.E.2d 488, 491 (1990) (emphasis added). The equity power established by §8.01-428(D) "is properly exercised **only in an independent proceeding** initiated by a party seeking relief from judgment." Basile v. American Filter Service, Inc., 231 Va. 34, 38, 340 S.E.2d 800, 802 (1986) (emphasis added). Here, the Diocese and ECUSA are improperly attempting to have the September 29, 2006 final Order set aside through a collateral motion filed in an action initiated by Truro, rather than through an independent action as required under §8.01-428(D).

The motion filed in this action is clearly not the proper procedural method by which a party may seek to set aside a judgment under §8.01-428(D)[4]; however, even if this Court were to entertain this motion, the Diocese and ECUSA have failed to allege the requisite elements to maintain any such action under §8.01-428(D). In Ryland v. Manor Care, Inc., the Virginia Supreme Court noted

> subsection (D) of Code § 8.01-428 does not create any new rights or remedies, but merely preserves a court's inherent equity power to entertain an independent action by a party seeking relief from any judgment. [T]he elements of this independent action in equity:(1) a judgment which ought not, in equity and good conscience, to be enforced; (2) a good defense to the alleged cause of action on which the judgment is founded; (3) fraud, accident, or mistake which prevented the defendant in the judgment from obtaining the benefit of his defense; (4) the absence of fault or negligence on the part of the defendant; and (5) the absence of any adequate remedy at law.

266 Va. 503, 508-9, 587 S.E.2d 515, 518-19 (2003) (*citing* Charles v. Precision Tune, Inc., 243 Va. 313, 317, 414 S.E.2d 831 (1992)). Further, only a judgment procured by *extrinsic* fraud is void and subject to attack at anytime as permitted under §8.01-428(D). Jones v. Willard, 224 Va. 602, 607, 299 S.E.2d 504, 508 (1983). In order to support a finding of extrinsic fraud, the Diocese and ECUSA must prove by *clear and convincing* evidence that Christ the Redeemer Episcopal Church engaged in conduct which prevented "a fair submission of controversy to the Court." Gulfstream Building Assoc., Inc., 239 Va. at 183-4, 387 S.E.2d at 491.

The Diocese and ECUSA assert that in light of the previously presented evidence, this Court need only hear a limited amount of additional evidence on whether Diocesan consent was

[4] The Diocese and ECUSA never once pleaded any basis for invoking 8.01-428(D) in any pleading before this Court prior to this Motion to Reconsider. Moreover, counsel for the Diocese and ECUSA admitted they had no evidence sufficient to trigger invocation of this statute during the October 8, 2008 hearing.

required for the property transfer from Christ the Redeemer Episcopal Church to Truro in order to support a finding of fraud on the court sufficient to vacate or void the September 29, 2006 final Order.[5] Mtn to Recon. ¶ 7-8. This assertion is a fallacy as the Diocese and ECUSA have failed to allege any facts that would meet the clear and convincing standard for a finding of fraud on the Court.[6]

Furthermore, in addition to lacking the facts necessary to establish fraud, any such claim is barred by the doctrine of laches. "Laches is 'the neglect or failure to assert a known right or claim for an unexplained period of time under circumstances prejudicial to the adverse party.'" Cordova v. Alper, 64 Va. Cir. 87, 2004 WL 516230, at *12 (Fairfax 2004) (quoting Stewart v. Lady, 251 Va. 106, 114, 465 S.E.2d 782, 786 (1996)) Here, the Diocese and ECUSA admittedly knew about the September 29, 2006 Order in 2007. *See* Proffer of Evidence Regarding Validity of December 2006 Deeds, p 4. However, their claim of fraud on the court was only first alluded to, but quickly backed away from, at the October 8, 2008, hearing, a few short days before this

---

[5] The Diocese and ECUSA assert that additional evidence, specifically that outlined in their Proffer of Evidence Regarding the Validity of December 2006 Deeds, would bolster the evidence already in the record. Mtn to Recon. ¶ 8 Truro contests the accuracy of the Proffer of Evidence as it relates to the assertion that Diocesan consent was required for the property transfer from Christ the Redeemer Episcopal Church to Truro, as the deposition testimony of Russell V. Palmore, Jr., confirms that there is, at the very least, ambiguity as to the meaning of "Church Under Supervision". Deposition of Russell Palmore, Jr. (Oct. 2, 2008) 35:22-40:11 (Exhibit A).

[6] The Diocese and ECUSA cite to the testimony of David Griswold to support their claim that the September 29, 2006 Order should be voided as a result of fraud on the court; however, the testimony cited does not in any way confirm that Christ the Redeemer Episcopal Church deliberately misrepresented anything to the Court in order to obtain the September 29, 2006 final Order. The testimony cited merely confirms that Mr. Griswold did not talk to anyone at the Diocese about what to do with the property in question; there is absolutely no evidence that Christ the Redeemer Episcopal Church representatives knew they allegedly needed to consult with the Diocese about the property, did not do so and then failed to alert the Court to this "requirement" in order to obtain the September 29, 2006 final Order. Mtn to Recon. ¶ 8. The Court can infer the reason why counsel for the Diocese never directly asked the question of Mr. Griswold.

case went to trial and several weeks after the discovery deadline. The Diocese and ECUSA have provided no reasonable explanation for this delay. Moreover, the Diocese and ECUSA's failure to timely assert this claim has severely prejudiced Truro by depriving Truro of the opportunity to conduct proper discovery on this issue, including but not limited to whether or not consent from the Diocese was actually required for the transfer of the subject property as the Diocese and ECUSA now assert. But by raising the issue now post-trial, largely on the basis of a position that the Diocese and ECUSA would not commit to during the October 8, 2008, i.e. no evidence of a misrepresentation to the Court in the Christ the Redeemer Episcopal Church § 57-15 Petition, the Diocese and ECUSA now seek a second bite at the apple.

III. CONCLUSION

The Diocese and ECUSA urge this Court to modify, vacate or set aside the September 29, 2006 final Order which concluded the action filed by Christ the Redeemer Episcopal Church pursuant to §57-15 of the Code of Virginia, yet they have failed to provide any legal basis that would allow such an action. In accord with Rule 1:1 of the Supreme Court of Virginia this Court lost jurisdiction to modify and/or vacate that Order 21 days after its entry. At this juncture any modification of the September 29, 2006 final Order can only arise from statutory authority. The Diocese and ECUSA have failed to cite any statutory authority that would allow for the modification or revocation of the Order under the current procedural posture of the pending action. Furthermore, any claim the Diocese and ECUSA may have had is now barred by the doctrine of laches.

WHEREFORE, for the foregoing reasons, Truro Church and its Related Trustees, by counsel, respectfully request that this Honorable Court deny the Diocese and ECUSA's Motion

to Reconsider this Court's October 8, 2008 ruling, and for such other and further relief that this Court may deem just and proper under the circumstances.

Dated: November 10, 2008

Respectfully submitted,

SANDS ANDERSON MARKS & MILLER

By: _____
J. Jonathan Schraub (VSB # 17366)
George O. Peterson (VSB # 44435)
Heather Austin Jones (VSB #48431)
Tania M. L. Saylor (VSB # 65904)
1497 Chain Bridge Road, Suite 202
McLean, VA 22101
703-893-3600 (telephone)
703-893-8484 (facsimile)
Counsel for Truro Church and its Related Trustees

WINSTON & STRAWN

Gordon A. Coffee (VSB #25808)
Gene C. Schaerr
Steffen N. Johnson
Andrew C. Nichols (VSB #66679)
1700 K Street, N.W.
Washington, DC 20006-3817
(202) 282-5000 (telephone)
(202) 282-5100 (facsimile)
Counsel for Truro Church and its Related Trustees and The Falls Church

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of November, 2008 a copy of the foregoing Truro Church's Opposition to the Motion to Reconsider Ruling from the Bench on October 8, 2008, was sent by electronic mail and first-class mail, postage prepaid, to:

Bradfute W. Davenport, Jr., Esquire
George A. Somerville, Esquire
Joshua D. Heslinga, Esquire
TROUTMAN SANDERS, LLP
P.O. Box 1122
Richmond, VA 23218

Mary C. Zinsner, Esquire
TROUTMAN SANDERS, LLP
1660 International Drive, Suite 600
McLean, VA 22102

Edward H. Grove, III, Esquire
BRAULT PALMER GROVE
WHITE & STEINHILBER, LLP
3554 Chain Bridge Road, Suite 400
Fairfax, VA 22030

Heather H. Anderson, Esquire
Adam M. Chud, Esquire
Soyong Cho, Esquire
GOODWIN PROCTER, LLP
901 New York Ave., N.W.
Washington, D.C. 20001

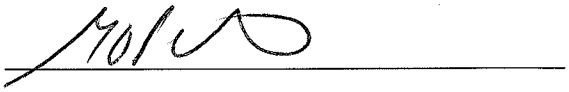
Robert C. Dunn, Esquire
Law Office of Robert C. Dunn
P.O. Box 117
Alexandria, VA 22313-0117

William E. Thro, Esquire
Stephen R. McCullough, Esquire
Office of the Attorney General
900 East Main Street
Richmond, Virginia 23219

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

Sara G. Silverman
Law Clerk to the Honorable Randy I. Bellows
4110 Chain Bridge Road
Fifth Floor Judges' Chambers
Fairfax, VA 22030

All CANA Counsel



George O. Peterson