

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

Diane S. Goodstein, Circuit Court Judge

Case No.: 2013-CP-18-00013

The Protestant Episcopal Church in The Diocese of South Carolina; The Trustees of the Protestant Episcopal Church in South Carolina, a South Carolina Corporate Body; All Saints Protestant Episcopal Church, Inc.; Christ St. Pauls' Episcopal Church; Christ the King, Waccamaw; Church of the Cross, Inc. and Church of the Cross Declaration of Trust; Church of the Holy Comforter; Church of the Redeemer; Holy Trinity Episcopal Church; Said Luke's Church, Hilton Head; St. Matthews Church; St. Andrews Church-Mt. Pleasant and The St. Andrews Church-Mt. Pleasant Land Trust; St. Bartholomew's Episcopal Church; St. James Church, James Island, S.C.; St. John's Episcopal Church of Florence, S.C.; St. Mathias Episcopal Church, Inc.; St. Paul's Episcopal Church of Conway; The Church of St. Luke and St. Paul, Radcliffeboro; The Church of Our Savior of the Diocese of South Carolina; the Church of the Epiphany (Episcopal); The Church of the Good Shepherd, Charleston, S.C.; The Church of The Holy Cross; The Church of the Resurrection, Surfside; The Protestant Episcopal Church of the Parish of Saint Philip, in Charleston, in the State of South Carolina; The Protestant Episcopal Church; The Parish of Saint Michael, in Charleston, in the State of South Carolina and St. Michael's Church of Trust; The Vestry and Church Wardens of St. Jude's Church of Walterboro of The Episcopal Church of the Parish of Prince George Winyah; The Vestry and Church Wardens of the Episcopal Church of the Parish of St. Helena and The Parish Church of St. Helena Trust; The Vestry and Church Wardens of the Episcopal Church of the Parish of St. Matthew; the Vestry and Wardens of St. Paul's Church, Summerville; Trinity Church of Myrtle Beach; Trinity Episcopal Church; Trinity Episcopal Church, Pinopolis; Vestry and Church Wardens of the Episcopal Church of the Parish of Christ Church; Vestry and Church Wardens of the Episcopal Church of the Parish of St. John's, Charleston County; and the Vestries of Church Wardens of the Parish of St. Andrew, Plaintiffs,

Of which The Protestant Episcopal Church in the Diocese of South Carolina; The Trustees of the Protestant Episcopal Church in South Carolina, a South Carolina Corporate Body are the Plaintiffs/Respondents,

vs.

The Episcopal Church (a/k/a The Protestant Episcopal Church in the United States of America); The Episcopal Church in South Carolina, Defendants,

Of Which The Episcopal Church of South Carolina is the.....Defendant/Appellant.

MOTION TO CERTIFY FOR REVIEW

I. Introduction and Procedural History

Plaintiffs/Respondents, The Protestant Episcopal Church In The Diocese of South Carolina; The Trustees of the Protestant Episcopal Church of South Carolina, a South Carolina Corporate Body; All Saints Protestant Episcopal Church, Inc.; Christ St. Paul's Episcopal Church; Christ the King, Waccamaw; Church Of The Cross, Inc. and Church Of The Cross Declaration of Trust; Church Of The Holy Comforter; Church Of The Redeemer; Holy Trinity Episcopal Church; Saint Luke's Church, Hilton Head; St. Andrews Church – Mt. Pleasant and The St. Andrews Church – Mt. Pleasant Land Trust; St. Bartholomews Episcopal Church; St. James' Church, James Island, S.C.; St. John's Episcopal Church of Florence, S.C.; St. Davids Church; St. Matthews Church; St. Matthias Episcopal Church, Inc.; St. Paul's Episcopal Church of Bennettsville, Inc.; St. Paul's Episcopal Church of Conway; The Church Of Our Saviour, Of The Diocese Of South Carolina; The Church of St. Luke and St. Paul, Radcliffeboro; The Church Of The Epiphany (Episcopal); The Church Of The Good Shepherd, Charleston, SC; The Church Of The Holy Cross; The Church Of The Resurrection, Surfside; The Protestant Episcopal Church, The Parish Of St. Michael, In Charleston, In The State of South Carolina and St. Michael's Church Declaration Of Trust; The Protestant Episcopal Church, Of The Parish Of St. Philip, In Charleston, In The State of South Carolina; The Vestries and

Churchwardens of the Parish of Old St. Andrew; The Vestry and Church Wardens of St. Jude's Church of Walterboro; The Vestry and Church Wardens Of The Episcopal Church Of The Parish Of Prince George Winyah; The Vestry and Church Wardens Of The Episcopal Church Of The Parish Of St. Helena And The Parish Church Of St. Helena Trust; The Vestry and Church Wardens Of The Episcopal Church Of The Parish Of St. Matthew; The Vestry and Wardens Of St. Paul's Church, Summerville; Trinity Church of Myrtle Beach; Trinity Episcopal Church, Edisto Island; Trinity Episcopal Church, Pinopolis; Vestry and Church-Wardens Of The Episcopal Church Of The Parish Of Christ Church; Vestry and Church Wardens Of The Episcopal Church Of The Parish Of St. John's, Charleston County; ("hereinafter "Plaintiffs") pursuant to Rule 204(b), SCACR, hereby move, the Supreme Court of South Carolina to transfer jurisdiction of the pending appeal and the motion to dismiss from the Court of Appeals to the Supreme Court.

Rule 204(b) certification is "normally appropriate where the case involves an issue of significant public interest or a legal principle of major importance." *Id.* Both elements are present here. Transfer is also authorized by statute "in other cases the court considers appropriate." S.C. Code Ann. § 14-8-210 (amended 1999). In addition, there exist important reasons why expedition should occur with respect to this appellate matter, which transfer to this Court will address.

Defendants/Appellants, The Episcopal Church (a/k/a, The Protestant Episcopal Church in the United States of America); and The Episcopal Church in South Carolina (hereinafter "Defendants") have appealed what Plaintiffs believe, according to this Court's precedent, is plainly an unappealable discovery order. In light of this Court's

clear precedent, Plaintiffs believe this appeal has been taken primarily for purposes of delay. Plaintiffs have moved to dismiss the appeal. Nevertheless, Defendants have persisted in arguing to the contrary and have filed a Return of twenty-two pages, (not including attachments) insisting the discovery order is appealable. For the reasons stated below, Plaintiffs' request that this Court assume jurisdiction of this case and address the pending motion to dismiss. The motion to dismiss, the return, and the reply to the return are attached hereto for the Court's convenience. A brief procedural history follows.

This is an action by thirty-seven South Carolina non-profit charitable corporations, whose business happens to be religious. These thirty-seven non-profit corporations represent approximately 24,000 South Carolinians who are parishioners. It was filed on January 4, 2013 against an unincorporated New York association (The Episcopal Church) and a South Carolina unincorporated association (The Episcopal Church in South Carolina). The Defendants' businesses are also religious.

The action seeks resolution of the real and personal property rights (including intellectual) of the parishes, the Diocese and the Trustees of the Diocese. It invokes the state court's declaratory and injunctive powers arising out of three South Carolina statutes.¹ The Plaintiff non-profit corporations range in age from 331 to 3 years or an average of 179 years. (*See* Attachment A). They are located in almost every county of lower South Carolina. Their buildings, land, marks and heritage are at the core of the history of lower South Carolina extending well before the creation of the United States. Their graveyards contain many South Carolinians, some of whom had prominent historical roles including signers of the Declaration of Independence, the United States

¹ S.C. Code §§ 15-53-10 *et. seq.* ("Uniform Declaratory Judgments Act"), §§ 39-15-1105 *et. seq.* ("Trademarks and Service Marks"), and §§ 16-17-310 & 320 ("Improper Use of Names").

Constitution, Justices of the Supreme Courts of both the United States and South Carolina, a Vice President of the United States, Governors, Senators, United States Ambassadors, Revolutionary War soldiers and many others.² Many of these non-profit corporations were created by the South Carolina legislature and they all have carried out their religious business over their history, acquiring, maintaining, repairing and restoring their property solely through the efforts and resources of their parishioner members.³

After the action was commenced, The Episcopal Church through its counsel Thomas S. Tisdale, consented to the entry of a temporary injunction and consented to an amended complaint adding its co-defendant, The Episcopal Church in South Carolina also represented by Mr. Tisdale. Both Defendants answered raising 21 affirmative defenses and asserting 8 counterclaims. These unincorporated associations also asked for a declaration of their interests in the real and personal (including intellectual) property possessed by the Plaintiffs.

The consent injunction expressly provided a procedure for any party to seek its dissolution or modification. However, rather than seeking its modification or dissolution, an action was commenced by a member of The Episcopal Church and an agent of The

² Commenting on the history of part of this area, Charleston, this Court has stated:

Throughout the district [old and historic Charleston] there are buildings, which call to mind the times of the colonial governors, of the signers of the Declaration, of Revolutionary patriots, or statesmen and soldiers of the early days of the state and of the republic. This section of the city may well be said to be the cradle of the history of our state.

Stevenson v. Bd. of Adjustment of City of Charleston, 230 S.C. 440, 443, 96 S.E.2d 456, 457 (1957).

³ *The Protestant Episcopal Church in the Diocese of South Carolina v. The Episcopal Church*, Second Amended Complaint, ¶¶ 41,55,64,77,88,100,110,122,133,143,159,174,188,198,208,217,228,244,253,262,273,285,294,315, 331,342,356,377,389,405,414,428,440,453, and 469.

Episcopal Church in South Carolina⁴, Charles vonRosenburg, in federal court seeking declaratory and injunctive relief from the federal court.⁵ As the federal court described it, the injunctive relief requested would be in “direct contravention of a temporary injunction already issued by the state court.” Or. Granting Def.’s Mot. To Dismiss, *VonRosenberg v. Lawrence*, 2:13-cv-587-CWH, 18 (D.S.C. Aug. 23, 2013). Simultaneously, the Defendants removed this action to federal court. Calling the federal action brought by vonRosenburg “procedural fencing,”⁶ the federal court dismissed it.⁷ *Id.* The Court also granted Plaintiffs’ Motion to Remand this action. Or. Granting Pls.’ Mot. To Remand, 2:13-cv-893-CWH (D.S.C. June 10, 2013).

II. Argument

A. *This Case Involves Issues of Significant Public Interest.*

The property and the history of the Plaintiffs are at the very core of this state’s history. Thirteen of the Plaintiffs came into existence when South Carolina was still an English Colony. Seventeen were legislatively chartered, most under South Carolina’s early constitutions. Many books have been written about the Plaintiffs’ histories.⁸ South

⁴ “In addition to being an agent of ECSC [Episcopal Church in South Carolina], Bishop vonRosenberg’s interests are aligned with TEC [The Episcopal Church].” Or. Granting Def.’s Mot. To Dismiss, *VonRosenberg v. Lawrence*, 2:13-cv-587-CWH, 16 (D.S.C. Aug. 23, 2013).

⁵ Mr. Tisdale also represented the Plaintiff in the federal action.

⁶ *Great Am. Ins. Co. v. Gross*, 468 F.3d 199, 212 (4th Cir. 2006) (procedural fencing is when “a party has raced to a federal forum in an effort to get certain issues that are already pending before the state courts resolved first in a more favorable forum”).

⁷ “Bishop vonRosenberg’s claim seeks the same relief as TEC’s counterclaim in the state action. In addition, the desired relief here directly conflicts with a state court ordered temporary injunction with which Bishop vonRosenberg has been twice-served with notice before filing this action. These facts alone suggest procedural fencing, given that Bishop vonRosenberg filed this action with full knowledge that service mark control and the Diocese’s legal status as a whole were already at issue before the state court.” Or. Granting Def.’s Mot. To Dismiss, 2:13-cv-587-CWH at 19-20.

⁸ Philip G. Clarke, Jr., *Anglicanism in South Carolina 1660-1976* 156 (Southern Historical Press 1976); Frederick Dalcho, *The Protestant Episcopal Church in South Carolina 1670-1820* 613 (E. Thayer 1820); Harriet Linen Goodbody, *A Goodly Heritage: A History of Episcopal Churchwomen in the Diocese of South Carolina* 110 (Nelson Printing 1984); Suzanne Cameron Linder, *Anglican Churches in Colonial South Carolina: Their History and Architecture* 147 (Wyrick & Co. 2000); Albert Sidney Thomas, *The*

Carolínians have worshiped in these church buildings since as early as 1680. Today, around 24,000 South Carolínians continue to worship in Plaintiffs' churches.

The federal court, in its order dismissing the parallel action noted South Carolina's "strong interest" in the issues raised by this case: the state marks, parishes located in South Carolina, the "primary questions at issue...are of great import to South Carolina," and the "breadth of the Diocesan dispute." Or. Granting Def.'s Mot. To Dismiss, 2:13-cv-587 at 17.

Admittedly, what is "of significant public interest" is a subjective determination within the exclusive province of the Court. Plaintiffs respectfully submit that whether the 24,000 parishioners through their elected leaders have the right to control the thirty-seven

Episcopal Church in South Carolina: A Historical Account of the Protestant Episcopal Church in South Carolina 1820-1957 877 (The R. L. Bryan Co. 1957); *Dr. Frederick Dalcho (1769-1836)*; *First Diocesan Historian*, Historical Magazine of the Protestant Episcopal Church, Vol. XXVI, No. 4, 311-28 (Dec. 1957); *The Rev. Samuel Thomas and His Account of the Church in South Carolina, 1702-1706*, Historical Magazine of the Protestant Episcopal Church, Vol. XXIII, No. 3, 219-57 (Sept. 1954); The Rt. Rev. Jos. Blount Cheshire, D.D., *Bishop Atkinson and The Church In the Confederacy* (Alfred Williams & Co. 1909); Richard M. Smith, *Organization Of The Protestant Episcopal Church Of The Confederate States, A.D. 1861 and Its Reunion With The Protestant Episcopal Church In The United States* (Harold's Printing House 1882); Anne King Gregorie, *Christ Church, 1706-1959 A Plantation Parish of the South Carolina Establishment* (The Dalcho Historical Society 1961); History Committee of St. Helena's Episcopal Church, *The History of the Parish Church of St. Helena, Beaufort, S.C.* (R.L. Bryan Co. 1990); Barbara R. Payne, *Amazing Grace, The Parish Church of St. Helena, Three Hundred Years of History, 1712-2012* (Lydia Inglett Ltd. Publg. 2012); Peggy Dukes, *A Historical Account of the Church of the Redeemer, Orangeburg SC* (March 10, 1961); The Rt. Rev. Alexander Gregg, D.D., *History of the Old Cheraws* 162-81 (The State Co. 1925); Eugene N. Zeigler, *Refugees and Remnants* (Clio Press, Inc. 2002); George W. Williams, *St. Michael's Charleston, 1751-1951, With Supplements 1951-2001* (U. of South Carolina Press 1951, Supp. 2001); Samuel Barnett King, *Beesley's Illustrated Guide to St. Michael's Church* (Presses of Southern Printing & Publg. Co. 1938); George S. Holmes, *A Historic Sketch The Parish Church of St. Michael in Charles Town, in The Province of South Carolina, Founded 1752* (Walker, Evans & Cogswell Co., Printers 1887); Rev. John Kershaw, D.D., *St. Michael's Church 1751-1915* (1915); Jackson, Roderick H., *A Short Sketch of St. Paul's Episcopal Church, Bennettsville, SC* (1948); Ann Fripp Hampton, *Tombstones and Tablets St. Paul's Episcopal Church Summerville, South Carolina* (Phantom Press 1998); William McIntosh, III, *The Spiritual Journey of St. Phillip's Church, 1906-2012* (CreateSpace Indep. Publg. Platform Apr. 24, 2013).

Pls. Responses to TEC's First Request for Production No. 1 (Sept. 5, 2013) (for The Diocese of South Carolina, Vestry and Church-Wardens Of The Episcopal Church Of The Parish Of Christ Church, The Vestry and Church Wardens Of The Episcopal Church Of The Parish Of St. Helena And The Parish Church Of St. Helena Trust, The Church of the Redeemer, St. David's Church, Cheraw, St. Johns Church, Florence, The Protestant Episcopal Church, The Parish Of St. Michael, In Charleston, In The State of South Carolina and St. Michael's Church Declaration Of Trust, St. Paul's Episcopal Church of Bennettsville, Inc., and The Vestry and Wardens Of St. Paul's Church, Summerville).

South Carolina non-profit corporations and the historic structures they presently possess and own is a matter “of significant public interest” to this state.

B. This Case Involves Legal Principles of Major Importance.

Two legal issues of major importance are presented by this motion: the State’s interest in the speedy relief contemplated in the state’s declaratory judgment statute and the Court’s interest in judicial economy repeatedly expressed in its decisions regarding interlocutory decisions of the trial court.

The defendants are misusing the judicial system to delay resolution of this case. Their strategy of appealing an interlocutory order is evidence of that intent. This is the same strategy that caused 8 months to be wasted at the start of this case in federal court where they asked the federal court to override the state court injunction and premised the action brought there on a standard rejected by this Court’s precedent. This conduct interferes with the purpose of a speedy and inexpensive resolution behind a declaratory judgment action and with well-known considerations of judicial economy. *Power v. McNair*, 255 S.C. 150, 154, 177 S.E.2d 551, 553 (1970) (“...[T]he declaratory judgment statute should be liberally construed to accomplish its intended purposes of affording a speedy and inexpensive method of deciding legal dispute and of settling legal rights and relationships...”). Similarly, Rule 57, SCRCP, provides that the court “may order a speedy hearing of an action for a declaratory judgment and may advance it on the calendar.” In addition, the Defendants have consistently advocated a standard of resolution for this case that is inconsistent with *All Saints Parish Waccamaw v. The Protestant Episcopal Church in the Diocese of South Carolina*, 385 S.C. 429, 685 S.E.2d 163 (2009).

Rather than confronting the question of whether their claims or defenses are warranted under this existing precedent or making a good faith argument for modification or reversal of *All Saints*, Defendants have simply ignored it and argued the standard that *All Saints* rejects.⁹ By refusing to discuss this applicable law and instead filing a lawsuit in federal court and motions in both federal and state court relying on the standard rejected by *All Saints*, they have delayed improperly this case's resolution and in the process caused unnecessary resources, of the parties and of the Court, to be expended.¹⁰

⁹ "A lawyer is not required to make a disinterested exposition of the law, but must recognize the existence of pertinent legal authorities." Rule 3.3, RPC, Rule 407, SCACR (Comment 4); *Video Gaming Consultants, Inc. v. South Carolina Dept. of Revenue*, 358 SC 647, 651, 595 SE 2d. 890, 892 (2004) (recognizing the requirement but finding no lack of candor).

¹⁰ **April 11, 2013:** Def. Response to Pls. Mot. for Prelim. Inj., *vonRosenburg v. Lawrence*, 2:13-CV-587 (D.S.C. Apr. 11, 2013) ("The central argument vonRosenberg makes from which all the other issues flow is that TEC is a hierarchical church and therefore, this court must defer to "decisions of church authorities regarding the identity of church leaders and the government and direction of subordinate bodies. He relies for this argument principally on, a United States Supreme Court decision, *Serbian Orthodox Diocese v. Milivojevic*, 426 U.S. 696 (1976) and a Fourth Circuit decision, *Dixon v. Edwards*, 290 F. 3d 699 (4th Cir. 2002). **Not mentioned in any fashion is the 2009 decision of the South Carolina Supreme Court, *All Saints Parish***, discussed *supra* at 5 to 7.") (emphasis added);

April 25, 2013: Def. Reply to Pl. Response to Mot. to Dismiss, *vonRosenburg v. Lawrence*, 2:13-cv-587, 4-5 (Apr. 25, 2103) ("**Without directly referencing *All Saints Parish***, vonRosenberg asserts that "neutral principles" may only be used to resolve disputes over 'ownership of church property.' (emphasis-added quote attributed to *Jones v. Wolf*) but not those over 'control of property'; the latter being determined by the deference standard of *Serbian v Milivojevic*, 426 U.S. 696 (1976). Pl. Response, Doc. No. 24, at 7. *Jones* did not limit its application to property ownership issues: 443 U.S. at 601 'ownership and control', at 602 'possess and enjoy' church property, at 603 'ownership and control' and at 605 'control over church property,' 'locus of control' of church property. *Accord, All Saints Parish*, 385 S.C. at 434, 685 S.E.2d at 166 ('a dispute over church property and corporate control'.)") (emphasis added);

May 2013: Pls. Reply to TECSC Response to Mot. to Remand 3-4, 2:13-cv-893 (May 9, 2013) ("**the ECSC (and TEC) simply ignore what the Supreme Court of South Carolina has said, arguing instead a standard expressly rejected by South Carolina.**") (emphasis added);

October 2013: Pls. Memo. in Opposition to Mot. to Vacate 3, 6 (Oct. 10, 2013) ("The TECSC's argument is set in ecclesiastical fantasyland, ignoring the realities of South Carolina civil law and the controlling jurisprudence of *All Saints Parish Waccamaw v. Protestant Episcopal Church in Diocese of S.C.*, 385 S.C. 428, 685 S.E.2d 163 (2009), which it never mentions." and "It is remarkable that the TECSC, as it did in federal court, never mentions the controlling South Carolina case of *All Saints* nor the U.S. Supreme Court case of *Jones v. Wolf*, 443 U.S. 595, 99 S.Ct. 3020 (1979), on which *All Saints* relies. There is no greater indication of the weakness of its position than its failure to mention or discuss *All Saints*.")) (emphasis added);

November 2013: Or. Denying Def. Mot. to Vacate 7 (Nov. 8, 2013) ("Finally, TECSC never mentioned nor tried to distinguish what appears to be the controlling decision of *All Saints Parish Waccamaw v. Protestant Episcopal Church in the Diocese of SC*, 385 S.C. 428, 444, 685 S.E.2d 163, 172 (2009). ('Church disputes that are resolved under the neutral principles of law approach do not turn on the single question of whether a church is congregated or hierarchical. Rather, the neutral principles of law approach permits the application of property, corporate and other forms of law to church disputes.') This is

The Defendants' failure to confront the *All Saints* decision was repeatedly made an issue in the federal court action, yet it did not deter them from continuing to ignore *All Saints*.

Even the federal court noted *All Saints*' applicability:

It appears that one of the underlying issues may be ecclesiastical; however, that alone does not necessitate inquiring into, or resolution under the First Amendment. *See e.g., All Saints Parish v. Waccamaw v. Protestant Episcopal Church in the Diocese of S.C.*, 685 S.E.2d 163, 171 (S.C. 2009) (holding the court could resolve church control issues solely "through the application of neutral principles of [state] property, trust and corporate law []" without implicating the First Amendment)."

Or. Granting Pls.' Mot. To Remand, 2:13-cv-893-CWH at 15.

The eight months that the parallel action was pending in federal court and the six months that this removed action was pending there were all premised on an argument for the application of a standard rejected by *All Saints*. Once back in state court, the pattern continued. When forced in open court to confront their continued failure to confront *All Saints*, all that was said was that *All Saints* was not a trademark case.¹¹ The resources expended by the parties and the judicial system in this misadventure should not have happened. As the court of last resort in this state, this Court's assumption of jurisdiction

an action which concerns corporate control and interests in property. These were the same issues present in *All Saints*. *Id.* at 434, 685 S.E.2d at 166. There, the lower court's deference to the rules of TEC was reversed. *Id.* at 449, 68 S.E.2d at 174." (emphasis added).

¹¹ Mr. Runyan: ...And perhaps the most stunning omission – and I say this with true amazement. I really do. I've been through hundreds of hours in federal court on this case, written countless briefs, have appeared before Your Honor a bit, and at no time did The Episcopal Church in South Carolina, through its chief operating officer in that case, ever mention *All Saints Parish*. I've poked them a lot about it. I put it in my brief. I talked about it being controlling. They ran from it. And you know what, it's not in their brief that they served last night. They totally left out *All Saints Parish*. Now, that tells me one thing: They have no answer for it because they clearly know it exists because their superior was a party together with the Diocese in that case, together with Ms. Golding's client.

Hrg. Transcr. 72:15 to 73:3 (Oct. 11, 2013).

Mr. Tisdale: --of clarification and reply. First of all, I think it's kind of significant here that the *All Saints* case that Mr. Runyan got into explaining well was not a trademark case. That's one thing. This is a trademark case.

Id. at 87:2-6.

now can not only allow this case of “significant public interest” to proceed in the appropriate appellate forum but also can deter the strategy of using the court system to further delay resolution of this case.

C. This Court should Assume Jurisdiction over this Matter due to the Need for Expedition.

Ordinarily, this Court reviews Court of Appeals’ decisions by way of writ of certiorari, but only after there has been a rehearing petition in the Court of Appeals that has been considered by that Court and denied. Here, if the Plaintiff’s motion to dismiss were to be granted by the Court of Appeals, the Defendants will no doubt seek a Petition for Rehearing, then if that is denied, seek a writ of certiorari from this Court. This will cause a potentially long delay where the litigation between the parties is not advancing, yet the trial date established below is ever approaching. Transfer by this Court solves this possible problem. Further, if the motion to dismiss were to actually be denied by the Court of Appeals, the Plaintiffs would be prohibited by rule from seeking a petition for rehearing. Since a petition for rehearing is ordinarily, in turn, a prerequisite to getting a writ of certiorari from this Court, the Plaintiffs would be stuck in an appeal before the Court of Appeals and may have few options to obtain review short of proceeding through with the entirety of that appeal. Transfer by this Court would solve this possible problem as well.

Hence, based on the above, Plaintiffs respectfully request that this Court grant this motion and certify this case for review in this Court, which would include the pending motion to dismiss filed by Plaintiffs. Having this appeal addressed directly by this Court,

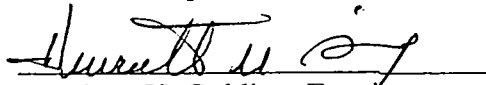
and having any further appeals in this case addressed directly by this Court, is appropriate and needed for the reasons expressed herein.

Respectfully submitted,

February 6, 2014

Respectfully submitted,

*The Protestant Episcopal Church In The Diocese of
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Exhibit A

Summary - Plaintiffs' Formation and Incorporation Dates, Second Amended Complaint (Exhibit 17)

<i>Plaintiff</i>	<i>Second Amended Complaint paragraph(s)</i>	<i>Formation Date</i>	<i>Incorporation Date</i>	<i>Incorporated By South Carolina Legislature</i>
The Protestant Episcopal Church, Of The Parish Of St. Philip, In Charleston, In The State of South Carolina	303,306	1681	1785	Yes
Vestry and Church-Wardens Of The Episcopal Church Of The Parish Of Christ Church	446,449	1707	1787	Yes
Christ St. Paul's Episcopal Church	44,46	1708	1997	
Episcopal Church Of The Parish Of St. Helena And The Parish Church Of St. Helena Trust	359,362	1712	1786	Yes
The Vestry and Wardens Of St. Paul's Church, Summerville	393,397	1717	1855	Yes
The Vestry and Church Wardens Of The Episcopal Church Of The Parish Of Prince George Winyah	346,349	1721	1788	Yes
The Vestry and Church Wardens of St. Jude's Church of Walterboro	334,336	1725	1855	
Vestry and Church Wardens Of The Episcopal Church Of The Parish Of St. John's, Charleston County	456,459	1734	1786	Yes
St. James' Church, James Island, S.C.	177,180	1756	1832	
Saint Luke's Church, Hilton Head	115,117	1767	1788	Yes
The Vestry and Church Wardens Of The Episcopal Church Of the Parish Of St. Matthew ("St. Matthew's Parish Fort Motte")	381	1768	1788	Yes
St. Davids Church	162,163	1773	1885	
Trinity Episcopal Church, Edisto Island	417,419	1774	1793	Yes
The Protestant Episcopal Church in The Diocese of South Carolina	1,4	1785	1973	Yes
The Protestant Episcopal Church, The Parish Of Saint Michael, In Charleston, In The State Of South Carolina and St. Michael's Church Declaration of Trust	319,323	1785	1785	Yes
The Church of The Holy Cross	277,278	1788	1788	Yes
Trinity Episcopal Church, Pinopolis	431,433	1808	1971	
The Church Of St. Luke and St. Paul, Radcliffeboro ("The Cathedral")	231,232-235	1814	1951	Yes
St. Andrews Church - Mt. Pleasant and The St. Andrews Church-Mt. Pleasant Land Trust	136,138	1835	1954	
Church of The Cross, Inc. and Church Of The Cross Declaration Of Trust	67,70	1842	1979(?)	
Church Of The Holy Comforter	80,84	1844	1857	Yes

<i>Plaintiff</i>	<i>Second Amended Complaint paragraph(s)</i>	<i>Formation Date</i>	<i>Incorporation Date</i>	<i>Incorporated By South Carolina Legislature</i>
Church Of The Redeemer	91,94	1851	1922	
St. John's Episcopal Church of Florence, S.C.	191,193	1866	1875	
The Trustees of the Protestant Episcopal Church in South Carolina	29	1880	1880	Yes
Saint Matthews Church	125,128	1886	1905	
St. Paul's Episcopal Church Of Bennettsville, Inc.	211,212	1894	2002	
St. Matthias Episcopal Church, Inc.	201,203	1899	1984	
St. Bartholomews Episcopal Church	152,154	1902	1922	
St. Paul's Episcopal Church Of Conway	220,222	1908	1979	
The Church Of The Good Shepherd, Charleston, S.C.	266,268	1922	1927	
Trinity Church Of Myrtle Beach	408,410	1939	1949	
Holy Trinity Episcopal Church	103,105	1956	1957	
All Saints Protestant Episcopal Church, Inc.	35,36	1957	1958	
The Church Of The Resurrection, Surfside	288,290	1971	1971	
The Church Of The Epiphany (Episcopal)	256	1972	1972	
The Church Of Our Saviour Of The Diocese Of South Carolina	247,249	1980	1981	
Christ The King, Waccamaw	58	2010	2010	

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

Diane S. Goodstein, Circuit Court Judge

Case No.: 2013-CP-18-00013

The Protestant Episcopal Church in The Diocese of South Carolina; The Trustees of the Protestant Episcopal Church in South Carolina, a South Carolina Corporate Body; All Saints Protestant Episcopal Church, Inc.; Christ St. Pauls' Episcopal Church; Christ the King, Waccamaw; Church of the Cross, Inc. and Church of the Cross Declaration of Trust; Church of the Holy Comforter; Church of the Redeemer; Holy Trinity Episcopal Church; Said Luke's Church, Hilton Head; St. Matthews Church; St. Andrews Church-Mt. Pleasant and The St. Andrews Church-Mt. Pleasant Land Trust; St. Bartholomew's Episcopal Church; St. James Church, James Island, S.C.; St. John's Episcopal Church of Florence, S.C.; St. Mathias Episcopal Church, Inc.; St. Paul's Episcopal Church of Conway; The Church of St. Luke and St. Paul, Radcliffeboro; The Church of Our Savior of the Diocese of South Carolina; the Church of the Epiphany (Episcopal); The Church of the Good Shepherd, Charleston, S.C.; The Church of The Holy Cross; The Church of the Resurrection, Surfside; The Protestant Episcopal Church of the Parish of Saint Philip, in Charleston, in the State of South Carolina; The Protestant Episcopal Church; The Parish of Saint Michael, in Charleston, in the State of South Carolina and St. Michael's Church of Trust; The Vestry and Church Wardens of St. Jude's Church of Walterboro of The Episcopal Church of the Parish of Prince George Winyah; The Vestry and Church Wardens of the Episcopal Church of the Parish of St. Helena and The Parish Church of St. Helena Trust; The Vestry and Church Wardens of the Episcopal Church of the Parish of St. Matthew; the Vestry and Wardens of St. Paul's Church, Summerville; Trinity Church of Myrtle Beach; Trinity Episcopal Church; Trinity Episcopal Church, Pinopolis; Vestry and Church Wardens of the Episcopal Church of the Parish of Christ Church; Vestry and Church Wardens of the Episcopal Church of the Parish of St. John's, Charleston County; and the Vestries of Church Wardens of the Parish of St. Andrew, Plaintiffs,

Of which The Protestant Episcopal Church in the Diocese of South Carolina; The Trustees of the Protestant Episcopal Church in South Carolina, a South Carolina Corporate Body
are the..... Plaintiffs/Respondents,

v.

The Episcopal Church (a/k/a The Protestant Episcopal Church in the United States of America);
The Episcopal Church in South Carolina, Defendants,

Of Which The Episcopal Church of South Carolina is the..... Defendant/Appellant.

PROOF OF SERVICE

I, Carole Koerner, an employee of McNair Law Firm, P.A., attorneys for the Plaintiffs/Respondents The Protestant Episcopal Church in the Diocese of South Carolina, and The Trustees, do hereby certify that I have served a copy of Plaintiffs//Respondents' Motion to Certify for Review to counsel of record, on this the 6th day of February, 2014, via U.S. Mail first class postage prepaid and/or via email communication as indicated below:

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The Protestant Episcopal Church, The Parish of
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Trinity Episcopal Church, Edisto Island

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AND
The Trustees of The Protestant Episcopal Church
in South Carolina, A South Carolina Corporate
Body

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in South Carolina, A South Carolina Corporate
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St. Bartholomews Episcopal Church

The Church of the Holy Cross

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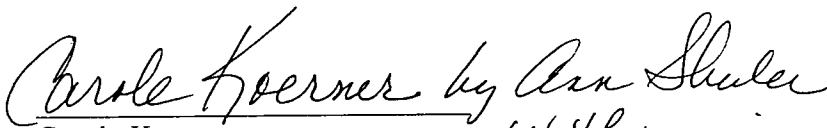
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The Protestant Episcopal Church, The Parish of
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