

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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JUN 25 2014

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

S.C. Supreme Court

RECEIVED

JUN 25 2014

SC Court of Appeals

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. 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; Saint Matthews Church; St. Andrews Church-Mt. Pleasant and The St. Andrews Church-Mt.Pleasant Land Trust; St. Bartholomews Episcopal Church; St. Davids Church; St. James' Church, James Island, S.C.; St. John's Episcopal Church of Florence, S.C.; St. Matthias Episcopal Church, Inc.; St. Paul's Episcopal Church of Bennettsville, Inc.; St. Paul's Episcopal Church of Conway; The Church Of St. Luke and St. Paul, Radcliffeboro; The Church Of Our Saviour Of The Diocese of South Carolina; 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 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 Declaration Of Trust; 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; 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, Parish of St. Andrew,

..... 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 in South Carolina is theAppellant.

MOTION TO DISMISS APPEAL AND FOR EXPEDITED HEARING

The Respondents, The Protestant Episcopal Church in the Diocese of South Carolina and the Trustees of The Protestant Episcopal Church in South Carolina and on behalf of all the 36 other Plaintiffs, hereby move to dismiss the Appeal of the Appellant, The Episcopal Church in South Carolina, (“TECSC”) dated June 23, 2014.

The grounds for this motion are that this appeal is a transparent attempt to delay a date certain trial. Trial for this designated complex case has been scheduled for a date certain to begin July 7, 2014. The order appealed from is interlocutory, not immediately appealable, and not ripe for review.

In addition to the grounds for this motion to dismiss, the Respondents request this motion be heard in an expedited fashion and that the deadline for responding to this motion be shortened in light of the July 7, 2014, date certain trial.¹

PROCEDURAL HISTORY

On June 23, 2014, Appellants filed a Notice of Appeal from an Order Denying Defendant TECSC’s Motion to Join Additional Parties, filed on May 20, 2014, and subsequent Order denying TECSC’s motion for reconsideration, filed on June 6, 2014. The Orders deny TECSC’s

¹ See Amended Scheduling Order, attached as **Exhibit A**; Second Amended Scheduling Order, attached as **Exhibit B**; Order Denying Continuance, attached as **Exhibit C**, Order Vacating Second Amended Scheduling Order dated May 15, 2014 **Exhibit D**.

November 25, 2013 motion to assert new claims and join four new parties -- Mark Lawrence, James Lewis, Jeffery Miller, and Paul Fuener, on the grounds that:

(1) the proposed new claims are not counterclaims permitted to be joined under Rule 13(h), SCRCF;

(2) a previous, unappealed order held that the four new parties were not indispensable parties under Rule 19, SCRCF; and,

(3) the proposed new claims do not give rise to any causes of action to which the court can grant relief and permissive joinder is not proper under Rule 20, SCRCF.

This is the second interlocutory appeal filed by Appellants. The previous interlocutory appeal was dismissed as not immediately appealable by the South Carolina Court of Appeals on March 18, 2014, and rehearing was denied by the Supreme Court of South Carolina² on May 7, 2014. The present appeal by Petitioners should similarly be dismissed as interlocutory and unappealable.

BACKGROUND

This lawsuit started in January 2013 as a declaratory judgment against the Appellants regarding the use and ownership of real and personal property by the Protestant Episcopal Church in the Diocese of South Carolina (the "Diocese") and numerous South Carolina parishes and churches (the "Parishes"). The Appellants removed the case to federal court, and it was subsequently remanded. The Appellants' first motion to join twenty-five new parties under Rules 13, 19 and 20 was denied on October 1, 2013, and reconsideration was denied on December 12, 2013. The Appellants filed a successive motion to join four of the twenty-five

² Respondent filed a motion to certify the appeal from the Court of appeals to the Supreme Court while the petition for rehearing was pending. Without objection from the same Appellant, TECSC, the Supreme Court certified the appeal and has assumed appellate jurisdiction over this matter. SCACR 204(b), ("The effect of such certification shall be to transfer jurisdiction over the case to the Supreme Court for all purposes.")

previously identified new parties under Rules 13, 19, and 20 on November 25, 2013. Although not cited or referenced in Appellants' successive motion, the actual relief sought in their motion was to bring in third-parties to the pending lawsuit under Rule 14(a), SCRCP. **See Order Denying TECSC's Motion to Join Additional Parties, fn. 2, recorded May 20, 2014.**

This second motion for joinder was denied on May 16, 2014. The Appellants' motion for reconsideration of the May 16, 2014 Order denying the Motion for Joinder was denied on June 6, 2014.

ARGUMENT

I. The South Carolina Supreme Court is the proper court to rule on this Motion.

Pursuant to the February 6, 2014 Motion to Certify Review pursuant to Rule 204(b), and subsequent April 4, 2014 Order Certifying Review, jurisdiction over this successive interlocutory appeal and motion to dismiss is properly before the South Carolina Supreme Court. The effect of the previous order of certification is to transfer jurisdiction over the case to the Supreme Court for all purposes. See S.C. Code Ann. §14-8-210(b) (Supp. 2013).

II. The Order relates to pleadings, is interlocutory and is not immediately appealable.

The Appellant TECSC is the Defendant in the underlying action. As the Defendant, TECSC asserted numerous affirmative defenses and counterclaims in its answer. By motion on November 25, 2013, TECSC sought to amend its answer to add new claims against new parties pursuant to Rule 13(h), 20, and 19 of the South Carolina Rules of Civil Procedure.

Rule 13(h), SCRCP, provides: "Parties other than those to the original action may be made parties to a counterclaim or cross-claim in accordance with Rules 19 and 20." However, claims against a party not already in the action are independent additional claims, and joinder of

those new claims and new parties is not proper under Rule 13, SCRCP. Condon v. Best View Cablevision, Inc. 292 S.C. 117, 123, 355 S.E.2d 7, 10 (Ct. App. 1987) (“Nothing would be gained by adding parties for the sole purpose of adjudicating additional claims.”).

It is well settled that an interlocutory order, such as an order denying a motion to amend pleadings or to join parties, is not immediately appealable unless it involves the merits of the case or affects a substantial right. S.C.Code Ann. § 14-3-330(1) and (2) (Supp. 2013); see also Tatnall v. Gardner, 350 S.C. 135, 138, 564 S.E.2d 377, 379 (Ct. App. 2002) (order denying motion to amend pleadings to assert third party claims was not immediately appealable because the order did not determine a substantial matter forming the whole or part of some cause of action).

a. The May 13, 2014 Order denying Joinder of Parties as “Counterclaim Defendants” does not involve the merits.

An order which involves the merits is one that “must finally determine some substantial matter forming the whole or a part of some cause of action or defense.” S.C.Code Ann. § 14-3-330(1); Edwards v. SunCom, 369 S.C. 91, 94, 631 S.E.2d 529, 530 (2006). However, a denial of a motion for joinder of parties, similar to a denial of a motion to amend, does not finally determine any cause of action or defense. Mid-State Distributors, Inc. v. Century Importers, Inc., 310 S.C. 330, 426 S.E.2d 777 (1993) (noting that where the judge did not strike a pleading but refused to allow its filing, the Petitioners have not “arrived at the end of the road” and will be able to appeal the decision after the trial is finished); North Carolina Federal Sav. and Loan Ass'n v. DAV Corp. 298 S.C. 514, 519, 381 S.E.2d 903, 906 (1989) (holding third party claims are permissive in nature and may be brought in subsequent actions); Tatnall v. Gardner, 350 S.C. 135, 138-139, 564 S.E.2d 377, 379 (Ct. App. 2002) (finding that the trial court’s order denying a motion to amend the answer to assert third party claims neither determines a substantial matter

“forming the whole or part of some cause of action,” nor prevents “a judgment from being rendered in the action” from which they then seek review).

In the present case, the May 13, 2014 Order denying Joinder of Parties as “Counterclaim Defendants” does not involve the merits and does not finally determine any substantial matter forming the whole or a part of some cause of action or defense. As a result, Appellants’ Notice of Appeal should be dismissed as interlocutory and not immediately appealable under section 14-3-330(1) of the South Carolina Code.

b. The May 13, 2014 Order denying Joinder of Parties as “Counterclaim Defendants” does not affect a substantial right.

Orders affecting a substantial right, “discontinue an action, prevent an appeal, grant or refuse a new trial, or strike out an action or defense.” S.C.Code Ann. § 14-3-330 (2); Edwards v. SunCom, 369 S.C. 91, 94, 631 S.E.2d 529, 530 (2006). However, the avoidance of trial is not a substantial right entitling a party to immediate appeal of an interlocutory order. Shields v. Marting Marietta Corp., 303 S.C. 469, 402 S.E.2d 482 (1991).

Appellants assert that the May 13, 2014 Order denying Joinder of Parties as “Counterclaim Defendants” involves a substantial right pursuant to Neeltec Enterprises, Inc. v. Long, 397 S.C. 563, 725 S.E.2d 926 (2012). However, Appellants misstate the holding in Neeltec and propose this court adopt a distorted interpretation of the case in order to maintain their artifice to avoid a date-certain trial.³

In Neeltec, the trial court issued an order requiring the plaintiff, upon motion for summary judgment and motion to substitute by the named defendant, Willard Long, to remove

³ On May 21, 2014, the Appellants filed a motion for continuance, which was denied on May 28, 2014. The Appellants filed a motion to reconsider the denial of a continuance on May 29, 2014. The Plaintiffs Response to the Motion for Reconsideration of Order Denying Motion for Continuance is attached hereto as **Exhibit E**. The Appellants then filed a Motion to Quash Subpoenas, Protective order and Continuance, again seeking a continuance of trial. This second interlocutory appeal follows.

him from the suit and substitute two different defendants. Id. at 565, 725 S.E. 2d 927 -28. Long asserted he never owned the Fireworks Superstore, but that it was owned by Hobo Joes, Inc. and subsequently Foxy's Fireworks Superstore, Inc. Id. at 565, 725 S.E. 2d 928. The trial court agreed, and ordered Plaintiff to substitute Hobo Joes, Inc. and Foxy's Fireworks Superstore, Inc. for Defendant Willard Long. Id.

On appeal, the Supreme Court analyzed appealability pursuant to S.C. Code Ann. §14-3-330 of the South Carolina Code and held the order of substitution to be appealable under § 14-3-330(2)(a). Id. at 567, 725 S.E. 2d 928. The Court reasoned that the right of the plaintiff to choose which co-tortfeasors she will sue is a substantial right within the meaning of this subsection. Id. at 566, 725 S.E. 2d 928. In concluding, the court held “this order effectively discontinues petitioner’s suit against Long, thus bringing the order under [§ 14-3-330] 2(a). Id. In essence, the Neeltec trial court granted the motion for summary judgment and dismissed Plaintiff’s claims against Long.

In the present case, this second order denying Appellants Motion to Join Parties does not affect the substantial right of “plaintiffs right to choose [the] defendant”. Appellants are defendants in the present action, not plaintiffs. Defendants maintain no such substantial right to add new parties and assert new causes of action to an existing lawsuit. Rather, those rights are authorized only by Rule 13(h), 19, and 20, SCRPC. However, claims against a party not already in the action are independent additional claims, and joinder of those new claims and new parties is not proper under Rule 13, SCRPC. Condon v. Best View Cablevision, Inc. 292 S.C. 117, 123, 355 S.E.2d 7, 10 (Ct. App. 1987) (“Nothing would be gained by adding parties for the sole purpose of adjudicating additional claims.”). As a result, the substantial right that was found to

exist in the Neeltec case does not exist in the present case and is not affected in the present interlocutory appeal.

Further, the order appealed from denying Appellants' successive Motion to Join Parties does not "effectively discontinue" any portion of their lawsuit or existing counterclaims. The order did not strike a pleading, but rather refused to allow its filing. See Baldwin Const. Co., Inc. v. Graham, 357 S.C. 227, 230, 593 S.E.2d 146, 147 - 148 (2004). As a result, Appellants' Notice of Appeal should be dismissed as interlocutory and not immediately appealable under section 14-3-330(2) of the South Carolina Code.

c. Defendants have waived any appeal of the Order Denying Joinder pursuant to Rule 19

Appellants failed to appeal from the prior order entered October 1, 2013 finding the joinder of the same four parties (as well as numerous other proposed additional parties) "not necessary" under Rule 19, SCRCP, and subsequent order denying reconsideration. See Motion and Memorandum of Law in Support Thereof to Amend the Caption to Join Additional Counterclaim Defendants⁴ (Exhibit F); see also Order Denying Defendants' Motion to Join Additional Counterclaim Defendants (*unappealed*), filed October 1, 2013 (Exhibit G).

As a result, any argument they now make that their joinder is "necessary" is waived. Certainly, Appellants' delay in appealing from this finding until shortly prior to the date certain trial does not give rise to such "exceptional" circumstances necessary for appellate review of this interlocutory order. Rather, Appellants' delay only exacerbates the transparency of their attempts at delay and avoidance of the date certain trial.

III. An expedited ruling on this Motion is proper.

⁴ Exhibit 1 to Defendants Motion to Amend the Caption to Join Additional Counterclaim Defendants includes the proposed amended caption, which listed twenty-five "Additional Counterclaim Defendants", including the four additional defendants who are the subject of the present order: Mark Lawrence, James Lewis, Jeffery Miller, and Paul Fuener.

This declaratory judgment case is pending in Dorchester County, involves more than forty (40) named parties, and has been assigned as a complex case to Judge Diane S. Goodstein. This is the second interlocutory appeal by Appellants. The intent of this interlocutory appeal is to delay a date certain trial scheduled by Judge Goodstein with Court Administration for the first two weeks of July 2014. On May 22, 2014, counsel for TECSC corresponding with one of its expert witnesses made the following statement: "To update you our appeal was dismissed. As of now, the case is scheduled for trial starting July 7th. However, we plan to take another appeal that may stay the case again." (Exhibit H.) The last two scheduling orders entered in this case have identified the trial date to begin on July 7, 2014.

The Respondents respectfully request this Court rule on this motion in a manner so as not to impact the scheduling of the date certain trial, which Respondents and the trial court are ready to begin on July 7, 2014.

In the alternative, this Court should again certify review of and dismiss this successive interlocutory appeal for the reasons previously set forth therein.

Respectfully submitted.

Dated: June 25, 2014

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EXHIBIT A
AMENDED SCHEDULING ORDER

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT
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;)
et al.,)

AMENDED SCHEDULING ORDER

PLAINTIFFS,

v.

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

DEFENDANTS.

2014 JAN - 9 PM 4:31
CERTIFIED COPY
CLERK OF COURT
DORCHESTER COUNTY

By Motion dated December 17, 2013, the Defendant, The Episcopal Church in South Carolina requested that this Court amend its Scheduling Order issued August 2, 2013. At the motions' hearing on December 30, 2013, the Court stated its intent to schedule this case for trial during the month of July 2014 subject to approval by Court Administration. Thereafter, the Parties conferred with respect to amending the Scheduling Order and based upon the Parties' representation to the Court, the August 2, 2013 Scheduling Order is hereby amended as follows:

1. The Parties shall disclose all witnesses anticipated to be called in their case in chief, including any expert witnesses, no later than Tuesday, January 21, 2014 at 5:00 p.m. The Parties have a right to supplement if good cause exists.

2. All depositions must be concluded by Friday, May 2, 2014. Deposition will begin immediately, notices will be subject to the South Carolina Rules of Civil Procedure. In lieu of mailing deposition notices to parties, deposition notices may be served via the virtual

courtroom by posting the notice, emailing the parties' attorney the posted notice, and posting the deposition date on the deposition calendar provided on the site. Depositions of witnesses not parties to this case or controlled by parties shall be served via methods approved by the South Carolina Rules of Civil Procedure, but the notice and date shall be posted on the virtual courtroom.

3. In preparation for trial, the Parties must exchange their witness list and exhibit list by June 5, 2014.

4. The Parties must file with this Court trial briefs no later than June 5, 2014. At the motions hearing on December 30, 2013, the attorneys present advised the Court that they have agreed not to exchange their trial briefs with opposing counsel and therefore no exchange is required.

5. All pre-trial and/or dispositive motions must be filed with the Court at least 30 days prior to the first day of trial.

IT IS SO ORDERED.



The Honorable Diane S. Goodstein
Circuit Court Judge
First Judicial Circuit

St. George, South Carolina

Dated: 1-7-2014

EXHIBIT B

SECOND AMENDED SCHEDULING ORDER

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT
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;)
et al.,)

**SECOND AMENDED
SCHEDULING ORDER**

PLAINTIFFS,)

v.)

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

DEFENDANTS.)

FILED-RECORDED

5-20-14 (AKS)

**Cheryl Graham
Clerk of Court
Dorchester County**

The Court held a status conference on May 13, 2014. The Court heard the parties' respective positions on the amendment of the current scheduling order. The following schedule is established amending the January 7, 2014 Amended Scheduling Order as follows:

1. The Parties shall disclose all witnesses anticipated to be called in their case in chief, including any expert witnesses, no later than Friday, May 16, 2014 at 5:00 p.m. The Parties have a right to supplement if good cause exists.

2. All depositions must be concluded by Friday, June 13, 2014. Deposition will begin immediately, notices will be subject to the South Carolina Rules of Civil Procedure. In lieu of mailing deposition notices to parties, deposition notices may be served via the virtual courtroom by posting the notice, emailing the parties' attorney the posted notice, and posting the deposition date on the deposition calendar provided on the site. Depositions of witnesses not parties to this case or controlled by parties shall be served via methods approved by the South

Exhibit B

MAY-13-2014 15:06 From: 18438320389

To: 918438735319, 7025

Page: 2/2

Carolina Rules of Civil Procedure, but the notice and date shall be posted on the virtual courtroom.

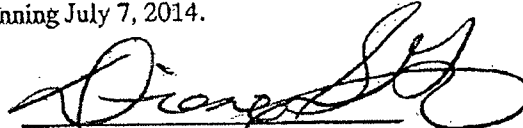
3. In preparation for trial, the Parties must exchange their witness list and exhibit list by June 27, 2014.

4. The Parties must file with this Court trial briefs no later than Friday, June 27, 2014. At the motions hearing on December 30, 2013, the attorneys present advised the Court that they have agreed not to exchange their trial briefs with opposing counsel and therefore no exchange is required.

5. All pre-trial and/or dispositive motions must be filed with the Court at least 15 days prior to the first day of trial.

6. This case is scheduled for trial beginning July 7, 2014.

IT IS SO ORDERED.


The Honorable Diane S. Goodstein
Circuit Court Judge
First Judicial Circuit

St. George, South Carolina

Dated: May 15, 2014

EXHIBIT C

ORDER DENYING CONTINUANCE

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

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;
et al.,

PLAINTIFFS,

v.

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

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

FIRST JUDICIAL CIRCUIT

CASE NO, 2013-CP-18-00013

ORDER

FILED-RECORDED
2014 MAY 28 AM 8:51
CHERYL ESKAWAY
CLERK OF COURT
DORCHESTER COUNTY

The Court has reviewed Defendants' Motion for Continuance filed May 22, 2014. Oral argument would be of no assistance to the Court in ruling on the motion. The Defendants' motion is denied. The Court scheduled the trial date in consultation with both sides and an understanding that the matter once scheduled would go forward.

Further, two scheduling orders have been entered into by the parties, both contemplating the trial date of July 7, 2014. Throughout the pendency of this case the Court has made every effort to promptly hear motions and has held regularly scheduled status conferences to remain updated regarding the progress of the case.

The Second Scheduling Order was signed by the Court on May 15, 2014 and sets forth the trial date of July 7, 2014. It is the Court's understanding the Second Scheduling Order resulted from a conference of both sides. Based upon the foregoing the Defendants' Motion to Continue is DENIED.

AND IT IS SO ORDERED.

This 27th day of May, 2014
St. George, South Carolina

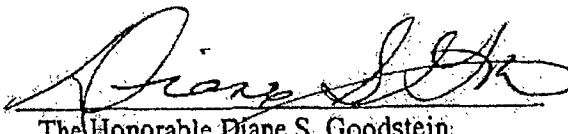

The Honorable Diane S. Goodstein
Circuit Court Judge
First Judicial Circuit

Exhibit C

EXHIBIT D

ORDER VACATING SECOND AMENDED SCHEDULING ORDER

DATED MAY 15, 2014

STATE OF SOUTH CAROLINA)
)
 COUNTY OF DORCHESTER)
)
 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;)
 et al.,)
)
 Plaintiffs,)
 vs.)
)
 The Episcopal Church (a/k/a, The)
 Protestant Episcopal Church in the)
 United States of America); and The)
 Episcopal Church in South Carolina,)
)
 Defendants.)

IN THE COURT OF COMMON PLEAS
 FOR THE FIRST JUDICIAL CIRCUIT
 Case No. 2013-CP-18-00013

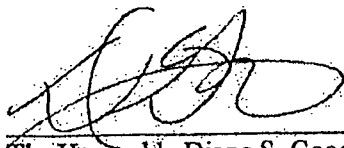
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 2014 JUN -9 AM 9:11
 CLERK OF COURT
 DORCHESTER COUNTY

**ORDER VACATING SECOND
 AMENDED SCHEDULING ORDER
 DATED MAY 15, 2014**

The Parties have agreed to vacate the Second Amended Scheduling Order dated May 15, 2014 and informed the Court that they were diligently, and voluntarily, engaged in discovery since the trial of this action shall commence on July 7, 2014.

Therefore, the Second Amended Scheduling Order is hereby vacated. As a result, the two (2) Scheduling Orders, one dated July 17, 2013, and the Amended Scheduling Order dated January 7, 2014 and recorded January 9, 2014 are the existing Scheduling Orders.

IT IS SO ORDERED.


 The Honorable Diane S. Goodstein
 Circuit Court Judge
 First Judicial Circuit

Dated: June 9, 2014
Dorchester, South Carolina

Exhibit D

EXHIBIT E

**PLAINTIFFS' RESPONSE TO THE MOTION FOR RECONSIDERATION OF ORDER
DENYING MOTION FOR CONTINUANCE**

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)
)
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;)
et al.,)

PLAINTIFFS,)

v.)

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

DEFENDANTS.)

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

Case No. 2013-CP-18-00013

**PLAINTIFFS' RESPONSE
TO DEFENDANTS' MOTION
FOR RECONSIDERATION OF ORDER
DENYING MOTION FOR
CONTINUANCE**

This case was commenced on January 4, 2013. It is scheduled for trial on July 7, 2014. The Episcopal Church in South Carolina's motion for reconsideration of the Court's Order denying defendants' motion for continuance gives the false impression that they are being unfairly required to prepare their case within two months. If the Defendants feel rushed, it is the result of their own delays and gamesmanship.

A. The chronology of this case, and the Defendants' detours

The Defendants' initial attempt to avoid the jurisdiction of this court was by removing the case to federal court on April 3, 2013. That removal was defeated, with Judge Weston Houck issuing a remand order on June 10, 2013. The district court found that the Defendants were attempting to use a defense as a predicate for federal question jurisdiction.

Exhibit E

In addition to their attempt at removal to gain federal jurisdiction and to avoid the pending state court action, the Defendants engineered a related suit, *Rt. Rev. Charles G. vonRosenberg vs. Rt. Rev. Mark J. Lawrence, et al*, civil action no. 2:13-587CSW, filed in the district court on March 5, 2013. Von Rosenberg is the bishop of TECSC, which states that it is a subordinate unit of TEC; Lawrence is the bishop of a The Protestant Episcopal Church in the Diocese of South Carolina. The district court dismissed that case. Significantly, in doing so, Judge Houck commented upon the forum shopping by vonRosenberg:

[P]rocedural fencing . . . exists when “a party has raced to federal court in an effort to get certain issues that are already pending before the state courts resolved first in a more favorable forum” 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.

District Court Order, August 23, 2013 (citation omitted). An appeal of that dismissal is pending in the 4th Circuit Court of Appeals.

In spite of the Defendants’ continuing frolic in federal court, jurisdiction in the instant case returned to this Court on June 10, 2013. Thus from that time to the scheduled July 7, 2014 trial date is over a year. If the Defendants have failed to accomplish what is required to prepare their case in that time, it is again the product of their own decisions and tactics.

After conducting a status conference with the parties, this Court entered a Scheduling Order dated July 19, 2013. Pursuant to that Scheduling Order, written discovery was to be completed by October 10, 2013, with depositions completed by February 7, 2014. Defendants sought only a single deposition during that time: the deposition of Canon George I. Chassey was completed on September 10, 2013.

Defendants expressed an interest in taking other depositions, but ultimately declined to pursue those depositions despite the requested witnesses being offered. See correspondence of Alan Runyan dated December 9, 2013, attached as **Exhibit A**. The Plaintiffs offered to make all of the requested witnesses available, beginning December 16. Defendants declined, however, and no counter-proposal was received.

On December 17, 2013, the Defendants filed a motion to extend scheduling order. Defendants maintained in that motion that they had identified a “long list of possible deponents, currently exceeding one hundred individuals.” TECSC motion at page 2. By the time of the hearing on that motion, however, on December 30, 2013, in discussing the deposition list from Defendants, counsel for TECSC agreed that, in fact, “we will not be taking that many depositions.” Transcr. of Hearing p. 102 (Dec. 30, 2013).

Upon the Court’s instruction that a two-week trial term would be sought in July, counsel for the parties were instructed to confer to arrive at an agreed timetable. They did so. The product of that agreement was the Amended Scheduling Order dated January 7, 2014. See Transcr. Of Hearing p 95-101 (Dec. 30, 2013) (detailing the agreement of counsel to that timetable).

Despite representing at the conclusion of that December 30, 2013 hearing that, like plaintiffs, the defendants were going to begin issuing deposition notices immediately and coordinate their scheduling, they did not do so. The Plaintiffs issued deposition notices and sought scheduling cooperation. See Letter of Alan Runyan (Jan. 8, 2014) (attached as **Exhibit B**). The Defendants, instead, responded on January 13, 2014, with a notice of appeal of the Court’s ruling on their motion to compel.

Although the rules allow for discovery to continue for matters not related to an appeal, and the Plaintiffs sought such an agreement, the Defendants took the position that all discovery and all depositions of any sort in the case relied upon their first obtaining the information that they sought in their motion to compel. Defendants closed the door on any discussion of any progress that could be made in the case.

Despite the well-settled law that a denial of a motion to compel is interlocutory, Defendants elected to pursue that improvident appeal. Defendants' obvious goal was to delay the state court case at all costs, while they attempted to obtain federal jurisdiction. The Court of Appeals issued a one paragraph order dated March 18, 2014, finding that the underlying order was not immediately appealable, and dismissing the appeal outright. Defendants prolonged the process further by seeking a rehearing of that Order. The South Carolina Supreme Court denied the petition for rehearing and the case was remitted on May 7, 2014.

On May 13, 2014, another status conference was held. The Court advised the parties that discovery should resume without delay. A Second Amended Scheduling Order was entered by the court on May 15, 2014. That scheduling order accommodated additional time for completion of discovery, while leaving the July trial date intact.

B. The Defendants have had adequate time to prepare the case, and they have not been tricked or trapped by the Court.

The time period between the remand of this case from the District Court on June 10, 2013 and the Defendants' appeal to the SC Court of Appeals on January 13, 2014, is seven months; the time between the remittitur of the case on May 7, 2014 and the trial date of July 7, 2014 is two months. Thus even with the Defendants' excursion to federal court and their interlocutory

appeal to the Court of Appeals, the Defendants will have nevertheless had nine months to prepare the case. If they have failed to do so, they have no one to blame but themselves.

The Defendants motion gives the impression that the Court knew that Defendants would seek an appeal and stay of the case, and nevertheless “trapped” them into a timetable for a July trial date. This allegation is particularly ludicrous. In fact, in their December 17, 2013 motion to amend the scheduling order, the Defendants did not inform the court of an expected appeal. Instead, while the Defendants asked for a ruling on the pending motions before taking depositions, Defendants represented that they would begin discovery immediately thereafter:

We believe it would be appropriate to plan to begin depositions two weeks after the Court issues such rulings, thereby allowing TECSC time to properly notice and serve subpoenas, including subpoenas *duces tecum*, and to review the documents produced prior to taking their depositions, and to take necessary action and prepare appropriate deposition questions in light of the Court’s rulings.

Defs.’ Mot. for Continuance p. 3 (May 21, 2014). A review of the 108 page transcript of the December 30, 2013 status conference and hearing on that motion likewise reveals that the word “appeal” was never uttered. The Court granted the Defendants’ motion; the scheduling order was amended, by agreement. And then, within a matter of days, Defendants noticed their appeal. To contend that it was the Defendants who were somehow trapped or tricked is disingenuous.

C. Defendants other reasons for a continuance are groundless

A couple of other points in the Defendants’ present motion warrant comment. Defendants have now returned to their contention that they must take over 100 depositions of adverse witnesses – something that TECSC counsel Thomas Tisdale has already admitted in open court is not necessary. Transcr. of Hearing p. 102 (Dec. 30, 2013). Defendants further contend in their motion that this case is “in truth” really thirty-eight separate and unique cases,


"all having unique allegations" and involving a "vast amount and variety of real and personal property." Mot. for Continuance p. 2, 5. This contention completely ignores the commonality of the issues and positions involved. Further, Defendants allege that because they have "only a handful" of lawyers representing them, they have been "ganged up on." *Id.* at 5. This allegation ignores the relative resources of the national Episcopal Church in contrast to those of Plaintiff parties, the fact that Defendants' lead counsel, the Goodwin Procter firm, has some 850 lawyers at its disposal, and the fact that The Episcopal Church has pursued a strategy of spending other dioceses into oblivion in other litigation around the country.

With regard to their promised next appeal, concerning their motion to join parties, the Defendants assure the court that (this time) the issue is "clearly immediately appealable." It is not. More germane to the present motion for continuance, however, is the Defendants' continued gamesmanship with regard to timing. Earlier in the case, this court denied Defendants' initial attempt to join additional parties without an appeal on that ruling. Defendants are now promising an appeal on the same joinder issue, in a blatant effort to have the case stayed at the time of the trial term in July.

The Defendants questionable tactics in this matter should not be rewarded. There is sufficient time remaining to conduct discovery that is relevant to the real issues in this dispute. The scheduling order should remain intact for a July 7 trial, and the Defendants' motion for reconsideration should be denied.

Respectfully submitted,

*The Protestant Episcopal Church In The Diocese of South
Carolina; and The Trustees of the Protestant Episcopal Church
of South Carolina, a South Carolina Corporate Body:*

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CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of May, 2014, I served a copy of the *PLAINTIFFS' RESPONSE TO DEFENDANTS' MOTION FOR RECONSIDERATION OF ORDER DENYING MOTION FOR CONTINUANCE* to Counsel of Record in the within entitled matter by sending a copy of the same in an envelope with the correct postage prepaid addressed to:

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*ATTORNEY FOR THE EPISCOPAL CHURCH and CHANCELLOR OF THE
EPISCOPAL CHURCH IN SOUTH CAROLINA*

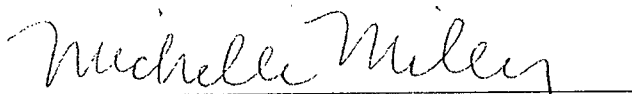
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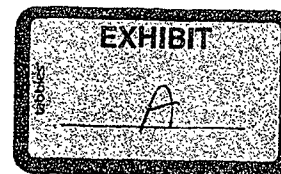
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December 9, 2013

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*RE: The Protestant Episcopal Church in the Diocese of South Carolina,
et al. v. The Episcopal Church, et al.
Case No. 2013-CP-18-00013*

Dear Tom:

We have reviewed the list of depositions you wish take. While we are concerned that your list includes many people that will shed no light on the only relevant issues under the *All Saints* decision, we nevertheless intend to try to accommodate TECSC's wishes, believing it to be a good faith attempt to only discover material within the scope of Rule 26 SCRPC. Therefore, we are willing to forego the ten days' notice required to us and will begin producing deponents under the following generic schedule with their names and times to follow:

Starting Monday, December 16, 2013 we will produce four people per day at the offices of Nelson, Mullins in Charleston. We believe that three hours per person is a reasonable duration (except for persons such as Jim Lewis, Mark Lawrence, etc.) and we will produce two people simultaneously. We will produce them for every weekday excluding December 24, 25 and January 1 until they are concluded. They will be available to commence at 9:00AM, which should allow in each conference room one deposition from 9-12, an hour for lunch and the next deposition from 1-4.

We will be sending the deponents' schedule shortly. We have tried to keep them in the order in which you requested.

Sincerely,

A handwritten signature in black ink that reads "C. Alan Runyan".

C. Alan Runyan

CAR/els
Enclosure(s)

cc: All Counsel of Record

SPEIGHTS & RUNYAN
ATTORNEYS AT LAW
2015 BOUNDARY STREET
SUITE 239
BEAUFORT, SOUTH CAROLINA 29902
(803) 943-4444

C. ALAN RUNYAN
ARUNYAN@SPEIGHTSRUNYAN.COM

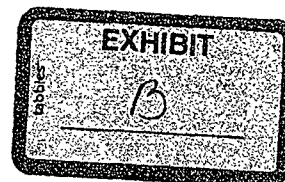
FACSIMILE (843) 522-0142

January 8, 2014

David Booth Beers, Esq.
Mary E. Kostel, Esq.
Goodwin Procter
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Charleston, SC 29401



*RE: The Protestant Episcopal Church in the Diocese of South Carolina,
et al. v. The Episcopal Church, et al.; Case No. 2013-C-P-18-00013*

Dear Mary, Allan and Tom:

I enclose notices of deposition for the following people: Bp. VonRosenberg, Melinda Lucka, Callie Walpole, Robert Black, Barbara Mann, Bp. John Buchanan, Jim Taylor, Michael Wright, Holly Behre, Lonnie Hamilton, III, Steve Skardon, Bp. Katharine Schort, and Bp. Dorsey Henderson. These have also been posted on the deposition calendar on the website.

We will work with the witnesses and counsel to the extent there are significant conflicts. To the extent such conflicts exist, we are prepared to discuss a postponement to a date certain. Such a discussion and any agreed postponement need to occur before the noticed date.

We remain willing to work with you to schedule those persons that you wish to take from the plaintiffs.

Sincerely,

A handwritten signature in dark ink, appearing to be "CAR", written over a horizontal line.

C. Alan Runyan

CAR/jps
Enclosure(s)
cc: All Counsel of Record

EXHIBIT F

**MOTION AND MEMORANDUM OF LAW IN SUPPORT THEREOF TO AMEND THE
CAPTION TO JOIN ADDITIONAL COUNTERCLAIM DEFENDANTS**

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

THE PROTESTANT EPISCOPAL)	
IN THE DIOCESE OF)	
SOUTH CAROLINA ET AL.,)	Case Number: 2:13-cv-00893-CWH
)	
Plaintiffs,)	DEFENDANT THE EPISCOPAL
)	CHURCH'S MOTION AND
v.)	MEMORANDUM OF LAW IN
)	SUPPORT THEREOF TO AMEND
THE EPISCOPAL CHURCH ET AL.,)	THE CAPTION TO JOIN
)	ADDITIONAL COUNTERCLAIM
Defendants.)	DEFENDANTS
)	

Defendant The Episcopal Church, hereby moves this Court, pursuant to Rules 13(h), 19, and 20, FRCP, for an Order to amend the caption in this case to join the additional individual counterclaim defendants named in The Episcopal Church's Answer and Counterclaims, filed on March 28, 2013. The proposed amended caption is attached hereto as Exhibit 1.

Rule 13(h), FRCP, explicitly incorporates Rules 19 and 20, FRCP, to allow a defendant to join additional counterclaim defendants as parties to an action where at least one counterclaim is common to at least one of the plaintiffs and each of the additional counterclaim defendants. Rule 19, FRCP ("Joining Additional Parties. Rules 19 and 20 govern the addition of a person as a party to a counterclaim or crossclaim."); *Hoffman v. Wisner Classic Mfg. Co., Inc.*, 927 F.Supp. 67, 74 (E.D.N.Y. 1996) (quoting 6 Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, *Federal Practice and Procedure Civil* 2d § 1434) ("Courts are to interpret Rule 13 liberally consistent with the general objectives of the Rule in order to 'avoid multiplicity of litigation, minimize the circuitry of actions and foster judicial economy.'"); *AllTech Communications, LLC v. Brothers*, 601 F.Supp.2d 1255, 1260 (N.D. Okla. 2008) (quoting *Federal Practice* § 1435) ("Rule 13(h) only authorizes the court to join additional parties in order to adjudicate a

counterclaim or cross claim that already is before the court or one that is being asserted at the same time the addition of a non-party is sought.”). Here, Count I of The Episcopal Church’s Counterclaims, which is a cause of action for a declaratory judgment as to control of the Parishes and the Diocese of South Carolina, is commonly asserted against the Plaintiffs and all of the additional counterclaim defendants. Answer and Counterclaims of The Episcopal Church at pp.39-51. Thus, application of Rule 13(h) is proper.

In applying Rule 13(h) in this instance, joinder is supported under both Rules 19¹ and 20². Under Rule 19, The Episcopal Church will be unable to obtain full declaratory relief in this dispute over control of the Parishes and the Diocese without the joinder of these individuals, who improperly lay claim to control of the Parishes and the Diocese for themselves. Answer and Counterclaims of The Episcopal Church at pp.39-51. Likewise, under Rule 20, the questions of fact and law relating to the counterclaim for a declaratory judgment over control of the Parishes and the Diocese are the same as to the additional counterclaim defendants as they are to the Plaintiffs. Answer and Counterclaims of The Episcopal Church at pp.39-51. *See Saval v. BL, Ltd.*, 710 F.2d 1027, 1031 (4th Cir. 1983) (“Further, the rule should be construed in light of its

¹ Rule 19, FRCP (“... (1) Required Party. A person who is subject to service of process and whose joinder will not deprive the court of subject-matter jurisdiction must be joined as a party if: (A) in that person's absence, the court cannot accord complete relief among existing parties; or (B) that person claims an interest relating to the subject of the action and is so situated that disposing of the action in the person's absence may: (i) as a practical matter impair or impede the person's ability to protect the interest; or (ii) leave an existing party subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations because of the interest.”).

² Rule 20, FRCP (“... (2) Defendants. Persons—as well as a vessel, cargo, or other property subject to admiralty process in rem—may be joined in one action as defendants if: (A) any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and (B) any question of law or fact common to all defendants will arise in the action.”).

purpose, which is to promote trial convenience and expedite the final determination of disputes, thereby preventing multiple lawsuits.”).

WHEREFORE, The Episcopal Church respectfully requests that the Court grant this Motion to amend the caption to add the counterclaim defendants named in The Episcopal Church’s pleading, as proposed in Exhibit 1.

Dated: May 2, 2013

Respectfully submitted,

/s/ Thomas S. Tisdale
Thomas S. Tisdale (S.C. 005584) (D.S.C. 4106)
Jason S. Smith (S.C. 80700) (D.S.C. 11387)
HELLMAN YATES & TISDALE
King & Queen Building
145 King Street, Suite 102
Charleston, South Carolina 29401
Telephone: (843) 266-9099
Facsimile: (843) 266-9188
tst@hellmanyates.com
js@hellmanyates.com

Counsel for Defendants The Episcopal Church

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Telephone: (202) 346-4224

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c/o Goodwin Procter LLP
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Washington, D.C. 20001
Telephone: (202) 346-4184

Of Counsel for Defendant The Episcopal Church

EXHIBIT 1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

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. 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; Saint)
Matthews Church; St. Andrews Church-Mt.)
Pleasant and The St. Andrews Church-Mt.)
Pleasant Land Trust; St. Bartholomews)
Episcopal Church; St. Davids Church;)
St. James' Church, James Island, S.C.; St.)
John's Episcopal Church Of Florence, S.C.;)
St. Matthias Episcopal Church, Inc.; St.)
Paul's Episcopal Church Of Bennettsville,)
Inc.; St. Paul's Episcopal Church of)
Conway; The Church Of St. Luke and St.)
Paul, Radcliffeboro; The Church Of Our)
Saviour 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)
Declaration Of Trust; 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)

Case Number: 2:13-cv-00893-CWH

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,)

PLAINTIFFS,)

v.)

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

DEFENDANTS.)

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

COUNTERCLAIM PLAINTIFF,)

v.)

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. 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; Saint)
Matthews Church; St. Andrews Church-Mt.)
Pleasant and The St. Andrews Church-Mt.)

Pleasant Land Trust; St. Bartholomews)
Episcopal Church; St. Davids Church;)
St. James' Church, James Island, S.C.; St.)
John's Episcopal Church Of Florence, S.C.;)
St. Matthias Episcopal Church, Inc.; St.)
Paul's Episcopal Church Of Bennettsville,)
Inc.; St. Paul's Episcopal Church of)
Conway; The Church Of St. Luke and St.)
Paul, Radcliffeboro; The Church Of Our)
Saviour 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)
Declaration Of Trust; 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;)
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,)
)
COUNTERCLAIM)
DEFENDANTS,)
)
and)
)
Ivan V. Anderson, Jr.; Nancy J. Armstrong;)

John MacReadie Barr III; Craige N. Borrett;)
Reid Boylston III; Paul Fuener;)
R. Edward Holt III; J. Robert Horn IV;)
Tripp Jeffords; John M. Jordan, Jr.;)
Robert L. Kilgo, Jr.; Robert M. Kunes;)
Mark J. Lawrence; James B. Lewis;)
Wade H. Logan III; William G. Lyles III;)
Jeffrey S. Miller; Edward Mitman;)
Andrew R. O'Dell; Elizabeth C. Pennewill;)
Suzanee Schwank; Gregory A. Snyder;)
K. Glynn Watson; A. Kenneth Weldon;)
Ann Hester Willis,)

ADDITIONAL COUNTERCLAIM)
DEFENDANTS.)

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

THE PROTESTANT EPISCOPAL)
IN THE DIOCESE OF)
SOUTH CAROLINA ET AL.,)
)
Plaintiffs,)
)
v.)
)
THE EPISCOPAL CHURCH ET AL.,)
)
Defendants.)
_____)

Case Number: 2:13-cv-00893-CWH

PROPOSED ORDER

This matter comes before the Court on Defendant The Episcopal Church’s motion to amend the caption to the join additional counterclaim defendants named in The Episcopal Church’s pleading, pursuant to Rules 13(h), 19, and 20 on the Federal Rules of Civil Procedure.

Having considered the motion, the Court hereby grants the motion, amends the caption to join the additional counterclaim defendants as shown in Exhibit 1 attached hereto, and authorizes the Court’s Clerk to issue summonses to be served by The Episcopal Church on the additional counterclaim defendants.

AND IT IS SO ORDERED.

C. WESTON HOUCK
SENIOR UNITED STATES DISTRICT JUDGE

May ____, 2013

EXHIBIT 1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

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. 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; Saint)
Matthews Church; St. Andrews Church-Mt.)
Pleasant and The St. Andrews Church-Mt.)
Pleasant Land Trust; St. Bartholomews)
Episcopal Church; St. Davids Church;)
St. James' Church, James Island, S.C.; St.)
John's Episcopal Church Of Florence, S.C.;)
St. Matthias Episcopal Church, Inc.; St.)
Paul's Episcopal Church Of Bennettsville,)
Inc.; St. Paul's Episcopal Church of)
Conway; The Church Of St. Luke and St.)
Paul, Radcliffeboro; The Church Of Our)
Saviour 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)
Declaration Of Trust; 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)

Case Number: 2:13-cv-00893-CWH

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,)

PLAINTIFFS,)

v.)

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

DEFENDANTS.)

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

COUNTERCLAIM PLAINTIFF,)

v.)

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. 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; Saint)
Matthews Church; St. Andrews Church-Mt.)
Pleasant and The St. Andrews Church-Mt.)

Pleasant Land Trust; St. Bartholomews)
Episcopal Church; St. Davids Church;)
St. James' Church, James Island, S.C.; St.)
John's Episcopal Church Of Florence, S.C.;)
St. Matthias Episcopal Church, Inc.; St.)
Paul's Episcopal Church Of Bennettsville,)
Inc.; St. Paul's Episcopal Church of)
Conway; The Church Of St. Luke and St.)
Paul, Radcliffeboro; The Church Of Our)
Saviour 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)
Declaration Of Trust; 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;)
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;)
)
COUNTERCLAIM)
DEFENDANTS,)
)
and)
)
Ivan V. Anderson, Jr.; Nancy J. Armstrong;)

John MacReadie Barr III; Craige N. Borrett;)
Reid Boylston III; Paul Fuener;)
R. Edward Holt III; J. Robert Horn IV;)
Tripp Jeffords; John M. Jordan, Jr.;)
Robert L. Kilgo, Jr.; Robert M. Kunes;)
Mark J. Lawrence; James B. Lewis;)
Wade H. Logan III; William G. Lyles III;)
Jeffrey S. Miller; Edward Mitman;)
Andrew R. O'Dell; Elizabeth C. Pennewill;)
Suzanee Schwank; Gregory A. Snyder;)
K. Glynn Watson; A. Kenneth Weldon;)
Ann Hester Willis,)

ADDITIONAL COUNTERCLAIM)
DEFENDANTS.)

EXHIBIT G

**ORDER DENYING DEFENDANTS' MOTION TO JOIN ADDITIONAL
COUNTERCLAIM DEFENDANTS**

-STATE OF SOUTH CAROLINA)
)
 COUNTY OF DORCHESTER)
)
 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. 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; Saint)
 Matthews Church; St. Andrews Church-Mt.)
 Pleasant and The St. Andrews Church-Mt.)
 Pleasant Land Trust; St. Bartholomews)
 Episcopal Church; St. Davids Church;)
 St. James' Church, James Island, S.C.; St.)
 John's Episcopal Church of Florence, S.C.;)
 St. Matthias Episcopal Church, Inc.; St.)
 Paul's Episcopal Church of Bennettsville,)
 Inc.; St. Paul's Episcopal Church of)
 Conway; The Church Of St. Luke and St.)
 Paul, Radcliffeboro; The Church Of Our)
 Saviour Of The Diocese of South Carolina;)
 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,)
 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)
 Declaration Of Trust; 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)

IN THE COURT OF COMMON PLEAS
 FOR THE FIRST JUDICIAL CIRCUIT

CERTIFIED COPY
 2013 OCT -1 AM 9:09
 Clerk of Court
 DORCHESTER COUNTY

Case No. 2013-CP-18-00013

**ORDER DENYING DEFENDANTS'
 MOTION TO JOIN ADDITIONAL
 COUNTERCLAIM DEFENDANTS**

Exhibit 6

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)

PLAINTIFFS,)

v.)

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

DEFENDANT.)

This matter is before the Court on Defendants' Motion to Join Additional Counterclaim Defendants. For the reasons set forth in this Order, the Court denies the Defendants' Motion.

I. BACKGROUND

On April 3, 2013, The Episcopal Church in South Carolina ("ECSC") removed this action to federal court, and subsequently, Plaintiffs filed a Motion for Remand on April 10, 2013. On June 10, 2013, United States District Judge C. Weston Houck granted Plaintiffs' Motion to Remand this action to the Court of Common Pleas for the First Judicial Circuit. Before this case was removed to federal court, Defendants ECSC and The Episcopal Church ("TEC") filed their answers and counterclaims in this Court on March 28, 2013 and April 3, 2013, respectively. On July 19, 2013, this Court issued a scheduling order, indicating that the parties could submit

additional briefing on Defendants' Motion to Join Additional Counterclaim Defendants. After reviewing the Plaintiffs' Response and the Defendants' Reply, this Court DENIES Defendants' Motion to Join Additional Counterclaim Defendants.

II. JOINDER IS NOT APPROPRIATE BECAUSE COMPLETE RELIEF CAN BE HAD BETWEEN THE EXISTING PARTIES.

Rule 19(a), SCRCF, states in part that "[a] person who is subject to service of process and whose joinder will not deprive the court of jurisdiction over the subject matter of the action shall be joined as a party in the action if (1) in his absence complete relief cannot be accorded among those already parties."¹ Defendants TEC and ECSC seek declaratory and injunctive relief in their counterclaims, and they argue that they will be "unable to obtain full declaratory relief in this dispute over control of the Diocese" without the joinder of an additional 23 individuals. Defs. Reply to Pls. Add. Response to Mot. to Join Add. Counterclaim Defs., p. 3 (July 29, 2013). Defendants allege these individuals whom they seek to join improperly lay claim to control of the Diocese and its assets for themselves. *Id.*

Rule 19(a), SCRCF, provides that a person shall be joined if feasible where his or her absence precludes "complete relief ... among those already parties." When deciding whether joinder is required under Rule 19(a), the Court must determine if complete relief can be obtained between the persons or entities that are already parties in the action. "'Complete' relief refers to relief as between the persons already parties, not as between a party and the absent person whose joinder is sought ..." *United States v. Arlington Cnty., Va.*, 669 F.2d 925, 929 (4th Cir. 1982) quoting 3A Moore's Federal Practice P 19.07-1(1) at 19-128. Here, the question is whether Defendants TEC and ECSC can get complete relief as prayed for in their counterclaims against the existing parties without adding these 23 individuals. All of the South Carolina corporations

¹ The Note to Rule 19, SCRCF, states: "This Rule 19(a) is the same as the Federal Rule."

who own the property at issue are before the court. A declaration as to the proper use of that property and a determination as to which organization is entitled to use of that property does not require the presence of the individual trustees or board members of those entities. Thus, this Court finds that complete relief can be had between the existing parties, and joinder of the additional counterclaim individuals is not necessary under Rule 19, SCRPC.

III. JOINDER IS NOT APPROPRIATE BECAUSE ADDING THE ADDITIONAL DEFENDANTS WOULD BE FUTILE.

Rule 15(a), SCRPC², permits the amendment of a pleading “only by leave of court or by written consent of the adverse party.” The Rule goes on to state that “leave shall be freely given when justice so requires and does not prejudice any other party.” *Id.* When determining whether to grant a motion to join additional parties, a court must “consider both the general principles of amendment provided by Rule 15(a) and also the more specific joinder provisions of Rule 20(a).” *Pelczynski v. Orange Lake Country Club, Inc.*, 4:11-CV-01829-RBH, 2013 WL 504238 (D.S.C. Feb. 8, 2013) (quoting *Hinson v. Norwest Fin. S.C., Inc.*, 239 F.3d 611, 618 (4th Cir. 2001)). Rule 20(a), SCRPC, permits the joinder of parties when “there is asserted against them jointly, severally, or in the alternative, any right to relief in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all defendants will arise in the action.” Although leave to amend should generally be “freely given,” the South Carolina Court of Appeals has held that it may be denied where the proposed amendment would be futile. *Jennings v. Jennings*, 389 S.C. 190, 209, 697 S.E.2d 671, 681 (Ct. App. 2010) *rev'd on other grounds*, 401 S.C. 1, 736 S.E.2d 242 (2012) (citing *Higgins v. Med. Univ. of S.C.*, 326 S.C. 592, 604-05, 486 S.E.2d 269, 275 (Ct.App.1997)).

² The Notes to Rule 15 state: “This Rule 15(a) is substantially the same as the Federal Rule [...]”

Here, Defendants TEC and TECSC claim that joinder should be permitted under Rule 20, SCRC, because the questions of fact and law relating to the counterclaims for declaratory judgment over control of the Diocese and its assets are the same as to the additional counterclaim Defendants as they are to the Plaintiffs. Answer and Counterclaims of TEC at pp. 39-51; Answer and Counterclaims of TECSC at pp. 56-83. However, the Court finds that joining the additional counterclaim individuals would be futile for the following reasons.

A. The Parties Whom Defendants Seek to Join Are Immune from Suit under South Carolina Law.

The parties whom the Defendants seek to join are immune from suit under South Carolina law; therefore, adding them as parties would be futile because liability would not attach to them in their capacity as directors, leaders and trustees of the two South Carolina non-profit corporations that are Plaintiffs.

Defendants allege that the individual counterclaim defendants whom they seek to join improperly lay claim to control of the Diocese and its assets for themselves. Defs. Reply to Pls. Add. Response to Mot. to Join Add. Counterclaim Defs., p. 3 (July 29, 2013). Defendants claim that the improper control exerted by these individuals arises from their status as either directors or trustees of the two South Carolina non-profit corporations that are Plaintiffs: The Protestant Episcopal Church in the Diocese of South Carolina and The Trustees of The Protestant Episcopal Church in South Carolina, a South Carolina Corporate Body. Def. TEC Answer and Counterclaims, p. 39-40 (April 3, 2013). The South Carolina Nonprofit Corporation Act, S.C. Code Ann. § 33-31-834 (hereinafter "The Act") provides:

- (a) All directors, trustees, or members of the governing bodies of not-for-profit cooperatives, corporations, associations, and organizations described in subsection (b) are immune from suit arising from the conduct of the affairs of these cooperatives, corporations, associations, or organizations. This immunity from suit is removed when the conduct amounts to wilful, wanton, or gross

negligence. Nothing in this section may be construed to grant immunity to the not-for-profit cooperatives, corporations, associations, or organizations.

(b) Subsection (a) applies to the following:

[...] (2) not-for-profit corporations, associations, and organizations, as recognized in and exempted from taxation under Federal Income Tax Code Section 501(c)(3), (c)(6), or (c)(12).

In essence, the South Carolina Nonprofit Corporation Act as cited above grants immunity to the "directors, trustees, or members" of "not-for-profit corporations, associations, and organizations" unless their conduct amounts to "willful, wanton, or gross negligence." *Id.* In their counterclaims, Defendants TEC and ECSC have made no factual allegations of conduct on the part of the individual leaders that amounts to willful, wanton, or gross negligence. Furthermore, Defendants made no factual allegations in their counterclaims that the actions of the leaders whom they seek to join were *ultra vires*. Based on the allegations in the pleadings currently before the Court, this Court finds that the individual leaders whom the Defendants seek to join as Counterclaim Plaintiffs are entitled to immunity from suit under The Act. Thus, joining these individual leaders in this suit would be futile.

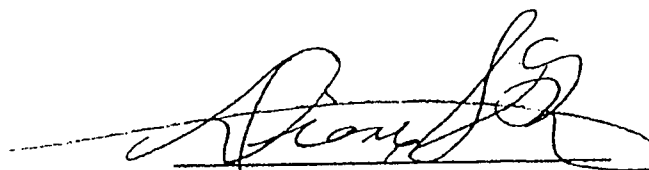
Based upon the information before the Court at this time, joinder is improper.

IV. CONCLUSION

For the foregoing reasons, the Defendants' Motion to Join Additional Counterclaim Defendants is denied.

AND IT IS SO ORDERED.

September 27, 2013



Judge Diane S. Goodstein
First Judicial Circuit

EXHIBIT H

MAY 22, 2014 TECSCS'S CORRESPONDENCE TO EXPERT WITNESS

Home Mail News Sports Finance Weather Games Groups Answers Screen Flickr Mobile More
Search Mail Search Web Home Martin

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 - Maybank (4)
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- ▶ Recent

Re: Status Report

Jason Smith May 22

To: Thomas S. Tisdale, Martin McWilliams

Martin,
Hope things are going well in England. To update you, our appeal was dismissed. As of now, the case is scheduled for trial starting July 7th. However, we plan to take another appeal that may stay the case again. Let us know when might be a good time to talk and we'll fill you in on the details and what we're doing to get ready.

← Jason

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On Apr 28, 2014, at 9:18 AM, "Thomas S. Tisdale" <ts1@hellmanyates.com> wrote:

Martin,

Is 10:30 this morning a goo time for a phone call?

Tom

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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

RECEIVED

JUN 25 2014

S.C. Supreme Court

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JUN 25 2014

SC Court of Appeals

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. 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; Saint Matthews Church; St. Andrews Church-Mt. Pleasant and The St. Andrews Church-Mt.Pleasant Land Trust; St. Bartholomews Episcopal Church; St. Davids Church; St. James' Church, James Island, S.C.; St. John's Episcopal Church of Florence, S.C.; St. Matthias Episcopal Church, Inc.; St. Paul's Episcopal Church of Bennettsville, Inc.; St. Paul's Episcopal Church of Conway; The Church Of St. Luke and St. Paul, Radcliffeboro; The Church Of Our Saviour Of The Diocese of South Carolina; 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 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 Declaration Of Trust; 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; 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, Parish of St. Andrew, Respondents,

vs.

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

Of Whom The Episcopal Church in South Carolina is the.....Appellant.

PROOF OF SERVICE

I, Carole Koerner, an employee of McNair Law Firm, P.A., attorneys for the Respondents, The Protestant Episcopal Church in the Diocese of South Carolina, and The Trustees of the Protestant Episcopal Church in South Carolina, do hereby certify that I have served a copy of Respondents' Motion To Dismiss Appeal and For Expedited Hearing to counsel of record, on this the 25th day of June, 2014, via email communication and/or U.S. Mail first class postage prepaid and via email as indicated below:

Addressee(s): Counsel of Record

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The Protestant Episcopal Church, of the
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Carolina

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

The Vestry and Church Wardens of the
Episcopal Church of the Parish of St.
Helena and the Parish Church of St.
Helena Trust

Trinity Episcopal Church, Edisto Island

Vestry and Church Wardens of the
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Diocese of South Carolina
AND
The Trustees of The Protestant Episcopal
Church in South Carolina, A South
Carolina Corporate Body

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

The Protestant Episcopal Church in the
Diocese of South Carolina AND

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

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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


Carole Koerner 
with permission

MCNAIR
ATTORNEYS

June 25, 2014

Henrietta U. Golding

hgolding@mcnair.net

Via Hand Delivery

Daniel E. Shearouse, Clerk
South Carolina Supreme Court
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Columbia, South Carolina 29211-1330

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JUN 25 2014

SC Court of Appeals

Re: The Protestant Episcopal Church in the Diocese of South Carolina, et al.
v. The Episcopal Church in South Carolina
Case No.: 2013-CP-18-00013
Appellate Case No.: 2014-000101

Dear Mr. Shearouse:

Pursuant to the previous Certification of Appeal Order pursuant to Rule 204(b) dated April 4, 2014, Respondents are filing with the Supreme Court the enclosed Motion to Dismiss Appeal and for Expedited Hearing and the Proof of Service (original and eight copies) regarding the above matter. Under Rule 204(b), once certification is granted, jurisdiction over the case is transferred to the Supreme Court "for all purposes." Hence, Respondents file their motion here. As the Appellants filed their appeal with the Court of Appeals, a copy of this letter and enclosure is also being filed with the Court of Appeals to inform that Court of this filing.

Also enclosed is our check in the amount of \$25.00 as our filing fee.

Please provide two filed copies of the Motion and Proof of Service to our courier.

Should you have any questions, please do not hesitate to contact our office.

With kind regards,

Sincerely,

McNAIR LAW FIRM, P.A.

Henrietta U. Golding

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mcnair.net

Daniel E. Shearouse, Clerk
June 25, 2014
Page 2

MCNAIR
ATTORNEYS

Henrietta U. Golding

HUG:ck
Enclosures

cc: All counsel of Record - pursuant to attached Proof of Service w/enclosures
Jenny Abbott Kitchings, Clerk S.C. Court of Appeals

RECEIVED

JUN 25 2014

Henrietta U. Golding

hgolding@mcnair.net

June 25, 2014

SC Court of Appeals

The Honorable Jenny Abbott Kitchings
Clerk of Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

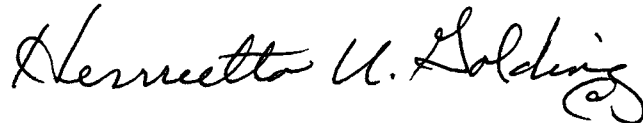
Re: The Protestant Episcopal Church in the Diocese of South Carolina, et al.
v. The Episcopal Church, et al.; Case No.: 2013-CP-18-00013

Dear Ms. Kitchings:

Enclosed for filing with the Court, please find a June 25, 2014 Letter to the Supreme Court, and copy of Respondents' Motion to Dismiss Appeal and For Expedited Hearing filed with the Supreme Court, and Proof of Service.

Yours truly,

McNAIR LAW FIRM, P.A.



Henrietta U. Golding

HUG/ck
Enclosure

cc: Appellant's Counsel (*Via U.S. Mail and Email*)
Counsel for Plaintiffs/Respondents (*via email*)

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