

# Nelson Mullins

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April 11, 2016

### Hand Delivered

The Honorable Daniel E. Shearouse  
Clerk of Court  
South Carolina Supreme Court  
1231 Gervais Street  
Columbia, SC 29201

RECEIVED

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SC SUPREME COURT

*RE: The Protestant Episcopal Church in the Diocese of South Carolina,  
et al. v. The Episcopal Church, et al.  
Appellate Case No. 2015-000626  
Civil Case No. 2013-CP-18-00013*

Dear Mr. Shearouse:

I am responding to Mr. Hewitt's letter and the supplemental citation to the California Court of Appeals recent decision in *Diocese of San Joaquin v. Gunner* pursuant to Rule 208 (b) (7).

The California Court of Appeals decision relates to the following issues: the application of neutral principles of California's corporate statutory law involving a corporation sole to resolve property issues associated with a Diocese's departure from The Episcopal Church and the relevance of the Dennis Canon and an asserted hierarchy to those neutral principles of law.

I also enclose the trial court decision in *The Episcopal Church, et al. v. Franklin Salazar, et al.*, Tarrant County, Texas, District Court 141<sup>st</sup> Judicial District, July 24, 2015. This decision applied neutral principles of law as required by a previous appeal in the same case, *The Episcopal*


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*Diocese of Ft. Worth v. The Episcopal Church*, 422 W.W.3d 646 (2014), to resolve property issues associated with a Diocese's departure from The Episcopal Church.

With kind regards, I remain

Sincerely yours,



C. Mitchell Brown

CMB:lpw

Enclosure

cc: Counsel of Record (all via email)

John S. Nichols, Esquire	Susan MacDonald, Esquire
Blake A. Hewitt, Esquire	Jim Lehman, Esquire
Thomas S. Tisdale, Esquire	Allan P. Sloan, III, Esquire
Jason S. Smith, Esquire	Edward P. Guerard, Jr., Esquire
Charles H. Williams, Esquire	David B. Marvel, Esquire
C. Pierce Campbell, Esquire	David L. DeVane, Esquire
I. Keith McCarty, Esquire	David Cox, Esquire
Harry A. Oxner, Esquire	Henry Grimball, Esquire
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Francis M. Mack, Esquire	Timothy O. Lewis, Esquire
P. Brandt Shelbourne, Esquire	Mark E. Feldmann, Esquire
Joseph C. Wilson, IV, Esquire	Paul G. Beers, Esquire

NO. 141-252083-11


THE EPISCOPAL CHURCH, et al.	§	IN THE DISTRICT COURT
	§	
v.	§	TARRANT COUNTY, TEXAS
	§	
FRANKLIN SALAZAR, et al.	§	141 <sup>ST</sup> JUDICIAL DISTRICT

FINAL JUDGMENT

This Final Judgment merges and supersedes the Court's orders of March 2, 2015, and June 10, 2015. In accordance with those orders, and having considered all the parties' pleadings, motions, responses, replies, evidence on file, governing law, and arguments of counsel, the Court issues this Final Judgment.

The Court hereby **ORDERS** that Defendants' Second Motion for Partial Summary Judgment filed December 1, 2014, is **GRANTED** except with respect to claims relating to All Saints Episcopal Church (Fort Worth), and Plaintiffs' Motion for Partial Summary Judgment filed December 1, 2014, is **DENIED**.

The Court further **ORDERS** that Defendants' Third Motion for Partial Summary Judgment Relating to All Saints Episcopal Church filed May 6, 2015, is **GRANTED**, and Plaintiffs' Supplemental Motion for Partial Summary Judgment on Claims Relating to All Saints' Episcopal Church filed May 6, 2015, is **DENIED**.

 **E-MAILED** *Amailed*  
*07/24/2015*

*(SR)* *Weaver, Wiser, Brister,*  
*Leatherbury, Shaffer*

COURT'S MINUTES  
TRANSACTION# *1033*

The Court further issues a **DECLARATORY JUDGMENT** pursuant to Texas Civil Practice and Remedies Code §§ 37.001, *et seq.*, declaring that:

1. Neutral principles of Texas law govern this case, and applying such law is not unconstitutionally retroactive;

2. The Corporation of the Episcopal Diocese of Fort Worth and Defendant Congregations hold legal title to all the properties listed on Exhibit 1 attached to this Order, subject to control by the Corporation pursuant to the Diocese's charters.

3. The Episcopal Diocese of Fort Worth and the Defendant Congregations in union with that Diocese hold beneficial title to all the properties listed on Exhibit 1 attached to this Order.

4. Defendants Dr. Franklin Salazar, Jo Ann Patton, Walter Virden, III, Rod Barber, and Chad Bates are, and have been since 2005, the properly elected Trustees of the Corporation for the Episcopal Diocese of Fort Worth.

5. Defendant Jack Iker is, and has been since 2005, the proper Chairman of the board and one of the Trustees of the Corporation for the Episcopal Diocese of Fort Worth.

6. Defendants are the proper representatives of the Episcopal Diocese of Fort Worth, the Texas unincorporated association formed in 1982.

7. The Defendants hold legal title and control of the funds and endowments listed on Exhibit 2 attached to this Order, subject to the terms of each.

8. Plaintiffs have no express, implied, or constructive trust in the properties or funds listed in the Exhibits attached to this Order.

9. Defendants have not breached any fiduciary duty to or special relationship with any Plaintiffs.

The Court further **ORDERS** that the following listed claims and defenses remain pending in Cause No. 141-237105-09, and to the extent they are also pending in this cause are hereby **DISMISSED WITHOUT PREJUDICE** and preserved for litigation in Cause No. 141-237105-09: claims for attorneys' fees in both causes, Conversion, Texas Business & Commercial Code § 16.29, damages for Breach of Fiduciary Duty (as opposed to as a predicate of constructive trust), Action to Quiet Title, and for an Accounting.

The Court further **ORDERS** that Plaintiffs take nothing, and that Defendants recover costs of court in this cause.

The Court further **ORDERS** that Plaintiffs are to cancel all *lis pendens* filed as to properties listed on Exhibits 1 and 2, and surrender possession thereof, to the Defendants 30 days after this Judgment becomes final.

The Court further **ORDERS** the Plaintiffs to desist from holding themselves out as leaders of the Diocese or the Corporation when this Order becomes final and appealable.

All relief not expressly granted herein is denied. This judgment disposes of all parties and claims in the above-referenced case, and is a final and appealable judgment.

Signed this 27 day of July, 2015.

  
\_\_\_\_\_  
Judge Presiding