

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

S.C. SUPREME COURT

Edgar W. Dickson, Circuit Court Judge

Appellate Case No. 2020-000986

The Protestant Episcopal Church in the Diocese of South Carolina, *et al.*, Respondents,

v.

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

RECORD ON APPEAL – Volume VI

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INDEX
VOLUME I

Orders, Judgments, and Decisions

Circuit Court

Order (granting clarification and other relief) filed June 19, 2020	1
Order (denying Motion to Reconsider) filed July 13, 2020	48
Form 4 Order (assigning case to the Honorable Edgar Dickson) filed January 10, 2018.....	51
Final Order (following bench trial) filed February 3, 2015.....	59
Form 4 Order (denying Motions to Reconsider) filed December 31, 2013	113
Order Denying Motion to Join Additional Counterclaim Defendants filed October 1, 2013	115
Consent Temporary Injunction filed January 31, 2013	121

South Carolina Supreme Court

Order (denying Petition for Writ of Prohibition) dated March 31, 2020	135
Order (denying Petition for Writ of Mandamus) dated June 28, 2019	139
Order (denying Petitions for Rehearing) dated November 17, 2017	143
Order (denying Motion to Recuse) dated November 17, 2017	147
Remittitur dated November 17, 2017.....	153

Opinion No. 27731 (slip opinion) filed August 2, 2017	156
Order (granting Motion to Argue Against Precedent) dated September 9, 2015	233
Order (requiring reduction of Record on Appeal) dated July 30, 2015	237
Order (granting Motion to Certify, etc.) dated April 15, 2015	241
United States Supreme Court	
Denial of Petition for a Writ of Certiorari dated June 11, 2018	245
United States District Court for the District of South Carolina	
Order and Opinion in <i>vonRosenberg v. Lawrence</i> , ECF No. 667 filed September 19, 2019	246
Order and Opinion in <i>vonRosenberg v. Lawrence</i> , ECF No. 140, filed April 16, 2018	319
Order (granting Motion to Remand) filed June 10, 2013	331
Fourth Circuit Court of Appeals	
Order in <i>vonRosenberg v. Lawrence</i> , No. 19-2112 filed October 27, 2020	351
<u>Pleadings and Motions</u>	
Circuit Court Filings	
Second Amended Complaint filed March 5, 2013	354
Answer and Counterclaims of Defendant TEC filed March 28, 2013	455

VOLUME II

Answer and Counterclaims of Defendant TEC (continued)	479
Answer and Counterclaims of Defendant TECSC filed March 28, 2013.....	554
Reply to Defendant TECSC’s Counterclaims by Plaintiffs The Protestant Episcopal Church in the Diocese of South Carolina and The Trustees of The Protestant Episcopal Church in South Carolina filed April 18, 2013	638
Reply to Defendant TEC’s Counterclaims by Plaintiffs The Protestant Episcopal Church in the Diocese of South Carolina and The Trustees of The Protestant Episcopal Church in South Carolina filed April 18, 2013	645
Plaintiffs’ Motion for Clarification of Jurisdiction and For Other Relief filed March 23, 2018	659
Defendants’ Petition for Execution and Further Relief on Declaratory Judgments of the South Carolina Supreme Court and for the Appointment of a Special Master filed May 8, 2018.....	670
Defendants’ Amended Petition for Execution and Further Relief on Declaratory Judgments of the South Carolina Supreme Court and for the Appointment of a Special Master filed May 16, 2018.....	783
Defendants’ Petition for an Accounting filed July 11, 2018.....	795
Defendants’ Memorandum in Support of Petition for an Accounting filed September 24, 2018	800
Plaintiffs’ Supplement to Motion for Clarification of Jurisdiction and For Other Relief filed September 24, 2018	806
Plaintiffs’ Memorandum in Support of Motion for Clarification and For Other Relief filed September 24, 2018	816
Defendants’ Memorandum in Support of Amended Petition for Execution and Further Relief on Declaratory Judgments of the South Carolina Supreme Court and for the Appointment of a Special Master filed September 24, 2018	839

Plaintiffs’ Supplement to Motion for Clarification of Jurisdiction and For Other Relief (electronically) filed September 24, 2018.....	860

Plaintiffs’ Memorandum in Support of Motion for Clarification and For Other Relief (electronically) filed September 24, 2018.....	870

VOLUME III

Plaintiffs’ Memorandum in Support of Motion for Clarification (continued)	957

Plaintiffs’ Response in Opposition to Defendants’ Memorandum in Support of Petition for Execution filed October 5, 2018	963

Plaintiffs’ Response in Opposition to Defendants’ Memorandum in Support of Petition for an Accounting filed October 5, 2018	1049

Defendants’ Brief in Opposition to Plaintiffs’ Motion for Clarification and Further Relief filed October 8, 2018	1060

Plaintiffs’ Reply to Defendants’ Brief in Opposition to Plaintiffs’ Motion for Clarification and Further Relief filed October 12, 2018	1079

Defendants’ Omnibus Reply Brief to Plaintiffs’ Opposition Briefs to Defendants’ Petition for Enforcement, Petition for an Accounting, and Motion to Dismiss Betterment Action filed October 15, 2018	1095

Defendants’ Motion for Reconsideration and to Alter or Amend filed June 29, 2020	1104

Plaintiffs’ Memorandum in Opposition to Defendants’ Motion for Reconsideration and to Alter or Amend filed July 9, 2020.....	1124

South Carolina Supreme Court

Notice of Appeal filed March 24, 2015	1135

Brief of Appellants dated August 6, 2015	1144

Brief of Respondents dated August 10, 2015	1203
Appellants' Reply Brief dated August 6, 2015	1277
Motion to Argue Against Precedent filed September 8, 2015	1309
Petition for Rehearing filed September 1, 2017	1311
Motion to Recuse the Honorable Justice Kaye G. Hearn, etc. filed September 1, 2017	1350

VOLUME IV

Motion to Recuse the Honorable Justice Kaye G. Hearn, etc. (continued)	1435
Petition for Rehearing and Reconsideration of Respondent Church of the Good Shepherd filed September 6, 2017	1691
Return filed September 18, 2017	1710
Reply in Support of Motion to Recuse, etc. filed September 25, 2017	1735
Reply in Support of Petition for Rehearing filed September 25, 2017	1750
Church of the Good Shepherd's Reply to Return of the National Church filed September 25, 2017	1768
Petition for Writ of Mandamus filed March 20, 2019	1773
Return to Petition for Writ of Mandamus filed April 11, 2019	1793
Petition for a Writ of Prohibition filed February 21, 2020	1832

VOLUME V

Petition for a Writ of Prohibition (continued).....	1913

Supreme Court of the United States

Petition for Writ of Certiorari filed February 9, 2018	2020

Brief of Respondents in Opposition filed May 7, 2018	2070

Reply Brief for Petitioners regarding Petition for Writ of Certiorari filed May 15, 2018	2111

United States District Court – District of South Carolina

Bishops vonRosenberg’s and Adams’ Motion to Amend Their Complaint to Join Parties and Claims, <i>von Rosenberg v. Lawrence</i> , ECF No. 124 filed March 1, 2018	2128

TEC’s Motion to Amend Amended Complaint-In-Intervention to Join Parties and Claims, <i>von Rosenberg v. Lawrence</i> , ECF No. 125 filed March 1, 2018	2186

Fourth Circuit Court of Appeals

Motion to Stay Case, <i>von Rosenberg v. Lawrence</i> , No. 19-2112 filed October 16, 2020	2222

Transcripts

Transcript of Trial before Judge Goodstein, July 8-25, 2014	2286
Wade H. Logan, III	
Direct	2304
Cross	2369

VOLUME VI

Wade H. Logan, III (continued)	2391
Direct	2411
Redirect	2414
Recross	2415
James Barton Lewis, Jr.	
Direct	2419
Cross	2505

Redirect	2543
Recross	2550
Robert M. Kunes	
Direct	2553
Cross	2560
Iris Langston Hodge	
Direct	2573
Cross	2597
Redirect	2599
Recross	2600
Craig Norton Borrett	
Direct.....	2601
Cross	2621
Direct.....	2639
Richard Patten Bruce, II	
Direct	2640
Cross	2660
Lewis B. Middleton, Jr.	
Direct	2664
Cross	2682
Thomas J. Hendrickson	
Direct	2690
Cross	2710
Redirect	2716
Beverly Carlson Conner	
Direct	2732
Cross	2738
Redirect.....	2749
Recross	2750
Alonso Mendieta Galvan	
Direct	2766
Cross	2785
Redirect	2800
John Acken	
Direct	2802
Cross	2843

Judy Casper McMeekin	
Direct	2867

VOLUME VII

Judy Casper McMeekin (continued)	2869
Cross	2896

Julius P. Thompson, III	
Direct.....	2909
Cross	2928
Redirect	2939

Allie Patterson Walker	
Direct	2940
Cross	2958

Laverne Fenters, Jr.	
Direct	2976
Cross	2984
Redirect	2993
Recross	2994

Richard Lane Brown, III	
Direct	2995
Cross	3008

Suzanne Warren Schwank	
Direct.....	3022
Cross	3043

Steven Joseph Rumpf	
Direct.....	3046
Cross	3059

Frank Keenan Sloan, Jr.	
Direct	3085
Cross	3104

William Cowan Ervin, Jr.	
Direct	3131
Cross	3147

Arthur Mack Jenkins	
Direct	3149

Arthur Mack Jenkins (continued)	
Cross	3158
Recross	3174
John Lewis Jackson, Jr.	
Direct	3206
Cross	3211
Michael Sundy Winburn	
Direct	3216
Cross	3223
Marianne Leal Holmes	
Direct	3233
Cross	3237
Samuel Gaillard	
Direct	3243
Cross	3246
Michael Clarkson	
Direct	3257
Cross	3260
Redirect	3266
William Derieux Clarkson	
Direct	3268
Cross	3274
Ann Hester Willis	
Direct	3277
Cross	3283
David Tackaberry Thurlow	
Direct	3302
Cross	3308
William David Starnes	
Direct	3315
Cross	3322
Redirect	3335
Robert Lawrence Armstrong	
Direct	3338

VOLUME VIII

Robert Lawrence Armstrong (continued)	3347
Cross	3349
Julian Jeffords, III	
Direct	3359
Cross	3361
Redirect	3380
Charles Edward Owens, III	
Direct	3381
Cross	3386
Kenneth Nixon Wilson	
Direct	3398
Cross	3416
Boyd Leggett Baker	
Direct	3427
Cross	3432
Martin Ray Scarbrough	
Direct	3462
Cross	3467
Steward Huey, Jr.	
Direct	3474
Cross	3477
Myron Harrington, Jr.	
Direct	3485
John Zimmerman, Jr.	
Direct	3508
Cross	3512
Armand Georges Derfner	
Direct	3526
Cross	3552
Warren Wilder Mersereau	
Direct	3555
Marshall Dow Sanderson	
Direct	3580

Marshall Dow Sanderson (continued)	
Cross	3602
Redirect	3613
Martin C. McWilliams, Jr.	
Direct	3623
Cross	3713
Redirect	3766
Rebecca Lovelace	
Direct	3775
Cross	3787
Leslie Jean Lott	
Direct	3823

VOLUME IX

Leslie Jean Lott (continued)	3825
Cross	3855
Redirect	3907
Eleanor Brownlee Koets	
Direct	3920
Cross	3944
Francis Lucille Elmore	
Direct	3948
Cross	3953
Clifton Daniel, III	
Direct	3990
Cross	4004
Redirect	4016
Recross	4022
Patricia Garner Neumann	
Direct	4025
Cross	4037
Walter Edgar	
Direct	4045
Cross	4163
Redirect	4193
Recross	4195

Mark Duffy	
Direct	4206

VOLUME X

Mark Duffy (continued)	4302
Cross	4238
Redirect	4321
Recross	4322

Thomas Rickenbacker	
Direct	4327
Cross	4349

Charles vonRosenberg	
Direct	4433
Cross	4466
Redirect	4484

Gregory J. Kronz	
Direct	4573
Cross	4578
Redirect	4583

Allen Carl Guelzo	
Direct	4615
Cross	4650

Robert Stratton Lawrence	
Direct	4684
Cross	4686

Wade H. Logan, III	
Direct	4690
Cross	4705

Nancy Armstrong	
Direct	4709
Cross	4717
Redirect	4720

Mark Joseph Lawrence	
Direct	4730
Cross	4766

VOLUME XI

Transcript of Trial before Judge Goodstein, July 8-25, 2014 (continued)	4780
Transcript of Motions Hearing, November 19, 2018 (excerpts)	4809
Transcript of Motion to Dismiss Hearing, July 23, 2019 (excerpts)	4854
Transcript of Motions Hearing, November 26, 2019 (excerpts)	4873
Transcript of Motions Hearing, February 27, 2020 (excerpts)	4962

Exhibits (July 8-25, 2014 trial)

Court Exhibit 1, individual Respondent Parish designations:

Church Of The Cross, Inc. and Church Of The Cross Declaration of Trust	4984
The Church Of Our Saviour Of The Diocese Of South Carolina	5059
St. David's Church	5141
The Church of The Epiphany	5249

VOLUME XII

The Church of The Epiphany (continued)	5258
The Vestry and Church Wardens Of The Episcopal Church Of The Parish Of St. Helena and The Parish Church Of St. Helena Trust	5374
The Vestry and Church Wardens of St. Jude's Church of Walterboro	5674

VOLUME XIII

The Vestry and Church Wardens of St. Jude's Church of Walterboro (continued)	5736
Trinity Episcopal Church, Edisto Island	5765
Vestry and Church Wardens Of The Episcopal Church Of The Parish Of St. John's, Charleston County	5861
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	5945

The Vestries and Churchwardens of the Parish of St. Andrew (hereinafter “Old St. Andrews Parish Church” or “OSA”)	6141

VOLUME XIV

The Vestries and Churchwardens of the Parish of St. Andrew (continued)	6214
All Saints Protestant Episcopal Church, Inc.	6261
St. Bartholomew’s Episcopal Church	6323
The Church of the Holy Cross-Stateburg	6405
Christ St. Paul’s Episcopal Church	6468
Church Of The Holy Comforter	6568

VOLUME XV

Church Of The Holy Comforter (continued)	6692
Church Of The Redeemer	6749
Holy Trinity Episcopal Church	6949
The Church Of The Good Shepherd, Charleston, SC	7055
St. Paul’s Episcopal Church of Bennettsville, Inc.	7147

VOLUME XVI

St. Paul’s Episcopal Church of Bennettsville, Inc. (continued).....	7170
St. James’ Church, James Island, S.C.	7241
The Church of St. Luke and St. Paul, Radcliffeboro	7325
The Church Of The Resurrection, Surfside	7421
The Protestant Episcopal Church, Of The Parish Of St. Philip, In Charleston, In The State of South Carolina	7522

VOLUME XVII

The Protestant Episcopal Church, Of The Parish Of St. Philip (continued)	7648

The Vestry and Church Wardens Of The Episcopal Church Of The Parish Of St. Matthew	7802
The Vestry and Wardens Of St. Paul’s Church, Summerville	7890
Trinity Church of Myrtle Beach	8035

VOLUME XVIII

Trinity Church of Myrtle Beach (continued)	8126
Vestry and Church-Wardens Of The Episcopal Church Of The Parish Of Christ Church	8190
Trinity Episcopal Church, Pinopolis	8393
St. Luke’s Church, Hilton Head Island	8463
DSC Exhibit 30. D-24 Exhibit 6, 2006 Constitution and Canons	8550

VOLUME XIX

D-24 Exhibit 6, 2006 Constitution and Canons (continued)	8604

Other Materials

Email from Judge Dickson’s law clerk to counsel (requesting compilation of opinions) dated January 8, 2019	8828
Email from Judge Dickson’s law clerk to counsel (requesting votes on Dennis Canon) dated January 14, 2019	8829
Plaintiffs’ Analysis of Collective Opinions dated January 16, 2019	8830
Plaintiffs’ Response to Court ‘s Inquiry Concerning the Dennis Canon (with Exhibit 1, TEC Response to Parishes’ First Request for Admissions) dated January 18, 2019	8855
Defendants’ Submission in Response to Court’s Request (Justice’s Opinion review) dated January 22, 2019	8873
Letter from Thomas Tisdale to Judge Dickson dated November 25, 2019	8901

Email from Judge Dickson’s law clerk to counsel (requesting citations to trial record, etc.) dated February 6, 2020	8909
Defendants’ Response to Court’s Request (per February 6, 2020 email) dated February 21, 2020	8910
Letter from Alan Runyan to Judge Dickson dated May 25, 2020.....	8976
Letter from Thomas Tisdale to Judge Dickson dated June 1, 2020	8977
Proposed Order submitted by Plaintiffs	8978
Proposed Order submitted by Defendants	9003
Certificate of Counsel	9016

1 authority under this corporation, is that correct?

2 A. I don't believe that's correct.

3 Q. Who else would?

4 A. The board of directors.

5 Q. Okay.

6 A. The standing committee.

7 Q. If they had one, right?

8 A. I believe that the --

9 Q. Have you ever seen --

10 THE COURT: Hold on. She can't take down all three of
11 you at the same time. First of all there's an objection.

12 MS. GOLDING: Mr. Tisdale had interrupted an answer.

13 THE COURT: And that is correct.

14 MR. TISDALE: I did do that and I apologize.

15 THE COURT: So hold up, and you probably don't even
16 remember what the question was.

17 THE WITNESS: Ma'am?

18 THE COURT: Do you remember what the question was?

19 THE WITNESS: I'm not sure.

20 THE COURT: Now you know how witnesses your whole career
21 felt.

22 THE WITNESS: Particularly the witnesses that I'm
23 examining, Your Honor.

24 THE COURT: Do you remember what the question was?

25 MR. TISDALE: Well, I think I can rephrase it in a

1 different way.

2 THE COURT: Perfect. Thank you.

3 Q. I believe you testified earlier that you'd never seen
4 any minutes or been privy to any minutes of this
5 corporation --

6 A. During the timeframe we're talking about.

7 Q. -- during the timeframe I'm talking about up until
8 sometime in the 21st century, that it did not have any
9 officers except the bishop, the canon to the ordinary and the
10 treasurer.

11 A. There may be such minutes, but I do not recall seeing
12 any. There were other instances where, for example, in the
13 act of 1880 the general assembly referred to the bishop and
14 the board.

15 Q. We're talking about the standing committee now?

16 A. I understand.

17 Q. The corporation?

18 A. Right.

19 Q. Not the trustees.

20 A. I understand that.

21 Q. You've never seen any?

22 A. Not any minutes that I can recall, no, sir.

23 Q. Do you know if any such minutes exist?

24 A. I do not.

25 Q. Never seen any though.

1 A. Not that I recall, no, sir. You're talking about the
2 21st century.

3 Q. Yes, from 1973 until the time Bishop Lawrence became
4 bishop do you know of any act taken by this corporation?

5 A. Any acts?

6 Q. Any activity, doing anything.

7 A. Well, I think the board of the standing committee
8 operating as a board of directors met more or less regularly.

9 Q. You're talking about trustees?

10 A. No, I'm talking about the standing committee.

11 Q. I said up until the time Mr. Lawrence became the bishop.

12 THE COURT: Hold on. There's an objection.

13 MS. GOLDING: Mr. Tisdale again interrupted the witness
14 and would not permit the witness to complete the answer.

15 MR. TISDALE: Start over, please.

16 THE COURT: All right.

17 Q. Up until the time Bishop Lawrence became bishop do you
18 have any knowledge or evidence of this corporation doing
19 anything?

20 THE COURT: Stop one second. This corporation, describe
21 what you mean.

22 MR. TISDALE: The plaintiff corporation, the Protestant
23 Episcopal Church in the Diocese of South Carolina.

24 THE COURT: Thank you.

25 THE WITNESS: Yes, I think they gave deeds to property,

1 I think they conducted their activities like they normally
2 would.

3 Q. And they gave deeds to property under the constitution
4 and canons that allowed such activity, didn't they?

5 A. Of the diocesan canons and constitution, I believe.
6 There's actually a letter that I've seen of yours talking
7 about a deed where you said you knew of no legal prohibition
8 why the standing committee couldn't do that.

9 Q. Well, that's provided for in the canons, is it not?

10 A. I think so, yes, sir.

11 Q. Not in any corporate bylaws except the constitution and
12 canons, right?

13 A. I think that's right, at that time.

14 Q. With regard to the lease and the employment agreement
15 with Bishop Lawrence --

16 A. Yes, sir.

17 Q. -- that you testified about, and they're in evidence,
18 I've forgotten what numbers they are, but were you involved
19 in negotiating the lease for his house?

20 A. Well, first of all I'm not sure what negotiations there
21 were, and the short answer is, no, my general practice has
22 been when I run into an area of real estate where I am
23 outside my areas of concentration, then I would hire another
24 lawyer to do that, so my recollection is no, I was not
25 involved in either of those documents.

1 Q. You're familiar with the lease, aren't you?

2 A. Sir?

3 Q. Familiar with the lease?

4 A. Yes, sir.

5 Q. All right. Why does that lease lease this property on
6 Pitt Street or Smith Street?

7 A. Is it Pitt Street? Smith Street? I'm sorry.

8 Q. It could be.

9 A. Okay.

10 Q. Why does it lease it to him as an individual and not as
11 bishop of the diocese?

12 A. Again, you'd have to ask the lawyer that drafted it. My
13 experience was, Mr. Tisdale, that nonprofit corporations like
14 churches don't ordinarily or always cross their T's and dot
15 their I's, and that was part of an effort to more or less
16 document some of the existing relationships.

17 Q. Right.

18 A. Put it on a more businesslike basis, if you will.

19 Q. When did the Diocese of South Carolina discontinue
20 accession to the constitution and canons of the Episcopal
21 Church?

22 A. I don't recall the exact date, but it's in one of these
23 exhibits.

24 Q. Has it been fairly recently?

25 A. Within the 21st century, I think, yes.

1 Q. Since Bishop Lawrence has been bishop?

2 A. Yes.

3 Q. And by what authority was that accession withdrawn?

4 A. I think that it was originally passed by the standing
5 committee, went to the convention which approved it.

6 Q. Approved by the standing committee?

7 A. Approved by the standing committee and approved by the
8 convention, yes, sir.

9 Q. And by what authority did either the standing committee
10 or the convention have to approve the withdrawal of accession
11 to the Episcopal Church constitution and canons?

12 A. Again, you're asking a legal question.

13 Q. I am, asking of you as chancellor.

14 A. I'm not an expert in corporate law, so I don't think I
15 can answer that question.

16 Q. I'm really asking you a question based upon the
17 constitution and canons of the Episcopal Church in the
18 Diocese of South Carolina.

19 A. I believe, and I understand you disagree with me, that
20 the president, who approved that ultimately, the bishop, the
21 standing committee, which I believe was the board of
22 directors, and the diocesan convention being the bodies that
23 made that kind of decision all approved it. I think it
24 speaks for itself.

25 Q. Well, my only question to you on that is do you know the

1 basis for that authority other than they just did it?

2 A. Again, I think I've told you that I believe that that
3 was the correct corporate and canonical path to do it.

4 Q. If anybody had it they did.

5 A. I believe so.

6 Q. That's your testimony.

7 A. That's my testimony, and I know that there was no
8 requirement the Episcopal Church approve that.

9 Q. Right. Now, where in the Exhibit 1, the canons and
10 constitution of the diocese --

11 A. Yes, sir.

12 Q. And if we've been over this I apologize. It won't take
13 but a minute. Where does it provide that the standing
14 committee must approve the alienation or encumbrance of
15 property?

16 A. I think I previously read that to you, and I may be
17 wrong, but I think, and these canons have been re-numbered
18 from time to time, but in Exhibit No. 1 it is Canon 30, Roman
19 numeral XXX.

20 Q. What does it say?

21 A. It's entitled prohibiting the desecration of consecrated
22 buildings and the alienation of church property without
23 consent of the ecclesiastical authority and the standing
24 committee.

25 Q. Okay. Thank you now, let's talk about the quitclaim

1 deeds for a few minutes.

2 A. Okay.

3 Q. How many quitclaim deeds, when I'm saying quitclaim
4 deeds, you generally -- you and I generally know what we're
5 talking about, don't we?

6 A. Yes, sir.

7 Q. You've testified about them.

8 A. Yes, sir.

9 Q. Under what authority were these quitclaim deeds issued?

10 A. I think that they were authorized by the standing
11 committee and the bishop and the trustees.

12 Q. Did the corporation, the plaintiff corporation, the
13 Protestant Episcopal Church in South Carolina, when it issued
14 these quitclaim deeds, own any property?

15 A. It may have. I don't think that it did. I think most
16 of the property was in the trustees.

17 Q. Okay. So the corporation that granted the quitclaim
18 deeds did not own any property, is that your testimony?

19 A. The testimony, Mr. Tisdale, is that if it did in fact
20 own any property, it was giving up whatever property right it
21 had to the parishes in question.

22 Q. Do you know whether it owned any property?

23 A. I do not believe that it did, but I don't -- as a
24 diocese, but I'm not sure.

25 Q. Did it have any assets?

1 A. Yes.

2 Q. What?

3 A. There were funds that were contributed by the various
4 parishes. That's the main one that occurs to me.

5 Q. The standing committee?

6 A. No, the diocese.

7 Q. I'm asking you did the corporation.

8 A. Well, you're asking two questions. I think you're
9 asking about the standing committee and you asked me about
10 the corporation. I think the corporation owned some assets.
11 I don't think that the standing committee did.

12 Q. What assets did the corporation own?

13 A. As I just told you, I think the funds that came in from
14 the various dioceses. It may be others that don't occur to
15 me right now. Excuse me, the funds that came in from the
16 various parishes.

17 Q. Now, I saw in some of the quitclaim deeds that you
18 testified about that Bishop Lawrence himself was a grantor in
19 the deeds; is that correct?

20 A. That's correct.

21 Q. Did Bishop Lawrence have any assets to convey to these
22 parishes?

23 A. Again, the intent of the quitclaim deed was -- I don't
24 think he did but the intent of the quitclaim deed was to say,
25 if I do, I'm giving it to you.

1 Q. Do you know of any?

2 A. No.

3 Q. Do you know whether or not the standing committee had
4 any assets?

5 A. I don't think any of them were conveyed by the quitclaim
6 deeds, if that's what you're asking.

7 Q. Okay. You testified about your understanding of some
8 aspects of the All Saints case.

9 A. Yes, sir.

10 Q. Mr. Logan, what was the status of that case,
11 procedurally, when you became chancellor?

12 A. I believe it was on appeal to the South Carolina
13 Appellate Court.

14 Q. Did you participate in the appeal?

15 A. No, sir.

16 Q. You did not.

17 A. I sat in on the oral argument, but I did not have part
18 in the appeal.

19 Q. Going back to quitclaim deeds for a second, I think you
20 said they were, quote, symbolic?

21 A. I think that was one of the purposes, yes, sir.

22 Q. What would be the other purpose?

23 A. Well, as I testified, I think that they were to give
24 assurance to the parishes to keep the unity of the diocese
25 and to avoid any problems that parishes may have been having

1 with title insurance or mortgaging the property, what have
2 you.

3 Q. Were any of these parishes told what they were receiving
4 as a result of having those quitclaim deeds conveyed to them?

5 A. If they did, it was in the quitclaim deeds and/or in the
6 memorandum that we talked about, but I don't think my
7 memorandum said what they were receiving.

8 Q. In fact, they were receiving nothing, weren't they?

9 A. No, I don't believe that's correct.

10 Q. But they were receiving no real property, were they?

11 A. They were receiving any interest that we might have as a
12 claim against real property.

13 Q. Did you have any interest?

14 A. No, I don't believe so at that time.

15 Q. So the quitclaim deeds were basically an act without any
16 object, is that right?

17 A. No, sir, that's not correct.

18 Q. Well, they certainly conveyed no real property, did
19 they?

20 A. Not to my knowledge, no, sir.

21 Q. Okay. Now, I know that you didn't come here today to
22 testify about the law, but in the All Saints case it is true
23 that that decision said that the Dennis canon was not
24 effective in South Carolina, didn't it?

25 A. That was my understanding of the significance of the

1 decision, yes, sir.

2 Q. That the Dennis canon had no application in this state.

3 A. The Dennis canon, and that there was no trust interest
4 in the property. The decision says what it says.

5 Q. Well, I understand that, but let me be a little bit more
6 specific. Did the All Saints case say that the Dennis canon
7 was not effective in South Carolina?

8 MS. GOLDING: Your Honor, I think that this is going
9 beyond what should be permitted.

10 THE COURT: Sustained.

11 MS. GOLDING: Thank you.

12 Q. Let me ask you this question, and I hope it won't be
13 objected to, but it might be, did the All Saints case discuss
14 any trust interests the church might have, the Episcopal
15 Church, other than based on the Dennis canon?

16 A. Again, Mr. Tisdale, the decision says what it says, and
17 its significance would be up to Judge Goodstein.

18 Q. You don't know.

19 THE COURT: Please don't interrupt him. My court
20 reporter, she's a wonderful court reporter, I would love to
21 be able to keep her for a while, so you all try not to talk
22 at the same time.

23 MR. TISDALE: For now, Your Honor, I don't think I have
24 anything else.

25 THE COURT: Thank you. All right. Is there any

1 redirect?

2 MS. KOSTEL: Your Honor, excuse me.

3 THE COURT: I'm so sorry, of course. Thank you for
4 that. I just was trying to sort of round up where we are
5 because I would think everybody's dinner bell's screaming, so
6 I think it's time for us to take a lunch, and then we'll take
7 your cross-examination and any redirect when we return.
8 Given the number of folks that are here, we'll take a little
9 less than an hour and a half. We're going to reconvene at
10 2:30.

11 (Lunch recess held.)

12 THE COURT: Cross-examination.

13 MS. KOSTEL: Good afternoon, Your Honor.

14 THE COURT: Good afternoon.

15 CROSS-EXAMINATION BY MS. KOSTEL:

16 Q. Good afternoon Mr. Logan.

17 A. Good afternoon, Ms. Kostel.

18 Q. Just a couple of questions to follow up on your earlier
19 testimony. You testified earlier that when a diocese elects
20 a bishop, it's required to get consents, before that bishop
21 can be consecrated, from a majority of the bishops with
22 jurisdiction in the Episcopal Church and the standing
23 committees in the Episcopal Church, is that right?

24 A. That is my recollection of the canons of the Episcopal
25 Church, yes, ma'am.

1 Q. That was my next question for you is that requirement
2 comes from the constitution and canons of the Episcopal
3 Church, is that correct?

4 A. Yes, ma'am, I believe it does.

5 Q. That's not a requirement of the diocesan constitution
6 and canons, is it?

7 A. No, ma'am.

8 Q. And, Mr. Logan, you were the chancellor when Mark
9 Lawrence was elected bishop the second time which resulted in
10 his consecration as bishop, were you not?

11 A. I believe that's correct, yes, ma'am. I know I was the
12 second time.

13 Q. At that time requirements -- there was a requirement in
14 the church's constitution and canons that that election be
15 certified by testimonials made by the convention, isn't that
16 correct?

17 A. I think that's correct, yes.

18 Q. And that was a requirement of the church's canons,
19 correct?

20 A. The Episcopal Church's canons, that's right. I think
21 the form of the canon may have said that the form of the
22 consent, required form was a testimonial.

23 Q. Yes, that's correct, and the canons also required that
24 Mr. Lawrence, before he became Bishop Lawrence, undergo a
25 medical exam; is that correct?

1 A. I think that's correct, yes.

2 Q. And the church's canons also required that he undergo a
3 psychiatric exam; is that correct?

4 A. I'm not sure about the Episcopal Church. I think that's
5 requirement of the diocesan communion. You may be correct.
6 I'm not saying it doesn't, just don't recall.

7 Q. I have a document that may refresh your recollection.

8 May I approach the witness?

9 THE COURT: You may.

10 Q. Thank you. Can you identify that document?

11 A. Yes, ma'am, this appears to be the 2012 edition of the
12 constitution and canons of the Episcopal Church.

13 Q. And if I represent to you that it's substantively the
14 same in the provisions we're going to discuss as the
15 constitution and canons in effect when Bishop Lawrence took
16 office, will you accept that?

17 A. I will accept your representation, yes, ma'am.

18 Q. Okay. So I'd ask you to turn to page 105.

19 A. Okay.

20 Q. And at the bottom of that page it sets out requirements
21 that the Episcopal Church has for persons that have been
22 elected bishop in a diocese before they can become the bishop
23 of the diocese, is that right?

24 A. Yes, ma'am.

25 Q. And subsection A2 requires certifications from --

1 certificates from a licensed medical doctor and a licensed
2 psychiatrist, isn't that correct?

3 A. That is correct.

4 Q. Okay. Thank you. And not all of those requirements to
5 your knowledge as chancellor were complied with, is that
6 right? The testimonials that we spoke about, the medical
7 exam and the psychiatric exam?

8 A. Frankly, Ms. Kostel, I don't recall. I would have
9 expected they would have been, but I really don't recall.

10 Q. None of those requirements came solely from a diocesan
11 constitution and canons, is that correct?

12 A. Not solely no.

13 Q. The medical exam came from the church's constitution and
14 canons.

15 A. I think that's right.

16 Q. Now, you also testified that Bishop Salmon retired
17 because of a mandatory retirement age; is that correct?

18 A. Yes, ma'am.

19 Q. And that mandatory retirement age is what, do you know?

20 A. I don't remember whether it was 72 or 75, frankly, but
21 he had already reached it.

22 Q. I think it's 72. That mandatory retirement age is not
23 in the diocesan constitution and canons, is it?

24 A. No, ma'am, I don't believe it is.

25 Q. Where is that mandatory retirement age?

1 A. Either the constitution or canons of the Episcopal
2 Church.

3 Q. Thank you. You also testified about the standing
4 committee of the diocese, and you testified about its
5 governance. The church's constitution regulates the
6 governance of standing committees, does it not?

7 A. Of the Episcopal Church?

8 Q. Yes.

9 A. Yes, it did.

10 Q. Standing committees of all the dioceses of the Episcopal
11 Church, correct?

12 A. Yes, ma'am.

13 Q. And in fact the church's constitution requires every
14 diocese to have a standing committee, does it not?

15 MS. GOLDING: Your Honor, the attorney keeps referring
16 to the church, and I assume just for the record she's talking
17 about her defendant TEC, and I just want to make that
18 absolutely clear because there are obviously very different
19 number of churches in this room and in this lawsuit, so I
20 would like to just get the record -- a clarification from
21 defense counsel, when she says the word church, she's
22 referring to her client, the defendant TEC.

23 THE COURT: Is that correct?

24 MS. KOSTEL: That's correct.

25 THE COURT: That's very helpful to me because you lose

1 me when you do that. Since I'm the going to make a
2 determination, you all need to be circumspect because while
3 you may know who you're speaking of, the names are very
4 similar.

5 MS. KOSTEL: When I use the phrase the church, I'm
6 talking about the Episcopal Church.

7 THE COURT: Don't call it the church. Call it the
8 national church, and then I'll know what you're talking
9 about.

10 MS. KOSTEL: And when I refer to local entities I'll
11 call them parishes.

12 THE COURT: I don't think anybody's called it a national
13 parish or a state parish.

14 MS. KOSTEL: That's correct.

15 THE COURT: But when you use church, it's difficult.
16 Thank you.

17 MS. KOSTEL: You're welcome.

18 Q. As to standing committees, so the Episcopal Church's
19 constitution requires every diocese in the Episcopal Church
20 to have a standing committee, is that correct?

21 THE COURT: Well, now, see there it goes, Episcopal
22 Church. You know how many of those I've got? A bunch.

23 MS. KOSTEL: Your Honor, that's my client. How would
24 you like me to refer to my client? Your Honor, it's the name
25 of the defendant. The plaintiff named the defendant the

1 Episcopal Church, and that's my client, so would you like me
2 to say --

3 THE COURT: The plaintiff named the defendant the
4 Episcopal Church. What does that mean?

5 MS. KOSTEL: It listed us as the Episcopal Church. It
6 listed the defendant who I represent, the first defendant.

7 THE COURT: I thought we just discussed the fact that
8 you were going to help me by --

9 MS. KOSTEL: I'm trying to.

10 THE COURT: I would appreciate it greatly if you could
11 refer to yourself as the national Episcopal Church or the
12 national church, and the reason for that, just to be clear,
13 is that that allows me to distinguish between defendants who
14 is national and who is state with regards to the defendants.
15 It's very difficult otherwise.

16 MS. KOSTEL: I'll do that, Your Honor.

17 THE COURT: I do appreciate that.

18 Q. The national church, the national church's constitution,
19 would you agree requires every diocese in the church, in the
20 national church, to have a standing committee?

21 A. Ms. Kostel, I am looking at Canon 12 entitled
22 Outstanding Committees. If you would refer me to the portion
23 of the constitution of the national church that you're
24 talking about, I'll be glad to look at it.

25 Q. Of course. Page 5, Article 4.

1 A. Article 4.

2 Q. Yes, IV.

3 A. Want me to read it?

4 Q. Sure.

5 A. It begins, in every diocese a standing committee shall
6 be elected by the convention thereof, etc., etc.

7 Q. Yes, so that's a requirement that every diocese have a
8 standing committee, is it not?

9 MS. GOLDING: Your Honor, I object to the question.

10 She's trying to vary what is written in the document, and I
11 think the document speaks for itself.

12 THE COURT: Which is not in evidence.

13 MS. GOLDING: That's correct, Your Honor.

14 THE COURT: Sustained.

15 Q. Let me also ask you about the -- it's your understanding
16 as chancellor, when you were chancellor for a diocese of the
17 Episcopal Church, that the diocese was required to have a
18 standing committee by the national church's constitution,
19 correct?

20 MS. GOLDING: Your Honor, I'm going to make an objection
21 again. She is trying to vary the terms of the document, and
22 I believe that if she wants the documents in evidence, she
23 should put the document into evidence.

24 MS. KOSTEL: The document will be in evidence, but I'm
25 asking Mr. Logan his understanding as chancellor, Your Honor.

1 THE COURT: My concern is I don't really care what he
2 thinks about it. I care what it is. So that's where I'm
3 struggling a little bit. Having him publish a document which
4 is not in evidence is not appropriate, and now you want to
5 ask him his opinion as the chancellor about what is and isn't
6 required by the national Episcopal Church, and yet there's a
7 document that will give me great information, so I'm a little
8 torn at this point. I'll sustain it.

9 MS. KOSTEL: I'll strike the question. Nothing further.

10 THE COURT: Very well. Any redirect?

11 MS. GOLDING: Your Honor, I believe that Mr. Runyan may
12 have some questions first.

13 MR. RUNYAN: On behalf of the diocese.

14 THE COURT: Okay.

15 DIRECT EXAMINATION BY MR. RUNYAN:

16 Q. Mr. Logan, you were asked some questions about whether
17 in the constitution and canons there was any reference to the
18 standing committee as a board of directors. Do you recall
19 that?

20 A. I recall those questions, yes, sir.

21 Q. Is there any reference in the canons to anyone being a
22 board of directors?

23 A. Not that I recall, no, sir.

24 Q. Is there a reference in the canons to the vestries?

25 A. Yes, sir.

1 Q. Is there any reference in the canon with respect to the
2 vestries that it is a board of directors?

3 A. I don't recall that exact language, but I think it
4 functions that way.

5 Q. Okay. Do you have the 2013 constitution and canons,
6 Exhibit 5?

7 A. Yes, sir.

8 Q. Would you turn, please, to page A8 in the constitution
9 and canons?

10 A. Yes, sir.

11 Q. Is there at the top of that page a standing resolution
12 No. 16?

13 A. Yes, it is.

14 Q. Would you read that into it the record, please?

15 A. Yes, sir, 16, resolved, whereas the members of the
16 standing committee also serve as the board of directors of
17 the Protestant Episcopal Church in the Diocese of South
18 Carolina, a South Carolina nonprofit religious corporation,
19 that no member of the standing committee may be removed,
20 replaced or a vacancy filled except by compliance with the
21 South Carolina Nonprofit Corporation Act, the bylaws of the
22 Protestant Episcopal Church in the Diocese of South Carolina
23 and the constitution of the diocese.

24 Q. Mr. Logan, are standing resolutions in fact referred to
25 in the constitution of the diocese?

1 A. I believe they are. They're typically listed between
2 the constitution and the canons.

3 Q. In the article having to do with the standing committee
4 in the constitution, would you turn to that, please, sir?

5 A. Yes, sir. Okay.

6 Q. Would you look at the last paragraph?

7 A. Yes, sir.

8 Q. Is there a reference to standing resolutions that the
9 standing committee has the authority to enact?

10 A. Yes, sir.

11 Q. Does it indicate that they are placed in the journal?

12 A. Yes.

13 MR. RUNYAN: Your Honor, at this time I'd like to
14 publish two portions from the Defendant Episcopal Church in
15 South Carolina's counterclaim.

16 THE COURT: All right.

17 MR. RUNYAN: Their answering counterclaim.

18 THE COURT: Any objection to that? It's been filed with
19 the Court.

20 MR. RUNYAN: That's okay. I'll leave it there, I don't
21 need to publish it. It's in the record.

22 THE COURT: All right. Very well. All right.

23 MS. GOLDING: Limited redirect, Your Honor.

24 THE COURT: All right.

25 REDIRECT EXAMINATION BY MS. GOLDING:

1 Q. Mr. Logan, do you have Plaintiff's Exhibit 27 in front
2 of you?

3 A. Yes, ma'am, I believe I do. 27?

4 Q. Correct.

5 A. Yes, ma'am.

6 Q. With respect to Exhibit 27, do these letters represent
7 communications and correspondence from Mr. Tisdale, the
8 chancellor of the plaintiff diocese, relating to property
9 matters?

10 A. Yes, ma'am, they appear to be.

11 MS. GOLDING: Your Honor, we would offer Plaintiff's
12 Exhibit 27 into evidence.

13 MR. TISDALE: No objection.

14 MS. KOSTEL: No objection.

15 THE COURT: Very well.

16 (Plaintiff Diocese Exhibit 27 admitted into evidence.)

17 Q. Mr. Logan, I would ask you to read on the first page of
18 Exhibit 27, please read the first sentence in the second
19 paragraph.

20 A. Yes, ma'am. That reads, it is my opinion that there is
21 no legal prohibition to the trustees selling the property to
22 anyone they wish, however it is obvious Mr. Hastie strongly
23 desired that the property be used directly for church
24 purposes.

25 Q. And who wrote this letter and the date it was written?

1 A. It was written by Mr. Tisdale on February 1st, 1977.

2 MS. GOLDING: Thank you. No further questions.

3 THE COURT: All right. Now, the parishes are good to
4 go? You better hop up. All right. Very well. Mr. Tisdale,
5 recross.

6 MR. TISDALE: Just object to the last line of
7 questioning because the constitution and canons in 1977 and
8 2013 are different, and so I would object to his response to
9 the last question.

10 THE COURT: Okay. I think it comes late, but I'll note
11 it for the record.

12 MR. TISDALE: All right. I just have a few other
13 questions, Mr. Logan, if I may.

14 THE WITNESS: Yes, sir.

15 RECROSS-EXAMINATION BY MR. TISDALE:

16 Q. Mr. Logan, you testified earlier that the assets of this
17 corporation might involve contributions from parishes?

18 MS. GOLDING: Your Honor, I'm going to make an objection
19 to this line of questioning. Recross can only be directed to
20 my redirect or any new matter that came up. That's not
21 addressing new matter, Your Honor.

22 THE COURT: Well, I understand, but because there was
23 some discussion of assets and because I am still in a
24 learning curve, I will certainly allow that, Mr. Tisdale, but
25 would you do me a favor and tell me, corporation, which

1 corporation?

2 MR. TISDALE: I will, and I will be fairly brief, Your
3 Honor.

4 THE COURT: Thank you.

5 Q. Mr. Logan I'm asking you some follow-up questions about
6 your testimony of what assets, if any, the Protestant
7 Episcopal Church in the Diocese of South Carolina, a
8 corporation, holds, and one of the things you said was that
9 it might have some assets of parishes that have contributed
10 to it. Is that the substance of your testimony?

11 A. No, sir, I think that what I said was that its assets
12 from time to time might involve contributions that have been
13 made to the diocese from the parishes. It also occurs to me
14 that its assets may include intellectual property like a
15 trademark or trade name, for example. I'm not trying to be
16 inclusive. I was just trying to give you an example.

17 Q. Well, the standing committee does not hold property over
18 a long term, does it; does it not transfer it to the
19 trustees?

20 A. Yes, sir, that's correct.

21 Q. It does?

22 A. Yes.

23 Q. So is there any record that you know of, any assets held
24 by this corporation, anything we can look at?

25 A. I can't show you a document right now. I can tell you,

1 and I frankly don't recall how long it is, that when a parish
2 is declared dormant I think its property goes to the standing
3 committee, but I think you're correct, they subsequently pass
4 it through to the trustees.

5 Q. Pass through?

6 A. Yes, sir.

7 Q. So if we wanted to look at lists of assets, do you know
8 if any such thing exists?

9 A. I think they're probably contained in some of these
10 journals that are listed in the, excuse me, that have been
11 admitted into evidence.

12 Q. The trustees certainly make a report of what they own
13 regularly, don't they?

14 A. Yes, sir.

15 Q. Do you know of any such similar report from this
16 corporation, the Protestant Episcopal Church in South
17 Carolina?

18 A. I think such a report is contained in the annual
19 convention proceedings, Mr. Tisdale.

20 Q. So if it is one, it's in there?

21 A. I would think it would be there, I would also look at,
22 the diocese has property insurance, and I'm sure there's a
23 schedule of the property owned by the diocese and the
24 trustees.

25 Q. Not talking about the diocese.

1 A. The diocese and the trustees.

2 Q. Talking about the corporation.

3 A. Yes, sir.

4 Q. You think the corporation owns an insurance policy?

5 MS. GOLDING: Your Honor, can we make clarification,
6 when he asks the question corporation, which --

7 Q. Protestant Episcopal Church in the Diocese of South
8 Carolina, does it have an insurance policy?

9 A. I believe it has more than one. I would have to look at
10 the policies to tell you who the named insured is.

11 MR. TISDALE: Thank you very much, Your Honor.

12 THE COURT: Yes, absolutely.

13 MS. KOSTEL: Nothing.

14 THE COURT: Let me ask this question because this would
15 help me tremendously. Now, I've got several entities, and
16 there is a little bit of a natural naming, if you will,
17 because I've got -- and we just did it -- the diocese
18 corporation, we've got the diocese, it's an unincorporated
19 association, so I've got an incorporated diocese and an
20 unincorporated association diocese. And you were right, they
21 did name it the Episcopal Church, but it does say in
22 parentheses, also known as the Protestant Episcopal Church in
23 the United States of America. Let's just call it the
24 national church. It would be so much easier for everyone.
25 What that does is it allows me to keep it straight. The

1 parishes, they all have different names, and I know that
2 contained within certainly examination of Mr. Logan there
3 have been things such as the trustee, and it's a separate
4 corporation. I got that. That would help me so much,
5 particularly as I go back to look at notes and things. It
6 would be wonderful if you all could help me in that regard.
7 That would be most helpful.

8 And with that, call your next witness.

9 MR. RUNYAN: The diocese calls Jim Lewis.

10 JAMES BARTON LEWIS, JR.,
11 being first duly sworn, testified as follows:

12 THE COURT: Would you state your full name for the
13 record for us again?

14 THE WITNESS: James Barton Lewis, Jr.

15 THE COURT: Your witness.

16 DIRECT EXAMINATION BY MR. RUNYAN:

17 Q. Mr. Lewis, where do you live?

18 A. I live in Mount Pleasant, South Carolina.

19 Q. Are you originally from South Carolina?

20 A. I was born in Petersburg, Virginia and have lived all
21 over the southeast.

22 Q. Where are you employed?

23 A. I'm an employee of the Diocese of South Carolina.

24 Q. And are you its registered agent?

25 A. That is correct.

1 Q. Do you have another title that you go by as well?

2 A. Yes, sir, I am the canon to the ordinary.

3 Q. Are you married?

4 A. That is correct.

5 Q. Do you attend a parish in this diocese?

6 A. I attend Christ Church in Mount Pleasant.

7 Q. Other than attending church there, do you have any
8 leadership role in that parish?

9 A. I do not.

10 Q. Could you just briefly tell us your educational
11 background?

12 A. I have a master's in, excuse me, a bachelor's of science
13 in natural resources from the University of the South at
14 Sewanee, a master's degree in forest biology from Virginia
15 Tech and a master of divinity degree from Seabury Western
16 Seminary.

17 Q. You got your master's from Virginia Tech in '84 and got
18 your minister degree in '94; what did you do between, in that
19 ten-year period?

20 A. In the interim I worked for a number of years for Dow
21 Chemical in their agricultural products department, and I
22 worked for the Division of Soil and Water Conservation for
23 several years.

24 Q. When did you come to South Carolina?

25 A. Came to South Carolina after graduating from seminary in

1 1994.

2 Q. And why did you come to this beautiful state?

3 A. I was blessed to be called to be the rector of St.

4 Jude's in Walterboro.

5 Q. How long were you rector at St. Jude's?

6 A. Ten years.

7 Q. And after St. Jude's what did you do?

8 A. I served for five years as priest associate at

9 Resurrection of Surfside Beach.

10 Q. And after those five years did you take another job?

11 A. I did.

12 Q. What was that?

13 A. I was called to be the canon to the ordinary to Bishop

14 Lawrence.

15 Q. And moved to Charleston?

16 A. That is correct.

17 Q. What is a canon?

18 A. A canon is anyone in the church with a specific assigned

19 role. My particular assigned role is to work for the

20 ordinary, who is the bishop of the diocese.

21 Q. Can you tell us what you do on a regular basis as canon
22 to the ordinary?

23 A. Covers a broad range. I'm a member of the commission on
24 ministry and consequently involved with ordination process
25 from discernment to ordination and seminary in between. Also

1 am involved in the finances of the diocese, attending finance
2 committee meetings, being involved in the risk management
3 committee, insurance for the diocese, also have some
4 involvement in the benefits committee of the diocese. I'm a
5 secretary to the diocesan council and a staff liaison to both
6 trustees meetings and to meetings of the standing committee.

7 Q. As part of that work do you have occasion to attend
8 meetings of some of these bodies within the diocese?

9 A. I do.

10 Q. What meetings do you regularly attend?

11 A. I regularly attend meetings of the standing committee,
12 the diocesan council, commission on ministry, risk management
13 committee, benefits committee, and it feels like there are
14 others as well but they don't come immediately to mind.

15 Q. How about the trustees?

16 A. And the trustees, that is also on that list.

17 Q. How about the finance committee?

18 A. I named that one earlier but yes, I do attend finance
19 committee.

20 Q. Advancement society ring a bell?

21 A. That's another one.

22 Q. How often do you attend these meetings?

23 A. Varies depending upon the individual committee.

24 Diocesan council, as a for instance, usually doesn't meet but
25 once a quarter at the most, same for trustees and finance

1 committee. Of late the standing committee has been meeting
2 on almost a monthly basis.

3 Q. We had a question earlier that wasn't completely
4 answered about the number of people the diocese employs.
5 Would you just give us an understanding of the employment
6 picture of the diocese?

7 A. Yes. There are approximately eight employees downtown,
8 staff members with various responsibilities, administratively
9 and ministry-wise, and then the rest of the diocesan
10 employees are employees of the camp, Camp St. Christopher,
11 St. Christopher Camp and Conference Center, and employment
12 there varies considerably from 75 to 150, depending upon
13 whether camp is in session during the summer and whether or
14 not the barrier island program is at work.

15 Q. Mr. Lewis, does the Protestant Episcopal Church in the
16 Diocese of South Carolina, a South Carolina nonprofit
17 corporation own property?

18 A. Indeed it does.

19 Q. Does it have bank accounts?

20 A. It does.

21 Q. Does it lease cars?

22 A. It does.

23 Q. Does it lease or own equipment?

24 A. Yes, it does.

25 Q. Does it cut payroll checks?

1 MR. TISDALE: Your Honor, I'm going to object to leading
2 the witness. I think he can just ask him the question.

3 MR. RUNYAN: That's true.

4 THE COURT: Yes, sustained.

5 Q. Do you know if payroll checks are cut?

6 A. Yes, I do.

7 Q. Do you know if anything is withheld from them?

8 A. It is.

9 Q. What?

10 A. Pension for clergy, and laity now, health insurance,
11 optional life insurance if people have opted to receive that
12 benefit, income tax, all the usual things that would be part
13 of a payroll withholding.

14 Q. Do you know if the same corporate entity has borrowed
15 money?

16 A. Yes, it has.

17 Q. Do you know whether it leases property or not?

18 A. Property as in.

19 Q. Real property.

20 A. Real property, I believe it does.

21 Q. Does it have a lease at the present time?

22 A. I'm not sure.

23 Q. Okay. Has it sold property?

24 A. Yes, it has.

25 Q. How many parishes and missions are there currently in

1 the diocese?

2 A. There are currently 39 parishes and 12 missions.

3 MR. RUNYAN: Your Honor, I'd like to display a map of
4 the parishes and missions that's presently on the website.
5 Any objection?

6 MR. TISDALE: No objection.

7 MS. KOSTEL: No objection.

8 THE COURT: Very well, all right.

9 Q. Mr. Lewis, can you see that?

10 A. I can.

11 Q. Just tell us what this is.

12 A. It's a map of the eastern portion of South Carolina
13 showing the location of the various parishes and missions of
14 the diocese as they are located across the landscape.

15 Q. And the little cartouche that looks like a seal, is that
16 the location of the parishes?

17 A. That's correct.

18 Q. Are these the parishes and missions that are currently
19 in union with the diocese?

20 A. I'm looking to confirm. I believe so.

21 Q. Okay. Tell the Court what is the difference between a
22 parish and a mission.

23 A. A full parish has the financial ability to pay for a
24 full-time rector, full-time clergy member. A mission as a
25 general rule does not have that financial ability and often

1 is supported financially by the diocese.

2 Q. What is the oldest congregation that you're aware of in
3 the diocese?

4 A. St. Philip's.

5 Q. Can you tell us about how old it is?

6 A. Over 300 years.

7 Q. Can you tell us approximately how many parishioners it
8 has?

9 A. 2 to 3,000.

10 Q. What is the youngest congregation in the diocese?

11 A. That would be Grace Parish in North Myrtle Beach.

12 Q. And how long has it been in the diocese?

13 A. One year.

14 Q. And approximately how many parishioners does it have?

15 A. Two to three dozen.

16 Q. Today how many parishioners are there, Mr. Lewis, in the
17 parishes and missions that are in union with the diocese?

18 A. Approximately 25,000.

19 Q. How many active clergy are there in the diocese at
20 present?

21 A. I believe about 90.

22 Q. Does that include deacons and priests?

23 A. That would only -- that count would only include priests
24 who are active in ministry. That does not include retired
25 clergy or deacons. That would add another 20 or 30 easily.

1 Q. Are there bishops who have retired from the Episcopal
2 Church that are active in the diocese?

3 A. Yes, three that I'm aware of.

4 Q. I'd ask you some questions about diocesan statistics.
5 Does the diocese keep a record of its statistics?

6 A. Yes, it does.

7 Q. Are you familiar with some of these as they relate to
8 the diocese before it withdrew from the Episcopal Church?

9 A. Yes, I am.

10 Q. Between 2002 and 2012 of the 110 dioceses in union with
11 the Episcopal Church how many showed any growth in baptized
12 membership during that same period?

13 A. During that ten-year period?

14 Q. Yes.

15 A. Three.

16 Q. And where did the diocese fit in?

17 A. It had the greatest growth of those three.

18 Q. In the year before the diocese withdrew from the
19 Episcopal Church could you tell us the state of growth in its
20 communicants?

21 A. In the Episcopal Church?

22 Q. In the diocese.

23 A. Oh, in the diocese, during that ten years membership,
24 baptized membership grew by a bit over 6 percent.

25 Q. What communication methods did the diocese use?

1 A. In addition to a traditional printed newsletter that now
2 comes out quarterly, the The Jubilate Deo.

3 MR. RUNYAN: Hold it right there, I'd like to display a
4 copy of that. Any objection?

5 MR. TISDALE: No objection.

6 MS. KOSTEL: No objection.

7 Q. We skipped over that one. What is this one you're
8 seeing now?

9 A. This is the diocesan e-news, this is every two weeks a
10 publication of the diocese announcing various and sundry
11 special events, visitors and other newsworthy items for the
12 diocese.

13 Q. Does the diocese have a website?

14 A. It does.

15 Q. Is that what we just saw together with what we're seeing
16 here?

17 A. What's now on the screen is the diocesan website.

18 Q. Does it have a Facebook page?

19 A. That is correct, it does.

20 Q. Okay.

21 A. And that would appear to be it.

22 Q. Any other means of communication that it has?

23 A. As of recently the diocese also has a twitter account
24 for communications.

25 Q. Is that a page there?

1 A. That is correct.

2 Q. And anything else?

3 A. Diocese also has regular targeted email and printed
4 communications, and of course here I see in front of me now
5 the bishop's blog. The bishop has a weblog.

6 Q. Is the diocese affiliated with any other organizations
7 internationally?

8 A. Yes, it is. It is affiliated with the Fellowship of
9 Confessing Anglicans globally, which is a confessional
10 organization within the larger Anglican Communion worldwide.
11 It has also been granted primatial oversight by the Global
12 South Primates of the Anglican Communion, and that is a
13 geographic and ecclesiastical body within the Anglican
14 Communion.

15 Q. Does it have any relationship with Trinity School For
16 Ministry of Pittsburgh?

17 A. It does.

18 Q. What is that?

19 A. The bishop and members of the diocese serve as members
20 of its board of directors.

21 Q. Does it have any relationship with Nashotah House in
22 Wisconsin?

23 A. It does. The bishop is also a board member of Nashotah
24 House as are several members of the diocese.

25 Q. Is it affiliated with more local organizations within

1 the state as well?

2 A. It is.

3 Q. Could you tell us some of those?

4 A. Among the local organizations that it is affiliated with
5 is, excuse me, Coastal Crisis Chaplaincy, which is a ministry
6 to the emergency and other service providers of the low
7 country throughout this region headed up by Rob Dewey, and
8 this diocese has always been a supporter, in fact originally
9 he was paid through the Diocese of South Carolina when that
10 position was first established. Parishes of this diocese and
11 the diocese itself continue to support that ministry. This
12 diocese is also a supporter of Water Missions International,
13 and it is involved in other institutions here locally and
14 also in this region.

15 Q. Does it have a relationship with Porter-Gaud?

16 A. That is correct.

17 Q. What is that relationship?

18 A. We have members of this diocese including the bishop who
19 serve on its board of directors.

20 Q. Does it have a relationship with Canterbury House?

21 A. It does with a similar arrangement, the bishop serving
22 on the board.

23 Q. What is Canterbury House?

24 A. Canterbury House is a retirement community located here
25 in Charleston.

1 Q. Does it have similar relationships with some other local
2 organizations as well?

3 A. It does. I'm afraid I'm drawing a blank at the moment.

4 Q. We'll leave it at that. There's been a mention of Camp
5 St. Christopher's. Would you tell the Court what Camp St.
6 Christopher's is and what it does?

7 A. St. Christopher's is a camp and conference center. That
8 means it has two functions: During the summer, this season
9 of the year, it is full up with hundreds of children,
10 different age groups, each week coming to the camp in order
11 to have an experience of not only the out-of-doors and the
12 activities that the camp makes possible, but more to the
13 point, experience the Christian gospel being lived and taught
14 throughout the course of the week.

15 THE COURT: Hold on. We have criminal court going on
16 next door.

17 Would you ask your question over please, Mr. Runyan?

18 Q. There were some earlier questions about Camp St.
19 Christopher's. Would you tell the Court what Camp St.
20 Christopher's is and what it does?

21 A. Another aspect of the camp facility, the camp is host to
22 other camping activities in addition to its own programing,
23 one of those being the burn camp which is an annual event
24 where the camp hosts, along with emergency providers,
25 children who have been victims of fires. That's an annual

1 event that the camp participates in. As the conference
2 center the camp is also a host throughout the entire year,
3 but primarily in the nine school months of the year, if you
4 will, to various conference types events. Some of those are
5 diocesan events. Some of the major events of the diocese
6 hosted there are youth retreats, anywhere from 7 to 800
7 teenagers at one time, a scary thought, all descending upon
8 Camp St. Christopher. There are normally three of those
9 retreats during the course of any given year. We also host
10 an annual men's ministry retreat, which is open to the larger
11 community, that has participants beyond just those in the
12 Diocese of South Carolina. Camp also hosts an annual women's
13 retreat which has a similarly broad audience beyond just the
14 Diocese of South Carolina and its members. There is normally
15 a retreat for the Daughters of the King hosted at the camp as
16 well as during the course of the year various parishes
17 holding their own parish retreats, sometimes parish-wide
18 retreats, St. John's, Johns Island has an annual retreat
19 there where the entire parish is invited. In other cases it
20 may be simply the vestry leadership that gathers at St.
21 Christopher's for a retreat. It's also used for similar
22 small groups. The Commission on Ministry has an annual
23 retreat held at St. Christopher's each year that is to meet
24 over a two to three-day period with candidates for postulancy
25 in the ordination process. It is part of the discernment and

1 ordination process for those individuals.

2 Q. You mentioned a group called the Daughters of the King
3 and you also mentioned a women's group. Is there another
4 women's organization other than Daughters of the King?

5 A. The Diocesan Church Women.

6 Q. That's also known as DCW?

7 A. DCW.

8 Q. All right. Does the diocese engage in any activities
9 that are not directly linked with its parishes for the
10 community?

11 A. For the community, had mentioned those institutions that
12 we support such as the Coastal Crisis Chaplaincy, the
13 children's burn victim retreat and Water Missions
14 International. Those are all organizations that are on the
15 side of the diocese and benefit a much wider audience than
16 just the Diocese of South Carolina.

17 Q. What is mere Anglicanism?

18 A. Mere Anglicanism is an annual event hosted by the
19 Diocese of South Carolina and organized by members of this
20 diocese that provides a scholarly engagement with issues of
21 theological and cultural significance today. The attendees
22 of that conference come from all around the world, as do the
23 speakers, and at the last event I believe there were over 400
24 attendees in Charleston for that gathering.

25 Q. Do you remember the theme of the last event?

1 A. Faith and science.

2 Q. Do the parishes in fact have any community outreach
3 programs of which you're aware?

4 A. They do. Every congregation has some measure or form of
5 community outreach, at least if it's a healthy congregation,
6 so some of them have engagement in some of the institutions
7 we have already mentioned. Others have their own programs.
8 One example from close to home here would be St. Paul's in
9 Summerville which has a summer reading camp as one of its
10 outreaches, but they also have a food pantry, as do many of
11 our congregations, and in that place a number of outreaches
12 that they're responsible for.

13 Q. Mr. Lewis, have you recently seen a slide show that
14 illustrates what you've been describing about the activities
15 of the diocese?

16 A. Yes, I have.

17 Q. Does it fairly and accurately depict some of the matters
18 about which you've testified?

19 A. I believe it does.

20 MR. RUNYAN: At this time I'd like to show that if
21 there's no objection?

22 MR. TISDALE: Suits me.

23 MS. KOSTEL: No objection.

24 THE COURT: Okay.

25 (Slide show displayed.)

1 Q. Mr. Lewis, we saw a number of photographs in there about
2 the diocesan convention. When did you first attend one of
3 these conventions?

4 A. My first diocesan convention would have been in 1995.

5 Q. In what capacity did you attend at that time?

6 A. As the rector of St. Jude's in Walterboro.

7 Q. When did you start attending conventions in the capacity
8 as canon to the ordinary?

9 A. That would have been the fall of 2009.

10 Q. And based on your experience, about how many people
11 attend the convention since you've been canon to the
12 ordinary?

13 A. Typically about 100 clergy and about 200 laity, give or
14 take a few.

15 Q. This is a convention of something. Who are the
16 participants at the convention?

17 A. Participants are the clergy of the diocese, who are
18 canonically resident with seat, voice and vote. That means,
19 among other things, that they must be active in ministry in
20 the diocese. The other participants, members, if you will,
21 of the convention are the parishes, who are represented by
22 their elected deputies.

23 Q. About how often are these held?

24 A. An annual convention is held each year, usually in
25 March.

1 Q. Are they sometimes held more frequently than once?

2 A. Canons allow for special conventions for other purposes,
3 including the election of a bishop or issues of moment to the
4 diocese.

5 Q. Have there been occasions in the history of the diocese
6 that you're aware of when they didn't meet in a particular
7 year?

8 A. I'm aware of one occasion, I believe, when that
9 happened.

10 Q. Mr. Lewis, did the diocese donate some of its historical
11 records to the South Carolina Historical Society?

12 A. That's correct.

13 Q. Who was the bishop when that happened?

14 A. Edward Salmon.

15 Q. Subsequent to that -- or can you tell the Court what was
16 donated, roughly what was donated?

17 A. The archival facilities of the diocese on the premises
18 are limited, and primarily what was conveyed at that time
19 were all the diocesan journals, convention journals of the
20 diocese.

21 Q. In the last couple of years did you enter into an
22 agreement with the South Carolina Historical Society about
23 providing some of these records so that they could be brought
24 to Court today?

25 A. That is correct.

1 Q. Would you take a look at the first document that you
2 have? I believe it's been premarked as Exhibit 40. Tell me
3 if this is a copy of that agreement.

4 A. It is.

5 MR. RUNYAN: Move it into evidence.

6 MR. TISDALE: No objection. What exhibit number will it
7 be?

8 MR. RUNYAN: 40.

9 MS. KOSTEL: Just one moment, please.

10 THE COURT: Certainly.

11 MS. KOSTEL: No objection.

12 THE COURT: Very well, 40 is in without objection.

13 (Plaintiff Diocese Exhibit 40 admitted into evidence.)

14 Q. Mr. Lewis, as a result of this agreement did the South
15 Carolina Historical Society bring some old documents here?

16 A. I believe they did.

17 Q. I want to exhibit to you and then to the Court the
18 earliest one that we have.

19 Let me show them to you first.

20 (Counsel confer.)

21 MR. TISDALE: Your Honor, we'll take a minute to look at
22 this.

23 THE COURT: Of course, absolutely. This is probably a
24 good time to take our afternoon break while you all do that.

25 We'll take 15 minutes and be at ease.

1 (Recess held.)

2 THE COURT: Mr. Runyan, are you ready to continue?

3 MR. RUNYAN: Ready, Your Honor.

4 THE COURT: Very well. Have you all had an opportunity
5 to look at the documents?

6 MR. TISDALE: We have, Your Honor.

7 MS. KOSTEL: Yes.

8 THE COURT: All right.

9 Q. Mr. Lewis, you have in front of you I believe Exhibit
10 41, is that correct?

11 THE COURT: I thought it was Exhibit 40. Is it 41?

12 MR. RUNYAN: It should be, well, we haven't introduced
13 it yet, it's 41.

14 MR. TISDALE: Alan, you're introducing the agreement,
15 right?

16 MR. RUNYAN: That was already in. That's 40.

17 MR. TISDALE: And I thought you said you weren't going
18 to mark -- oh, you weren't going to mark the book as an
19 exhibit.

20 MR. RUNYAN: No.

21 MR. TISDALE: But certain pages in it.

22 MR. RUNYAN: Constitution, yes.

23 Q. All right. Exhibit 40 was the agreement with the
24 historical society, is that right?

25 A. Correct.

1 Q. Do you have another document that looks sort of like
2 this (indicating)?

3 A. Yes, I do.

4 Q. Does that have a number on it?

5 A. 41.

6 Q. Okay. I'd like to, before we get to that I would like
7 to do what I was going to do before and hand you these
8 original records from the 1780s, ask you to look at them and
9 verify that they did in fact come from the diocese, were
10 given to the historical society, and then if you would please
11 hand them to the Court.

12 A. These are embossed on the outside of the bound volume,
13 Minutes of Conventions, Protestant Episcopal Church, Diocese
14 of South Carolina, 1785 to 1799.

15 MR. RUNYAN: If you would hand that to the Court,
16 please, sir.

17 THE COURT: Are they unprotected?

18 MR. RUNYAN: Well, they don't have anything else on
19 them, no. That's why we gave them up.

20 THE COURT: I don't have gloves or anything.

21 Oh, let's hear it for criminal court. All right.

22 Okay. Are you going to ask a question because I don't
23 want to disturb it any more than I absolutely need to.

24 MR. RUNYAN: I will.

25 Q. Mr. Lewis, Exhibit 41 that you have in front of you,

1 what is that?

2 A. That is the 1786 constitution, first constitution of the
3 Diocese of South Carolina.

4 Q. And how many pages are in that exhibit?

5 A. Three.

6 MR. RUNYAN: Your Honor, on the screen is the first page
7 of that exhibit, and if the Court would look at the very back
8 of the old document that you have, and it's actually
9 upsidedown, I believe the original is at the very back
10 upsidedown.

11 THE COURT: It's like reading Hebrew.

12 Q. Mr. Lewis, the copy that is 41, was that made from the
13 original that the Court has?

14 A. Yes.

15 Q. When was that made?

16 A. The copy?

17 Q. Yes. During the course of this litigation?

18 A. Yes, during the course of this litigation, part of
19 discovery.

20 Q. Did the diocese request that from the historical society
21 to make a copy?

22 A. Yes, we did.

23 Q. Did we make a copy and return it to the historical
24 society?

25 A. Yes, we did.

1 MR. RUNYAN: I would offer Exhibit 41.

2 MR. TISDALE: No objection.

3 MS. KOSTEL: No objection.

4 THE COURT: We're going to substitute a copy.

5 MR. RUNYAN: It is the copy, yes.

6 THE COURT: All right.

7 MR. RUNYAN: I've actually marked that as 41A because I
8 would like to offer a transcription of that as 41B.

9 (Plaintiff Diocese Exhibit 41 admitted into evidence.)

10 Q. Mr. Lewis --

11 MR. TISDALE: Do you have one for us, please?

12 MR. RUNYAN: I think I gave one to you (indicating).

13 Q. Mr. Lewis, what is 41B?

14 A. It is titled Constitution of the Protestant Episcopal
15 Church in South Carolina dated May 31, 1786.

16 Q. Is that a typed document?

17 A. That is correct.

18 MR. RUNYAN: We'd offer that in evidence.

19 MR. TISDALE: No objection.

20 MS. KOSTEL: Excuse me, Your Honor. I believe that
21 there are some transcription errors.

22 MR. RUNYAN: Well, if that's the case, we don't want it.

23 MS. KOSTEL: Want what?

24 MR. RUNYAN: We'll withdraw it.

25 MR. TISDALE: What did you say Mary?

1 MS. KOSTEL: There are some transcription errors.

2 MR. RUNYAN: That's fine. We'll mark it for
3 identification if we could, 41B for identification.

4 THE COURT: Okay.

5 MR. RUNYAN: Could you identify those, Ms. Kostel?

6 MS. KOSTEL: Identify what?

7 MR. RUNYAN: The transcription errors.

8 MS. KOSTEL: Sure. Holding them side by side, going
9 through the document, I guess I'll refer, Alan, to the line
10 in the transcription, okay?

11 MR. RUNYAN: Okay.

12 MS. KOSTEL: So in the second line of the transcription
13 the R in religion in the original is capitalized, and it's a
14 small r in the transcription. At the end of that line after
15 the word -- I'm sorry, just a second. In the fourth line
16 after the word God there's a comma in the transcription that
17 does not appear in the original. And also in that line the
18 word blessing is capitalized in the original, and it's not
19 capitalized in the transcription. Also in that line the word
20 community is capitalized in the original and not in the
21 transcription. And at the end of that line there's a colon
22 in the transcription, it's a comma in the original. In the
23 next line after the word whereas the transcription says
24 agreeably; it's agreeable in the original.

25 Your Honor, Mr. Beers is suggesting that I offer to

1 complete this exercise at the end of the day if that's better
2 for the Court.

3 MR. RUNYAN: No problem with that. We'll mark it 41B
4 for identification and then we'll deal with this. Thank you.

5 MS. KOSTEL: Yes, thank you.

6 MR. TISDALE: And if it's corrected, we don't have any
7 objection to it.

8 Q. Mr. Lewis, what documents govern how the convention of
9 the Protestant Episcopal Church in the Diocese of South
10 Carolina operates when it meets?

11 A. The constitution and the canons of the Protestant
12 Episcopal Church in the Diocese of South Carolina.

13 Q. Do the constitution and canons of the national church
14 govern how the convention operates?

15 A. No, they do not.

16 Q. Do they provide for how the diocese elects a bishop?

17 A. The actual election process is described in Rule 21 of
18 our canons.

19 Q. Do they speak to the number of votes required to pass?

20 MR. TISDALE: Your Honor, I'm going to object to his
21 leading the witness on all of this.

22 MR. RUNYAN: I'm not sure that's leading.

23 MR. TISDALE: You could ask him what it does, not tell
24 him what it does and then ask him if that's right.

25 Q. Does the constitution and canons of the national church

1 have anything to say about how the Diocese of South Carolina
2 operates its convention?

3 A. I do not believe so.

4 Q. When the Diocese of South Carolina amends or changes its
5 constitution and canons, is there any provision or any
6 requirement of which you are aware that that change must be
7 reviewed first and approved by the national church?

8 A. None of which I'm aware.

9 Q. When the Episcopal Church changes its constitution, when
10 the national church changes its constitution, does this
11 diocese and others have to review and approve that change
12 before it is effective?

13 A. Every diocese in the national church is expected to vote
14 upon those proposed changes to the national constitution.

15 Q. Mr. Lewis, what's the process used to call a convention
16 of the Diocese of South Carolina?

17 A. Normally at the conclusion of any annual convention the
18 date and location for the next convention is published,
19 announced at that time at the conclusion of that convention.
20 For special conventions the requirement in the canons is for
21 30 days advanced notice for any convention, and normally even
22 for an annual convention, even though the day and location
23 has been pre-noticed 30 days in advance, there will be a
24 reminder from the diocesan office that goes out, along with
25 any pre-filed resolutions for that convention.

1 Q. Okay. And are notices of convention, in fact, packets
2 for the convention sent out in advance?

3 A. That is correct.

4 Q. You should have in front of you, Mr. Lewis, 42A through
5 E, I believe.

6 A. Yes.

7 Q. Could you tell us what these are?

8 A. These are the preconvention packets that are mailed to
9 all clergy and deputies who are expected to attend the
10 diocesan convention, annual diocesan convention.

11 Q. And for what years of convention gathering do they
12 cover?

13 A. I see March 2010, January 2011, March 2012, October,
14 it's a notice for November 2012 and March 2013.

15 Q. What kind of information is contained in these packets,
16 Mr. Lewis?

17 A. Normally they send an agenda for the meeting, the
18 business to be conducted, especially if it's at a special
19 convention. Also included would be any pre-filed resolutions
20 or other business to be conducted. If it's an annual
21 convention, there will be election of officers, and the
22 nominees for those positions, that slate will be provided
23 along with a brief biography of all the candidates. Normally
24 the diocesan budget is approved at annual convention, and
25 depending upon the timing of this mailing that would also be

1 mailed out in advance to the deputies for their review prior
2 to the gathering of the convention.

3 Q. You may have said this, but to whom are these sent?

4 A. These are sent to the clergy of the diocese as well as
5 the deputies who represent the parishes and missions of the
6 diocese.

7 Q. And how do you know who to send them to?

8 A. All clergy who are canonically resident are identified
9 as such in the diocesan mailing list. For the deputies
10 representing the parishes there is a requirement that the
11 deputation be certified in advance. The parishes supply us
12 with a list of who their deputies will be at least 30 days in
13 advance, that's the request, and most make that request for
14 us so that we know precisely who to mail these packets to.
15 They send us both the names and all the pertinent contact
16 information for who those individuals are, both deputies and
17 alternates.

18 MR. RUNYAN: Offer 42A through E.

19 MR. TISDALE: No objection.

20 MS. KOSTEL: No objection.

21 THE COURT: Very well.

22 (Plaintiff Diocese Exhibits 42A-E admitted into
23 evidence.)

24 Q. Mr. Lewis, when you go to a convention what do you do
25 since you became canon to the ordinary?

1 A. As canon my duties tend to vary at a diocesan
2 convention. Appointments to committees are at the bishop's
3 discretion, so I do from time to time serve on various
4 committees, convention committees, that's one of my areas of
5 responsibility. I also assist with the actual administrative
6 conduct of the meeting, helping with vote tallies, I'm
7 involved with the nominating process, help support the work
8 of the nominating committee in presenting those nominations,
9 have some involvement in that part of the process as well,
10 and then I'm simply available for whatever needs at the
11 moment might arise during the course of the convention, so if
12 you were studying the pictures that were shown earlier of
13 diocesan convention, you would have seen me seated behind the
14 bishop on the dais.

15 Q. Mr. Lewis, who serves as president of the convention?

16 A. That would be the bishop.

17 Q. If he is not there, who serves as president?

18 A. President of the standing committee.

19 Q. Is there a secretary?

20 A. There is.

21 Q. And is the chancellor there?

22 A. Chancellor's present under normal circumstances.

23 Q. What is the role of the chancellor?

24 A. He normally functions as the parliamentarian.

25 Q. Is there a process by which a quorum is determined?

1 A. There is. All the pre-filed registrations are organized
2 at the registration area, and then as each individual comes
3 in before they can receive a name tag and enter the actual
4 convention area, they have to check in, and we check off
5 registrations against those that we have preregistered for
6 the convention, and before convention actually begins
7 business there's report of the committee to inform us of the
8 number of clergy present with seat, voice and vote and the
9 number of parishes and missions registered with seat, voice
10 and vote.

11 Q. Since you've been attendings diocesan conventions have
12 you ever attended a convention where there was not a quorum?

13 A. No, never have.

14 Q. Does the staff at the convention prepare a convention
15 notebook?

16 A. That is correct, we do.

17 Q. What is that?

18 A. That is a working agenda for the convention to provide
19 in more detail what actually transpires during the course of
20 the diocesan convention. All the pieces of business that
21 need to be conducted from elections to resolutions to
22 reports, financial statements, appointments of officers and
23 convention committees, all of that's laid out in some detail
24 in that notebook. Also normally concluded in that notebook
25 are the materials needed to make records of the actual voting

1 process. For elections that's fairly simple. That's become
2 an electronic process that's been with an electronic voting
3 device. But for items such as alteration to the constitution
4 or the canons, parts of that process require a vote by
5 orders, so there is a tally sheet available so that if there
6 is a vote by orders, we have a way to record each individual
7 clergy vote and each individual parish and mission vote.

8 Q. Mr. Lewis, at the conclusion of a convention or sometime
9 after that is there a document prepared known as a journal?

10 A. That is correct.

11 Q. And from what is it prepared?

12 A. It is prepared in part using the minutes taken at the
13 course of that meeting, also makes use of the notes taken in
14 those convention journals about which we were just referring,
15 and on some occasions we have had a court reporter present in
16 order to transcribe the business of that convention.

17 Q. Mr. Lewis, you have in front of you what's been
18 premarked as Exhibit 43. Which convention does this relate
19 to?

20 A. October 2010.

21 Q. What would you call this document?

22 A. These are the working records of the reconvened 219th
23 convention, excuse me, this contains both the March session
24 and the October session from 2010.

25 MR. RUNYAN: Offer Exhibit 43.

1 MR. TISDALE: Bear with us just one second, Your Honor.

2 THE COURT: Certainly.

3 MR. TISDALE: Did you say what months in 2010?

4 MR. RUNYAN: The whole year.

5 MR. TISDALE: I know, but there were two, weren't there?

6 MR. RUNYAN: March and October.

7 MR. TISDALE: Okay. No objection.

8 MS. KOSTEL: No objection.

9 THE COURT: Very well.

10 (Plaintiff Diocese Exhibit 43 admitted into evidence.)

11 Q. Mr. Lewis, back to the convention, would you tell the
12 Court who has the right to vote?

13 A. All the clergy who are canonically resident of the
14 diocese and active in ministry have the right to vote as well
15 as retired clergy under a few specific canonically prescribed
16 circumstances, also the deputation from each parish and
17 mission has a right to vote. Parishes have a full vote, one
18 vote per parish, and missions have one half of a vote.

19 Q. So how many delegates are there per parish?

20 A. Normally four for each parish.

21 Q. And what happens if the four delegates don't agree?

22 A. If their vote is tied, it counts as an abstained, if it
23 is a majority in one direction or the other, the majority
24 rules.

25 Q. So when a parish votes in delegation, what is the number

1 of votes that it has?

2 A. One.

3 Q. And when a clergy votes, what is the number of votes
4 that he or she has?

5 A. One.

6 Q. And when a mission votes, what is the number of votes
7 that it has?

8 A. One half.

9 Q. Now, in addition to the number of votes are there
10 different manners of voting?

11 A. Yes, there are. The most common form of voting is a
12 simple voice vote, meaning the matters of convention
13 resolutions passed can be adopted by simple majority vote by
14 voice. That is normally determined by the chair if a motion
15 has prevailed. If there is some doubt on that matter, a
16 division can be called and a vote for orders requested in
17 order to get a more precise accounting of whether or not a
18 motion has indeed passed or not.

19 Q. What is a vote by orders?

20 A. Vote by orders is when the clergy vote is -- and lay
21 vote are taken separately. Vote by orders normally begins
22 with a roll call of all the clergy who are registered with
23 seat, voice and vote at that convention. After that roll
24 call has been taken and the number counted, we then proceed
25 with a roll call of the individual parishes and then the

1 individual missions, each being called one by one and being
2 asked for their vote, yay or nay.

3 Q. When there is a vote by orders, is it recorded by who
4 voted?

5 A. In the case of the individual clergy each individual
6 clergy vote is recorded so we know how each individual voted.
7 In the parish voting, the lay voting, all that we know is the
8 outcome of the deputation, whether their vote was yay, nay or
9 abstained.

10 Q. But is it recorded as a vote of the parish?

11 A. Yes, it is recorded as a vote of the parish.

12 Q. Or of the mission?

13 A. Or of the mission.

14 Q. What are the number of votes required to change a canon
15 in the Diocese of South Carolina?

16 A. Requires a two-thirds vote.

17 Q. In what way?

18 A. Both the clergy order must vote by two-thirds majority
19 for the change, and then the lay order of the parishes and
20 missions together collectively must vote by two-thirds in
21 order for the passage of a change.

22 Q. Now, to change a provision, add or change a provision in
23 the constitution, what is the process required to accomplish
24 that?

25 A. On first reading the proposed change must pass by simple

1 majority of the convention present, and then the second
2 reading requires a two-thirds vote by orders.

3 Q. So in order to change the constitution how many times
4 must it be voted on?

5 A. It must be voted upon at two successive diocesan
6 conventions.

7 Q. We've talked about changing the canons. We've talked
8 about changing the constitution. For the passage of any
9 other resolution how many votes are required?

10 A. A single vote.

11 Q. And to what amount must that equal?

12 A. By a simple majority.

13 Q. Okay. Thank you. If there is a majority vote, can
14 someone call for a roll call vote if they desire?

15 A. Yes, they can.

16 Q. You mentioned that resolutions got to the floor
17 typically by pre-filed resolutions that went out in these
18 notices and packets. Is there any other way that the
19 resolution can get to the floor?

20 A. The canons also allow for resolutions to be filed on the
21 floor on the day of convention. The primary requirement is
22 that whoever moves the motion must bring enough copies that
23 they are available for each individual clergy and deputy.

24 Q. Can anyone file a resolution?

25 A. Anyone may file a motion at convention who is a

1 registered clergy or deputy.

2 Q. Did the convention meet in 2010?

3 A. Yes, it did.

4 Q. How often did it meet?

5 A. It convened annual convention on March 26 and reconvened
6 for the conclusion of that convention on October 15.

7 Q. And where did it meet?

8 A. St. Paul's, Summerville.

9 Q. Were you present?

10 A. Yes, I was.

11 Q. Was there a quorum?

12 A. Yes, there was.

13 Q. Were any resolutions passed at that convention, those
14 two meetings?

15 A. Yes, there were.

16 Q. How many resolutions were passed at the one in March?

17 A. I believe four.

18 Q. How many of those resolutions, or did any of those
19 resolutions deal with the diocese's relationship with the
20 national church?

21 A. I believe two of those had some bearing on that.

22 Q. Let's take a look at March 1st. Do you have 43A, Mr.
23 Lewis?

24 A. I have it.

25 Q. You have also a 43B?

1 A. I do.

2 Q. I'm not sure if you have a 43C. Do you have that?

3 A. I do not.

4 Q. Okay. I didn't think so. Are you familiar with these
5 two resolutions?

6 A. Yes, I am.

7 Q. Were you present when they were offered?

8 A. I was.

9 Q. Do these appear to be the resolutions marked as R-2 and
10 R-3 that were considered by the convention of the Diocese of
11 South Carolina in March of 2010?

12 A. Yes, they are.

13 Q. And were they voted upon?

14 A. They were.

15 MR. RUNYAN: I'd offer them in evidence.

16 MR. TISDALE: No objection.

17 MS. KOSTEL: No objection.

18 THE COURT: All right. In evidence without objection.

19 (Plaintiff Diocese Exhibits 43A and 43B admitted into
20 evidence.)

21 Q. Mr. Lewis, were these two resolutions R-2 and R-3
22 passed?

23 A. Yes, they did.

24 Q. Would you tell us what R-2 is, what it relates to?

25 A. R-2 related to an issue that was referred to earlier in

1 Chancellor Logan's testimony, the letters received from
2 Mr. Tisdale asking for various and sundry documents. The
3 resolution in question pointed out that the presiding bishop
4 has no authority to retain attorneys in this diocese to
5 present themselves as legal counsel of the Episcopal Church,
6 since the diocese at that time was the Episcopal Church in
7 South Carolina, and resolved that the presiding bishop,
8 excuse me, demanded the presiding bishop remove all such
9 retainer of legal counsel.

10 Q. All right. And what was R-3 about?

11 A. R-3 gave the bishop of the diocese -- let me rephrase
12 that. It clarified what we believed to be the case, that the
13 bishop was the ecclesiastical authority of the diocese, and
14 in his absence the standing committee, and that the
15 interpretation of our constitution and canons was ultimately
16 in the purview of the bishop and whatever interpretation he
17 provided was final and binding.

18 Q. Back to R-2 just a moment, there's a reference to
19 presiding bishop. Could you tell the Court who that person
20 was at that time?

21 A. That would be the Right Reverend Katharine Jefferts
22 Schori.

23 Q. And is the presiding bishop someone who is associated
24 with the national church?

25 A. That is correct.

1 Q. Are the results of these votes contained in the journals
2 of the convention?

3 A. That is correct.

4 Q. Could you tell the Court what the first resolution
5 passed by?

6 A. The first resolution R-2 was, because it was not a
7 canonical change, was a simple voice vote by majority.

8 Q. Was the second, R-3, was that a canonical change?

9 A. That was a canonical change, that was an addition to our
10 canons, and it passed in the clergy order 95 to 6 and the lay
11 order 47 to 7.

12 Q. There was a third one also that was considered that
13 involved the relationship, do you recall a resolution
14 involving a generous pastoral response?

15 A. Yes, that was resolution R-4.

16 Q. And what did that relate to?

17 A. At that point in time we had come to the conclusion or
18 near the conclusion of the All Saints litigation. The bishop
19 had made it very clear that it was his intention not to go
20 through that kind of litigation in the diocese again. It had
21 been tremendously expensive and divisive. St. Andrew's,
22 Mount Pleasant, had indicated that they were contemplating
23 disassociating from the diocese and the Episcopal Church, and
24 while we believed the bishop already had authority to deal
25 pastorally with such matters, this canon made it clear that

1 the diocese agreed with his assessment that that was not a
2 road we wished to travel again, and it gave the bishop
3 authority canonically for a generous pastoral response in how
4 it dealt with any congregation, mission or parish that was in
5 conflict with the diocese or the larger church.

6 Q. Did that pass?

7 A. It did pass.

8 Q. Was that a canonical change?

9 A. Yes, it was a canonical change.

10 Q. Did it pass by a vote by orders?

11 A. It did.

12 Q. Would you say what the percentage was of the passage in
13 the parishes and the missions and the clergy?

14 A. It was over 90 percent.

15 Q. Did you also attend the October 15 meeting of the 2010
16 convention?

17 A. Yes, I did.

18 Q. Prior to that meeting did you attend a standing
19 committee meeting where the resolutions that were going to be
20 offered were considered by the standing committee and voted
21 upon?

22 A. I was present at that meeting.

23 Q. Could you tell the Court what the vote was on those
24 resolutions?

25 A. The standing committee was unanimous in its support of

1 the resolutions put forward.

2 Q. And did some of those resolutions relate to the
3 diocese's relationship with the Episcopal Church?

4 A. Yes, they did.

5 Q. And were those resolutions sponsored by the standing
6 committee?

7 A. That is correct.

8 Q. You have in front of you a document marked 44 -- excuse
9 me, I'm sorry, 44D, E, F and G. Do you have those?

10 A. I do.

11 Q. Could you just broadly describe, without talking about
12 the topics yet, what these are?

13 A. One is a change to the constitution of the diocese. One
14 is a change to the canons of the diocese. That would be R-8.
15 R-10 is a change to the canons of the diocese and R-11 was an
16 approval for change in the corporate charter purpose
17 statement.

18 Q. Were these voted on by the convention?

19 A. They were.

20 Q. Were these the resolutions that the standing committee
21 voted on and approved?

22 A. Yes, that is correct.

23 MR. RUNYAN: I offer them into evidence, 44D through F
24 and G.

25 MR. TISDALE: No objection.

1 MS. KOSTEL: I don't have all of them, Alan. I don't
2 have anything from 2011, I mean R-11, I don't have R-11.

3 MR. RUNYAN: They're on one page, 10 and 11.

4 MS. KOSTEL: Oh, it's on one page. Could we go through
5 what the numbers of each of these is?

6 MR. RUNYAN: We're going to do that.

7 MS. KOSTEL: Thanks.

8 MR. RUNYAN: The exhibit numbers?

9 MS. KOSTEL: Yes.

10 MR. RUNYAN: Okay. R-6, Exhibit 44D; R-8, Exhibit 44E;
11 and R-10 and 11 is Exhibit 44F.

12 MS. KOSTEL: Thank you.

13 THE COURT: Any objection?

14 MR. TISDALE: No objection.

15 MS. KOSTEL: No objection.

16 THE COURT: Thank you. All right.

17 (Plaintiff's Diocese Exhibits 44D-F admitted into
18 evidence.)

19 Q. Mr. Lewis, let's start with the first one, 44D, would
20 you tell us what that concerns?

21 A. This was an amendment of the constitution of the Diocese
22 of South Carolina to limit its accession to the constitution
23 of that of the national church.

24 Q. And looking at this document, there are several things
25 that are struck through and a few things that were added.

1 Can you tell me what those are?

2 A. All reference to the canons of the national church have
3 been removed as well as references to the general convention
4 of the national church.

5 Q. Is there an addition to Article 1 of the constitution?

6 A. Yes. Under the first resolved the language was added
7 that in the case of a conflict between the constitution of
8 the general convention and that of this diocese the
9 constitution of the diocese would prevail.

10 Q. So we have a clear understanding, Mr. Lewis, prior to
11 the consideration and adoption of this constitutional change
12 and the canons did the constitution of the Diocese of South
13 Carolina provide that it acceded to both the constitution and
14 the canons of the Episcopal Church?

15 A. Prior to this change, that's correct.

16 Q. And after this change did it still provide accession to
17 something?

18 A. It still continued to provide accession to the
19 constitution of the national church.

20 Q. Let's look at R-8. Can you tell me what R-8 concerned?

21 A. R-8 was a removal of accession in the diocesan canons to
22 those canons of the national church.

23 Q. All right. And it's fairly lengthy. There are a number
24 of additions in there referencing 2006 and others. Can you
25 tell us what that concerns?

1 A. The primary reason behind this change was the
2 recognition and belief on our part that changes made to the
3 title for the disciplinary canons of the national church were
4 contrary to its own constitution and the only way to resolve
5 that conflict for us was to remove our accession to those
6 canons, so the reference here to 2006 was, in the
7 disciplinary canons of our diocese, reference back to the
8 canons of the national church as they existed in 2006, which
9 continued to be the template under which we chose to operate
10 for disciplinary purposes for clergy.

11 Q. All right. Would you look at the next resolution, R-10.
12 Could you tell us what that concerned?

13 A. That addressed the issue of property held in trust, the
14 question of whether or not the diocese had a trust interest
15 in the property of its parishes and missions. The language
16 in Section 5 of Canon 29 suggested that there was such a
17 trust interest. At the time this resolution was adopted by
18 convention it had been over a year since the All Saints
19 Pawleys ruling which had made it clear, to our understanding,
20 the diocese had no such trust interest, so there was no good
21 reason to maintain this language in our canons. It was no
22 longer applicable.

23 Q. All right. And then the last resolution, R-11, could
24 you tell us what that was about?

25 A. That was a resolution to revise the corporate purpose

1 statement of the diocese.

2 Q. And that revision, could you tell us how that, what that
3 revision did to the corporate purpose statement?

4 A. It removed reference to the national church and replaced
5 it with reference to the diocese itself.

6 Q. Were these voted on at convention?

7 A. They were.

8 Q. Did the first one, R-6, pass?

9 A. It passed by voice vote, simple majority.

10 Q. That was the first vote on amending the constitution?

11 A. Correct.

12 Q. How about the next one, R-8?

13 A. R-8 also passed by a vote by orders.

14 Q. And R-9?

15 A. R 9 --

16 Q. R-10, excuse me.

17 A. R-10 was also a canonical change that passed in a vote
18 by orders.

19 Q. All right. And R-10, would that have been removal of
20 the Dennis canon?

21 A. That is correct.

22 Q. Could you tell the Court what the vote was on that
23 percentage-wise?

24 A. 94 percent in favor in the clergy order and 91 percent
25 in favor in the lay order.

1 Q. And, finally, the amendment of the corporate charter,
2 did that pass as well?

3 A. That passed on a simple majority voice vote.

4 Q. Did you also attend the convention in 2011?

5 A. I did.

6 Q. Was there a resolution passed there that related to our
7 relationship with the national church?

8 A. In February of 2011 we had a second reading of the
9 constitutional changes approved prior in 2010.

10 Q. And was that done on a vote by orders?

11 A. That was.

12 Q. Did it pass?

13 A. It passed.

14 Q. Can you tell the Court what the number of votes were out
15 of the possible votes for the clergy who voted in favor?

16 A. Clergy in favor was 75 out of a possible 89 registered
17 for that convention.

18 Q. Parishes?

19 A. Parishes, it was a vote of 44 out of a possible 55
20 votes.

21 Q. Now, after the diocese disassociated, was there a
22 convention held in November of 2012?

23 A. That is correct, there was a special convention held.

24 Q. All right. Were resolutions passed there that related
25 to the diocese's relationship with the Episcopal Church?

1 A. Yes, that is correct.

2 Q. Do you recall how many?

3 A. In November, several. I'm refreshing my memory. Three
4 of significance.

5 Q. Do you have in front of you Exhibit 45A, B, C and D?

6 A. Correct.

7 Q. Again, Mr. Lewis, broadly speaking, could you describe
8 what R-1 is without getting into details?

9 A. R-1 was an affirmation by the diocesan convention of the
10 action taken by the standing committee, acting as board of
11 directors, to disassociate from the national church.

12 Q. And what was 45B, what is 45B?

13 A. 45B was an explanation of that withdrawal.

14 Q. And 45C?

15 A. 45C was an amendment of the constitution of the diocese
16 to remove accession and all reference to the national church.

17 Q. 45D?

18 A. 45D was a similar amendment to the canons of the diocese
19 to remove all references to the national church.

20 Q. I direct your attention for just a moment to 45B. Was
21 this handed out at the convention?

22 A. That is correct.

23 MR. RUNYAN: I'd offer 45A through D.

24 MR. TISDALE: No objection.

25 MS. KOSTEL: No objection.

1 THE COURT: 45A through D in evidence without objection.

2 (Plaintiff Diocese Exhibits 45A-D admitted into
3 evidence.)

4 Q. Mr. Lewis, look at R-1 of the November convention, if
5 you would. Who sponsored that resolution?

6 A. It was sponsored by a large group of the clergy of the
7 diocese.

8 Q. Okay. And does that resolution cover two pages?

9 A. That's correct.

10 Q. If you would, please, sir, I'd like you to read this
11 resolution, beginning with the whereas clause right under the
12 list of names.

13 A. In its entirety?

14 Q. Yes, sir.

15 A. Whereas the Protestant Episcopal Church in the Diocese
16 of South Carolina, hereafter diocese, has been in existence
17 since 1785 and has from time to time additionally called
18 herself and been known variously as the Protestant Episcopal
19 Church in South Carolina, the Protestant Episcopal Diocese of
20 South Carolina, the Protestant Episcopal Church in the State
21 of South Carolina, the Episcopal Diocese of South Carolina
22 and the Diocese of South Carolina; and whereas the diocese
23 continues to be additionally called and known today as the
24 Diocese of South Carolina and the Episcopal Diocese of South
25 Carolina; and whereas the Protestant Episcopal Church in the

1 Diocese of South Carolina and such additional names as are
2 immediately set forth above and its seal have been recognized
3 by the South Carolina Secretary of State as protected marks
4 of this diocese; whereas this diocese held its first
5 convention on May 12, 1785 in Charleston and has met annually
6 and as specially called since then; and whereas this diocese
7 adopted its first constitution in 1786; whereas this diocese
8 preexisted the formation of the Episcopal Church, hereafter
9 TEC, in 1789 and was one of its founders; and whereas this
10 diocese has from time to time joined with and withdrawn from
11 other associations as a member, including TEC, the Church of
12 the Confederate States and the Anglican Communion Network;
13 and whereas the standing committee of the diocese, in
14 resolution passed and adopted on October 2nd, 2012, in the
15 exercise of its rightful authority under the governing
16 instruments of the diocese, disaffiliated with TEC by
17 withdrawing the diocese's accession to the constitution of
18 and its membership in TEC; and whereas the disciplinary board
19 for bishops of TEC claims that it certified on September 18,
20 2012 that our bishop, the Right Reverend Mark J. Lawrence,
21 had abandoned the Episcopal Church; and whereas the presiding
22 bishop, the Most Reverend Katharine Jefferts Schori, informed
23 Bishop Lawrence of that alleged action on October 15, 2012;
24 and whereas these actions were taken in accordance with
25 certain national canons that are unconstitutional that are

1 being reconsidered by resolution of the general convention
2 2012 and that are not in any event applicable to this
3 diocese; and whereas repeated actions taken by the leadership
4 and general convention of TEC have been in violation of their
5 own constitution and canons, have been repugnant to the plain
6 teachings of scripture and are therefore heretical and have
7 been out of order with historic Christian faith and practice;
8 therefore be it resolved that we, the convention of this
9 diocese, at this special convention duly called by the
10 ecclesiastical authority of the diocese hereby declare that
11 we concur in the decision of the standing committee that we
12 are no longer in any relationship with TEC including union or
13 association with in any capacity, and we declare her rightful
14 bishop to be the Right Reverend Mark J. Lawrence. By stating
15 this we declare that, as God has sent Bishop Lawrence to be
16 our bishop, only he has authority to declare otherwise, and
17 be it further resolved that the convention of this diocese
18 repudiates the actions of TEC purportedly taken against our
19 bishop and declare null and void any claim by any member or
20 representative of TEC to have any authority whatsoever over
21 this diocese or any authority over God's congregation at any
22 of her parishes who willingly by their presence at this
23 convention and their vote on this resolution so declare.

24 Q. Thank you.

25 A. You're welcome.

1 Q. Was that voted on at convention?

2 A. It was.

3 Q. And did it pass?

4 A. It passed by a voice vote.

5 Q. A majority vote?

6 A. That's correct.

7 Q. And was the next resolution voted on?

8 A. It was, R-2.

9 Q. And was it the first vote to amend the constitution?

10 A. It was the first vote, first reading, and passed by a
11 simple majority vote.

12 Q. What was the effect of that amendment?

13 A. To remove all accession and reference to the Episcopal
14 Church, the national church and the constitution of the
15 diocese.

16 Q. And did R-3 pass as well?

17 A. It also passed.

18 Q. And was that an amendment of the canons?

19 A. That is correct.

20 Q. Did that require a second vote?

21 A. No, it did not.

22 Q. Was it a vote by orders?

23 A. A vote by orders, correct.

24 Q. By what percentage did that pass?

25 A. Nearly unanimous, 96 and 89 percent respectively.

1 Q. Switch gears, Mr. Lewis, I'm going to ask you some
2 questions now about the registered marks of the diocese. At
3 some point in time did the diocese register any marks with
4 the South Carolina Secretary of State?

5 A. That is correct, it did.

6 Q. Approximately when did that happen?

7 A. October of 2010.

8 Q. And do you recall what was registered, generally
9 speaking?

10 A. Generally speaking, the service marks, the names by
11 which the diocese has historically been known, which were a
12 part of that resolution read a moment ago, and the diocesan
13 seal.

14 Q. Why were these registered?

15 A. It had come to the attention of legal counsel and
16 leadership of the diocese that in other places the attempt
17 had been made to take the use of the diocesan registered
18 trademarks out of the hands of those to whom we believe that
19 they belonged.

20 Q. Do you have in front of you the registration
21 certificates from the Secretary of State?

22 A. I do.

23 Q. How many of those are there?

24 A. I appear to have four in front of me here.

25 MR. RUNYAN: I think you may be missing one, so I'm

1 going to swap with you.

2 May I approach the witness, Judge?

3 THE COURT: You may.

4 Q. Mr. Lewis, tell the Court what role you played in the
5 registration process.

6 A. I was given the task of researching data for us to use
7 for the trademarks, service marks to be registered. I also
8 took upon myself the task of researching the diocesan seal
9 and its description in order to find one that was more
10 comprehensive and a bit more understandable than the
11 description that had been used up until that time.

12 Q. Did you send this information to an attorney hired by
13 the diocese?

14 A. That is correct, I provided that information to David
15 Cox.

16 Q. And what sorts of information did you send him in
17 addition to the seal?

18 A. In addition to the seal, sent him exemplars where the
19 service marks had been used, primarily, portions of diocesan
20 journals where it had been used in the past.

21 Q. Did you subsequently sign an application for
22 registration of these marks?

23 A. That is correct, I did.

24 Q. What entity did you sign on behalf of?

25 A. The Protestant Episcopal Church in the Diocese of South

1 Carolina.

2 Q. And did you in turn receive from Mr. Cox the five
3 documents that you have in front of you?

4 A. That is correct.

5 Q. Could you for the record just identify the numbers
6 again, the exhibit numbers?

7 A. My copy does not have exhibit numbers on it at present.

8 MR. RUNYAN: I believe for the record it's 46A through
9 D. Offer those in evidence.

10 MR. TISDALE: No objection.

11 MS. KOSTEL: No objection.

12 THE COURT: Very well.

13 (Plaintiff Diocese Exhibits 46A-D admitted into
14 evidence.)

15 Q. Mr. Lewis, what is the first one you have? We'll go
16 with that.

17 A. I actually have two that are almost identical. They are
18 registrations of the seal itself with a description thereof.

19 Q. Can you tell us what the difference is?

20 A. One of these has a first use of the seal of being 1869.
21 That was a black and white version, I believe, of the seal.
22 And following it is a description of the color version of the
23 seal with a first use of 1911. In terms of this piece of
24 art, the 1911 date is actually the correct date. My belief
25 is that the version with the 1869 date, what was intended to

1 be registered there was actually one of the name service
2 marks of the diocese, not that black and white seal.

3 Q. Did you actually do some research and actually write up
4 the description of the seal and send it to the Secretary of
5 State?

6 A. That's correct.

7 Q. And go on to the third document. What is that?

8 A. That's a registration of the name the Episcopal Diocese
9 of South Carolina.

10 Q. Who is the registered owner?

11 A. The Protestant Episcopal Church in the Diocese of South
12 Carolina.

13 Q. Who's the registered owner of the two previous documents
14 that were the seals?

15 A. The Protestant Episcopal Church in the Diocese of South
16 Carolina.

17 Q. And the next exhibit, could you tell us what the
18 registered mark is?

19 A. The Diocese of South Carolina.

20 Q. Who's the registered owner?

21 A. The Protestant Episcopal Church in the Diocese of South
22 Carolina.

23 Q. And could you just tell us what the last registered mark
24 is?

25 A. The Protestant Episcopal Church in the Diocese of South

1 Carolina.

2 Q. And who's the registered owner of that?

3 A. The Protestant Episcopal Church in the Diocese of South
4 Carolina.

5 Q. You have in front of you Exhibit 47.

6 A. Yes.

7 Q. Tell us what that is.

8 A. That is a depiction of the colored seal of the diocese
9 along with a more detailed description of the significance of
10 its various symbols and a brief history of its origins.

11 Q. What role did you have in preparing this exhibit?

12 A. I wrote this.

13 Q. Was this sent to the Secretary of State?

14 A. I believe so.

15 Q. Was this placed anywhere else in the diocese materials?

16 A. This went almost immediately on the diocesan website.
17 We've always had a description of the diocesan seal. This
18 replaced the earlier description that was on the website.

19 MR. RUNYAN: Offer Exhibit 47.

20 MR. TISDALE: No objection.

21 MS. KOSTEL: No objection.

22 THE COURT: Very well, Exhibit 47 in evidence without
23 objection.

24 (Plaintiff Diocese Exhibit 47 admitted into evidence.)

25 Q. Mr. Lewis, you said you wrote this?

1 A. That's correct.

2 Q. Did you gather this information from any other source?

3 A. I made use of several diocesan resources, particularly
4 for the history, the texts written by Mr. Dalcho and Mr.
5 Thomas that are the most comprehensive histories of the
6 Diocese of South Carolina.

7 Q. Now, Mr. Lewis, approximately when did the diocese leave
8 the Episcopal Church?

9 A. Sometime in October of 2012.

10 Q. And how was the public made aware of that?

11 A. There was a public statement released I believe on
12 October 17 announcing that the disassociation had taken
13 effect.

14 Q. At some time after that did you become aware that
15 someone was using the registered marks of the diocese?

16 A. I did.

17 Q. Could you tell us how that happened?

18 A. Certainly. Began receiving emails from a group
19 describing it as the steering committee of the diocese that
20 announced that there would be a clergy day for the clergy of
21 the Diocese of South Carolina to be held on November 15,
22 2012.

23 Q. Did you say you received an email?

24 A. That's correct.

25 Q. You have in front of you a document premarked as Exhibit

1 48, do you.

2 A. Yes.

3 Q. Is that the email you received?

4 A. That is correct.

5 Q. On the first page there's an email portion. What is on
6 the second -- well, let's stop right there.

7 I'm going to offer this into evidence.

8 THE COURT: Any objection?

9 MR. TISDALE: No objection.

10 MS. KOSTEL: No objection.

11 THE COURT: 48 in evidence without objection.

12 (Plaintiff Diocese Exhibit 48 admitted into evidence.)

13 Q. Take a look at the first page of this Exhibit, Mr.
14 Lewis.

15 A. Yes.

16 Q. Who is it from?

17 A. It says it is from Episcopal Diocese of South Carolina.

18 Q. Was it in fact from the Episcopal Diocese of South
19 Carolina?

20 A. It did not come from us.

21 Q. Did you get this by email?

22 A. That is correct.

23 Q. Were you the only clergy in the diocese to get this?

24 A. To my knowledge all the clergy of the diocese received
25 this.

1 Q. Does this reference a meeting to be held some days
2 later?

3 A. That is correct.

4 Q. Where was the meeting to be held?

5 A. Originally scheduled location was Holy Communion in
6 Charleston.

7 Q. If you'd look at the second page of this document, what
8 is that?

9 A. That is the PDF file that was the attachment to this
10 email, the formal invitation to that meeting.

11 Q. Did the Diocese of South Carolina, the Protestant
12 Episcopal Church in the Diocese of South Carolina by whom you
13 are employed, have anything to do with this invitation?

14 A. Nothing, it did not.

15 Q. Does it use the seal of the diocese?

16 A. It does.

17 Q. Is there also on there the seal of the Episcopal Church?

18 A. That is correct.

19 Q. What was your reaction when you received this?

20 A. Shock and disbelief.

21 Q. Did you do something about it?

22 A. Yes. We immediately sent a communication to the clergy
23 of the diocese, informing them that this communication did
24 not come from us and that it was not an official or approved
25 gathering of the clergy of the Protestant Episcopal Church in

1 the Diocese of South Carolina.

2 Q. Did you send this in any particular mode of
3 communication?

4 A. We sent it immediately by email so that it would reach
5 people as quickly as possible and minimize confusion.

6 Q. Do you have a document marked Exhibit 49?

7 A. I do.

8 Q. Is that what you sent?

9 A. That is correct.

10 MR. RUNYAN: Offer it in evidence.

11 MR. TISDALE: No objection.

12 MS. KOSTEL: No objection.

13 THE COURT: Very well.

14 (Plaintiff Diocese Exhibit 49 admitted into evidence.)

15 Q. Mr. Lewis, I'm going to direct your attention to Exhibit
16 49. Who prepared this document?

17 A. I believe diocesan staff, but I don't clearly remember
18 who actually prepared it.

19 Q. Did you participate in its mailing out?

20 A. Yes, I did.

21 Q. Direct your attention to the second paragraph, please,
22 sir, starting at the second paragraph. Would you just read
23 that second paragraph, please, sir, in the record?

24 A. Yes. So it was extremely disturbing to learn that on
25 Wednesday afternoon, November 7, 2012, a majority of the

1 clergy of the Diocese of South Carolina received an email
2 that pretended to be from the Diocese of South Carolina but
3 in fact was not. The sender of the email was not identified
4 beyond an email address registered to an organization in
5 Florida named Domain Discreet Privacy Service. The
6 corresponding web page is hosted by a San Francisco
7 organization stating, "this temporary landing page will be
8 replaced when you publish your site".

9 Q. Okay. Just skip down and just read the last two
10 paragraphs, if you would.

11 A. Yes. Whoever called such a meeting had no authority to
12 do so or to use the diocesan seal in any fashion. All of
13 this is further evidence of the necessity for the cautions
14 this diocese has taken during the past several years. It
15 seems TEC does not follow its own canons, while repeatedly
16 insisting in the past that the Diocese of South Carolina do
17 so. The next gathering of the Diocese of South Carolina will
18 be the special convention, Saturday, November 17 at St.
19 Philip's Church in Charleston.

20 Q. After this was sent out did you get another email from
21 the same entity that sent the first one?

22 A. That is correct.

23 Q. Is that Exhibit 50?

24 A. That is correct.

25 MR. RUNYAN: I'd offer it in evidence.

1 THE COURT: Any objection?

2 MR. TISDALE: No objection.

3 MS. KOSTEL: No objection.

4 THE COURT: Very well, 50 in evidence without objection.

5 (Plaintiff Diocese Exhibit 50 admitted into evidence.)

6 Q. Mr. Lewis, before we get there, do you have in front of
7 you a document that is the web page that you were referencing
8 in the previous document that you went to?

9 You obviously don't. We'll catch up to that later.

10 Let's go on to the exhibit that you have in front of you.

11 Who is this from?

12 A. Episcopal Diocese of South Carolina.

13 Q. Did this come from the Protestant Episcopal Church in
14 the Diocese of South Carolina?

15 A. It did not.

16 Q. Did it come from the Episcopal Diocese of South
17 Carolina?

18 A. It would appear so.

19 Q. Did you have anything to do with the mail out of this
20 email?

21 A. I had none.

22 Q. What is the subject matter of this email?

23 A. It was noticing a change in the location for the
24 previously announced clergy day from Holy Communion,
25 Charleston to St. Mark's Episcopal Church in Charleston.

1 Q. Did the email for clergy day, this email that we've been
2 talking about, did you -- create any confusion among diocese?

3 A. It did, heard from several clergy who, upon receiving
4 the November 8 notice that we sent out to our clergy that
5 they very much appreciated receiving that explanation because
6 they had already been changing schedules and making plans to
7 attend what they thought was a legitimate clergy day of the
8 Diocese of South Carolina.

9 Q. Let me hand you a document that I referenced but did not
10 have a copy of. Could you take a look at that document which
11 has been premarked Exhibit 51 and tell me what that is?

12 A. It is for the Weebly web host site, and it says
13 EpiscopalDioceseofSC.com.

14 Q. Did you go to a website such as that and see something
15 such as this on or about the time that we're talking about?

16 A. Yes, I did.

17 MR. RUNYAN: Offer 51 into evidence.

18 MR. TISDALE: No objection.

19 MS. KOSTEL: No objection.

20 THE COURT: Very well. 51 in evidence without
21 objection.

22 (Plaintiff Diocese Exhibit 51 admitted into evidence.)

23 Q. Now, Mr. Lewis, was there a meeting date referenced?

24 A. For that clergy gathering?

25 Q. Yes, sir.

1 A. Yes, November 15.

2 Q. Did you attend it?

3 A. I did.

4 Q. About how many people were present?

5 A. My estimate was about 40 people in total for the portion
6 that I attended. There was actually a Eucharist prior to the
7 meeting, and I was not present for that.

8 Q. Did there appear to be someone in charge?

9 A. Yes, there was.

10 Q. Who was that?

11 A. That would be Mr. Tisdale.

12 Q. Were there other people participating in the meeting?

13 A. There were other participants, Bishop VonRosenberg was
14 present, as were other clergy, active parish clergy of the
15 congregations that ultimately decided to remain with the
16 national church.

17 Q. Who spoke most of the time?

18 A. Mr. Tisdale.

19 Q. Were there questions?

20 A. There were.

21 Q. Did Mr. Tisdale indicate who he was representing?

22 A. He indicated explicitly that he was functioning as legal
23 counsel for the presiding bishop.

24 Q. Did he indicate anything about how long he'd been doing
25 that?

1 A. He said that he had been contacted by the presiding
2 bishop several months, quote, unquote, prior and asked to
3 begin organizing for the possible need of replacing the
4 diocese.

5 Q. Did he indicate anything with respect to the name and
6 seal of the Diocese of South Carolina?

7 A. He indicated that the belief on their part was that the
8 name and the seal belonged to them as the true diocese and
9 that they would be using it.

10 Q. Did he state anything about intended legal action?

11 A. Only that there would be some but that he was not in a
12 position to comment on that in any detail.

13 Q. After that meeting did you receive by email from the
14 same source a registration form for a convention?

15 A. I did.

16 Q. Is that Exhibit 52?

17 A. That is correct.

18 MR. RUNYAN: Offer it in evidence.

19 MR. TISDALE: No objection.

20 MS. KOSTEL: No objection.

21 THE COURT: 52 into evidence without objection.

22 (Plaintiff Diocese Exhibit 52 admitted into evidence.)

23 Q. Mr. Lewis, what is Exhibit 52?

24 A. It is a registration form for what is called special
25 meeting of the convention, January 26, 2013 at Grace

1 Episcopal Church, the Episcopal Diocese of South Carolina.

2 Q. Did you or anybody at the diocese that you're aware of
3 have anything to do with the preparation and transmittal of
4 this document?

5 A. No, we did not.

6 Q. Does it have the seal of the Diocese of South Carolina
7 on it?

8 A. Yes, it does.

9 Q. Does it have the shield of the Episcopal Church?

10 A. That is correct.

11 Q. Do you know approximately when you received this?

12 A. It would be in December of 2012.

13 Q. At the bottom does it indicate the name that checks are
14 to be made payable to?

15 A. It says checks should be payable to, "Episcopal Diocese
16 of South Carolina".

17 Q. After learning of the existence of the website using the
18 name Episcopal Diocese of SC did you look at that website
19 after it had substance to it, not just an under construction
20 sign?

21 A. Yes, I did.

22 Q. Do you have in front of you Exhibit 53?

23 A. Yes, I do.

24 Q. Could you tell us what that is?

25 A. That would appear to be the home page from that website

1 at that time.

2 MR. RUNYAN: Offer 53 in evidence.

3 MR. TISDALE: No objection, Your Honor.

4 MS. KOSTEL: No objection.

5 THE COURT: Very well, 53 in evidence without objection.

6 (Plaintiff Diocese Exhibit 53 admitted into evidence.)

7 Q. Mr. Lewis, if you'd take a look at Exhibit 53, at the
8 top, do you see the seal of the Diocese of South Carolina?

9 A. I do.

10 Q. Did you or anybody to your knowledge with the diocese
11 have anything to do with the preparation of this web page?

12 A. No, we did not.

13 Q. Is there a reference in the first sentence to the
14 Diocese of South Carolina?

15 A. It says, welcome, the Episcopal Church in the Diocese of
16 South Carolina is continuing.

17 Q. As a part of your review of this website did you find a
18 page where there was a description of a seal?

19 A. Yes, I did.

20 Q. Do you have in front of you Exhibit 54?

21 A. I do.

22 Q. What is that?

23 A. That is the image of the seal of the Protestant
24 Episcopal Church in the Diocese of South Carolina along with
25 the text that I prepared when we made the registration of the

1 service marks.

2 MR. RUNYAN: Offer 54 in evidence.

3 MR. TISDALE: No objection.

4 MS. KOSTEL: No objection.

5 THE COURT: Very well, 54 is in evidence without
6 objection.

7 (Plaintiff Diocese Exhibit 54 admitted into evidence.)

8 Q. Mr. Lewis, what appears in the upper right-hand corner
9 about midway down the page, looks like a seal, what is that?

10 A. Looking at Exhibit 54?

11 Q. Yes, sir.

12 A. The seal of the diocese.

13 Q. In the upper right-hand corner, do you see that as well?

14 A. That is also the seal of the diocese.

15 Q. I want you to take those two documents, the one you
16 prepared and this one. You have them both in front of you?

17 A. I do.

18 Q. Could you tell me, based on your review of them now or
19 in the past, whether they -- what relationship one bears to
20 the other?

21 A. The only regard at which these are not identical is that
22 in the document on the diocesan website beneath the seal
23 itself is, in the calligraphy script, the Diocese of South
24 Carolina. That particular description is absent from what
25 was placed on the Episcopal Church in South Carolina website.

1 Q. Did you actually at the time compare these two?

2 A. Yes, I did.

3 Q. What did you conclude based on that comparison?

4 A. That it had been lifted in whole from our diocesan
5 website.

6 Q. This is the writing that you prepared?

7 A. That is correct.

8 Q. The same writing that you submitted to the Secretary of
9 State?

10 A. Correct.

11 Q. Now, was there a convention held in January of 2013
12 which you attended?

13 A. Yes, at Grace Church in Charleston.

14 Q. And what was your understanding about what convention --
15 what entity it was that was holding the convention?

16 A. My impression upon attendance is that the intention was
17 to be a convention of the Diocese of South Carolina.

18 Q. You went to that convention?

19 A. I did attend.

20 Q. Why did you do that?

21 A. To be an observer.

22 Q. Why did you want to be an observer?

23 A. Given the prior use of our diocesan seal and the attempt
24 to call a gathering of the clergy of the Diocese of South
25 Carolina, there was good reason to believe that there would

1 be other attempts at this gathering to act as if it was
2 indeed a convention of the Diocese of South Carolina, and we
3 felt like it was important to have a firsthand witness to
4 whether or not that was indeed the case.

5 Q. When you got there, did you notice a large sign?

6 A. Yes, I did.

7 Q. Did you take a picture of the sign?

8 A. I did.

9 Q. Is Exhibit 55 that you have in front of you a picture of
10 that sign?

11 A. That is correct.

12 MR. RUNYAN: I'd offer it in evidence.

13 MR. TISDALE: No objection.

14 MS. KOSTEL: No objection.

15 THE COURT: Very well, 55 in evidence without objection.

16 (Plaintiff Diocese Exhibit 55 admitted into evidence.)

17 Q. Mr. Lewis, can you tell me what you observed about the
18 sign?

19 A. My observation was that, in the upper right-hand corner
20 of that sign, what had originally been the seal of the
21 Diocese of South Carolina had been removed and replaced with
22 a graphic that said, image currently unavailable, and that
23 what had originally been the Diocesan Convention of the
24 Episcopal Diocese, Diocese of South Carolina, had been
25 changed to read Episcopal Church in South Carolina.

1 Q. Did you, following this convention, actually prepare an
2 affidavit?

3 A. That is correct.

4 Q. Did you sign it?

5 A. I did.

6 Q. From your understanding and belief has it been filed in
7 this courthouse?

8 A. Yes, it has.

9 Q. Let's talk about the convention that you attended there.
10 What portion did you attend?

11 A. I arrived near the conclusion of the worship service for
12 that convention and was present for the entirety of the
13 business meeting that followed.

14 Q. About how long did it last?

15 A. Several hours. I don't recall precisely how long.

16 Q. You stayed there until it was over?

17 A. That is correct.

18 Q. Was there any indication by anyone in charge as to
19 whether there was or was not a quorum?

20 A. It was indicated that there was a quorum present.

21 Q. How many conventions of the Diocese of South Carolina
22 have you attended where part of what you did was to determine
23 if there was a quorum?

24 A. That has been a significant piece of my responsibility
25 for the last five years.

1 Q. If this had been a meeting of the Diocese of South
2 Carolina, would there have been a quorum?

3 A. No, there would not.

4 Q. Did you hear the speech of the presiding bishop?

5 A. I did.

6 Q. Was a chancellor appointed by the presiding bishop?

7 A. That is correct.

8 Q. Who was appointed?

9 A. Mr. Tisdale.

10 Q. What role did Mr. Tisdale play during the convention?

11 A. He initiated the meeting and explained some of the
12 ground rules of how business would be conducted, including
13 the explanation that they would not be referring to
14 themselves as the Diocese of South Carolina as there was at
15 that time an injunction in place to prevent that, but if they
16 were to inadvertently slip from time to time it should be
17 understood that that was not the intent.

18 Q. And did they proceed to vote on resolutions?

19 A. That is correct.

20 Q. Were there any resolutions that were directed to
21 altering resolutions that had been passed by the Diocese of
22 South Carolina?

23 A. Yes, several.

24 Q. Did any of the resolutions actually use a registered
25 name of the Diocese of South Carolina?

1 A. Incorporated in the resolution was canonical language
2 that was verbatim from our constitution and canons.

3 Q. As a part of the affidavit filed in this Court did you
4 make a comparison between the Diocese of South Carolina's
5 constitution and canons and those that were a part of the
6 resolutions that were passed?

7 A. Yes, I believe so.

8 Q. And what did that comparison reveal?

9 A. It revealed that it was clear that the changes being
10 proposed were in direct correspondence with what were our
11 governing documents as the Diocese of South Carolina.

12 Q. And that would have been on what day in January?

13 A. January 23rd, I believe.

14 Q. January 26 sound right?

15 A. January 26.

16 Q. At any time, Mr. Lewis, after the announcement of
17 disassociation by the diocese in October did the Protestant
18 Episcopal Church in the Diocese of South Carolina give
19 permission or did it consent to the use of its names and
20 seals in any of the manners that we've been describing in
21 Exhibits 47 through 54?

22 A. No, it did not.

23 Q. Now, after the convention ended did you have occasion to
24 go back to the website or to try to go back to the Diocese of
25 South Carolina website using a search device?

1 A. Yes.

2 Q. Can you tell the Court what happened when you did that?

3 A. It redirected me elsewhere but -- and gave evidence that
4 it was still trying to go to Episcopal Diocese of South
5 Carolina.

6 Q. So what did you type in and what did you get?

7 A. If you search for the Diocese of South Carolina where it
8 would still take you was to a website that said -- that was
9 not our website.

10 Q. Was it the website that you had seen before?

11 A. Yes.

12 MR. RUNYAN: Thank you, sir. Answer any questions the
13 other side has.

14 THE COURT: All right. Any other questions on behalf of
15 the plaintiffs?

16 MS. GOLDING: May I take one moment, Your Honor?

17 THE COURT: Yes, of course.

18 MS. GOLDING: Thank you.

19 DIRECT EXAMINATION BY MS. GOLDING:

20 Q. Mr. Lewis, with respect to the November 2012 convention,
21 I understand that there was a constitutional amendment at
22 that time, is that correct?

23 A. That's correct.

24 Q. And that amendment was what?

25 A. There were actually two constitutional amendments at

1 that November 2012 convention. The first removed accession
2 to the constitution of the national church, and the second
3 changed the process by which the, I believe -- no, I stand
4 corrected, it was just the former.

5 Q. With respect to that vote in November 2012, did that
6 pass and if so by how much?

7 A. At the November convention that change to the
8 constitution was a first vote, that accession language, and
9 was passed by a simple majority.

10 Q. And that essentially revised Article 1 of the plaintiff
11 diocese constitution.

12 A. Correct.

13 Q. And then was there a subsequent vote on that amendment
14 to Article 1 of the plaintiff's diocese?

15 A. Yes, that changed the constitution at a second reading
16 at the following convention in March of 2013.

17 Q. And in March of 2013 how was the vote on the change in
18 Article 1?

19 A. That was a vote by orders.

20 Q. And can you please describe the vote that occurred by
21 the orders?

22 A. It was unanimous in both the clergy and the lay orders
23 that was present.

24 Q. And as a result can you read the amended Article 1 to
25 the Court as a result of the two votes in November 2012 and

1 March, 2013?

2 A. I'm sure that's here somewhere in this pile, but I'm not
3 sure where, if you'll give me a moment.

4 Q. 45C and D.

5 A. Okay. My 45C and D have the text of the resolution but
6 not the text of the actual constitution and canons.

7 Q. Let me give you what's marked as Plaintiff Diocese trial
8 Exhibit No. 5.

9 A. All right. I have it open in front of me.

10 Q. Can you publish that to the Court?

11 A. Article 1, diocesan convention meetings, Section 1, a
12 diocesan convention shall be held annually in such time and
13 place as shall have been determined upon by the preceding
14 convention or on failure of the convention so determined at
15 such time and place as the ecclesiastical authority shall
16 appoint.

17 Q. And what was the amendment that occurred? Do you recall
18 what was deleted in Article 1 as a result of the two votes?

19 A. Yes. The entirety of what was previously Article 1 was
20 deleted by that amendment. It was the language that granted
21 accession to the constitution of the national church.

22 Q. And that provision was deleted?

23 A. That's correct.

24 MS. GOLDING: No more questions, Your Honor. Thank you.

25 THE COURT: All right. Any other questions for Mr.

1 Lewis, for this witness, by any other plaintiff at this time?

2 That's going to conclude the work we're going to do for
3 today. I would just instruct you not to discuss your
4 testimony over the balance of the evening since you're still
5 on the witness stand. You can certainly talk about anything
6 else, but please do not discuss your testimony, and we will
7 reconvene in the morning at 9:30.

8 --- END OF TRANSCRIPT OF RECORD ---

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1 CERTIFICATE OF REPORTER

2 STATE OF SOUTH CAROLINA

3 COUNTY OF DORCHESTER

4

5 I, the undersigned Ruth L. Mott, Official Court Reporter
6 for the State of South Carolina, do hereby certify that the
7 foregoing is a true, accurate and complete transcript of
8 record of all the proceedings had and evidence introduced in
9 the matter of the above-captioned case, relative to appeal,
10 in the First Judicial Circuit Court for Dorchester County,
11 South Carolina, on the 8th of July, 2014.

12 I further certify that I am neither related to nor
13 counsel for any party to the cause pending or interested in
14 the events thereof.

15 August 3, 2014

16

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19

Ruth L. Mott, RPR, CRR
Official Court Reporter

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VOLUME II

STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

COUNTY OF DORCHESTER

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.,)

PLAINTIFFS,)

vs.)

TRANSCRIPT OF RECORD

THE EPISCOPAL CHURCH, (A/K/A)
 THE PROTESTANT EPISCOPAL)
 CHURCH IN THE UNITED STATES)
 OF AMERICA); THE EPISCOPAL)
 CHURCH IN SOUTH CAROLINA,)

DEFENDANTS.)

JULY 9, 2014

ST. GEORGE, SC

B E F O R E:

HONORABLE DIANE S. GOODSTEIN

Ruth L. Mott, RPR, CRR
 Official Court Reporter

I N D E X

	WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
4	JAMES BARTON LEWIS, JR.				
	MR. TISDALE		219		265
5	MR. BEERS		249		
	MR. RUNYAN			258	
6	MS. GOLDING			264	
7	ROBERT M. KUNES				
	MS. GOLDING	268			
8	MR. TISDALE		275		
	MS. KOSTEL		282		
9	IRIS LANGSTON HODGE				
10	MR. CAMPBELL	288		314	
	MS. KOSTEL		312		315
11	MR. TISDALE		313		
12	CRAIGE NORTON BORRETT				
	MR. MCCARTY	316			
13	MS. KOSTEL		336		
	MR. TISDALE		348		
14	MS. GOLDING	353			
15	RICHARD PATTEN BRUCE, III				
	MR. OXNER	355			
16	MS. GOLDING	374			
	MS. KOSTEL		375		
17	LEWIS B. MIDDLETON, JR.				
18	MS. JOHNSON	379			
	MS. KOSTEL		397		
19	THOMAS J. HENDRICKSON				
20	MR. PLATTE	405			
	MS. KOSTEL		425		
21	MR. TISDALE		428		
	MR. RUNYAN			431	
22	CERTIFICATE OF REPORTER	436			

- - -

E X H I B I T S

NO.	DESCRIPTION	ID	EVD
DSC-56	MINUTES OF CONVENTION OF PROTESTANT EPISCOPAL CHURCH DIOCESE OF SOUTH CAROLINA 1785-1799	219	259
DSC-57	JOURNAL OF THE 183RD OF THE CONVENTION OF THE PROTESTANT EPISCOPAL DIOCESE OF SOUTH CAROLINA IN 1973	219	260
DSC-58	COPY OF LEASE AGREEMENT OF CATHEDRAL WITH THE DIOCESE - MAY 11, 1983	219	264
DSC-59	SUMMARY OF VOTING IN CONVENTION FROM JIM LEWIS TESTIMONY (AS DEMONSTRATIVE)	219	285
D-1	APPLICATION FOR REGISTRATION OF TRADEMARK	219	222
D-2	APPLICATION FOR REGISTRATION OF TRADEMARK	219	222
D-3	APPLICATION FOR REGISTRATION OF TRADEMARK	219	222
D-4	APPLICATION FOR REGISTRATION OF TRADEMARK	219	222
D-5	APPLICATION FOR EXEMPTION	219	236
D-6	BOOK OF COMMON PRAYER	219	
AS-1	CERTIFICATE OF INCORPORATION	287	292
AS-2	DEED FROM ST. JOHN'S EPISCOPAL CHURCH OF FLORENCE TO ALL SAINTS PROTESTANT EPISCOPAL CHURCH, INC., DATED NOVEMBER 1, 1958	287	293
AS-3	QUITCLAIM DEED, DATED NOVEMBER 15, 2011	287	295
AS-4	EMAIL FROM KARL BURNS DATED DECEMBER 6, 2012 RE: CALLED VESTRY MEETING SUNDAY	287	298
AS-5	RESOLUTION DATED DECEMBER 9, 2012	287	299
AS-6	BYLAWS OF ALL SAINTS EPISCOPAL CHURCH (PRE-2013 CHANGES)	287	301
AS-7	MINUTES OF THE CALLED PARISH MEETING, JANUARY 13, 2013	287	305
AS-8	MINUTES OF THE CALLED PARISH MEETING, JANUARY 14, 2013	287	307

1	NO.	DESCRIPTION	ID	EVD
2	AS-9	BYLAWS OF ALL SAINTS EPISCOPAL CHURCH	288	308
3				
4	CSP-1	ARTICLES OF INCORPORATION AND SECRETARY OF STATE GOOD STANDING CONFIRMATION	316	318
5	CSP-2	DEED DATED AUGUST 22ND, 1989	316	321
	CSP-3	DEED DATED JULY 16TH, 1985	316	322
6	CSP-4	DEED DATED JUNE 30TH, 1949	316	322
	CSP-5	DEED DATED MARCH 12TH, 1968	316	322
7	CSP-6	DEED DATED JANUARY 7TH, 1980	316	322
	CSP-7	MINUTES OF VESTRY MEETING HELD ON OCTOBER 14, 2012	316	322
8				
9	CSP-8	FILED ARTICLES OF AMENDMENT CHANGING NAME OF CHURCH DATED OCTOBER 25, 2012	316	325
10	CSP-9	FILED ARTICLE OF AMENDMENT TO COMPLY WITH 50 L (C) (3) OF INTERNAL REVENUE CODE	316	
11				
12	CSP-10	NOTICE OF PARISH MEETING IN CHURCH NEWSLETTER DATED JANUARY 6-12, 2013 AND NOTICE IN JANUARY 6, 2013 CHURCH BULLETIN	316	327
13				
14	CSP-11	MINUTES OF PARISH MEETING DATED JANUARY 13, 2013	316	330
15	CSP-12	NOTICE OF SPECIAL CONGREGATIONAL MEETING IN CHURCH NEWSLETTER DATED FEBRUARY 3-9, 2013 AND NOTICE IN FEBRUARY 3, 2013 CHURCH BULLETIN	316	
16				
17				
18	CSP-13	MINUTES OF SECOND CONGREGATIONAL MEETING DATED FEBRUARY 17, 2013	316	
19				
20	CSP-14	BY-LAWS OF CHRIST ST. PAUL'S EPISCOPAL CHURCH AS APPROVED AT SECOND CONGREGATIONAL MEETING DATED FEBRUARY 17, 2013	316	333
21				
22	CSP-15	CHRIST ST. PAUL'S VESTRY MINUTES DATED NOVEMBER 11, 2012	316	334
23	CSP-16	CORPORATE RESOLUTION DATED DECEMBER 12, 2012	316	339
24				
25	CTK-1	ARTICLES OF INCORPORATION AND SECRETARY OF STATE GOOD STANDING CONFIRMATION	355	357

1	NO.	DESCRIPTION	ID	EVD
2	CTK-2	DEED TO CHRIST THE KING, WACCAMAW	355	369
3	CTK-3	QUITCLAIM DEED TO CHRIST THE KING, WACCAMAW	355	371
4	CTK-4	MINUTES OF VESTRY MEETING HELD ON AUGUST 9, 2010	355	374
5	CTK-5	MINUTES OF VESTRY MEETING HELD ON SEPTEMBER 13, 2010	355	374
6	CTK-6	BYLAWS ADOPTED SEPTEMBER 13, 2010	355	359
7	CTK-7	MINUTES OF VESTRY MEETING HELD ON APRIL 21, 2012	355	361
8	CTK-8	MINUTES OF VESTRY MEETING HELD ON MAY 24, 2012	355	361
9	CTK-9	BYLAWS ADOPTED MAY 24, 2012	355	362
10	CTK-10	MINUTES OF VESTRY MEETING HELD ON OCTOBER 25, 2012	355	363
11	CTK-11	MINUTES OF VESTRY MEETING HELD ON NOVEMBER 15, 2012	355	364
12	CTK-12	BYLAWS ADOPTED NOVEMBER 15, 2012	355	364
13	CTK-13	MINUTES OF VESTRY MEETING HELD ON JANUARY 14, 2013	355	365
14	CTK-14	MINUTES OF ANNUAL CHURCH MEETING HELD ON JANUARY 27, 2013	355	365
15	CTK-15	BYLAWS ADOPTED JANUARY 27, 2013	355	366
16	CTK-16	MINUTES OF VESTRY MEETINGS MAY-DECEMBER 2013	355	366
17	CTK-17	MINUTES OF VESTRY MEETING HELD ON JANUARY 20, 2014	355	367
18	CTK-18	BYLAWS ADOPTED JANUARY 20, 2014	355	374
19	CTK-19	MINUTES OF VESTRY MEETING HELD ON JANUARY 27, 2013	355	372
20	SAMP-1	CERTIFICATE OF INCORPORATION 1954	378	381, 386
21	SAMP-2	ORIGINAL BY-LAWS	378	386
22	SAMP-3	MINUTES OF VESTRY MEETING, 9/20/1954	378	386
23	SAMP-4	1996 BY-LAWS	378	386
24	SAMP-5	MINUTES 1/14/96	378	386
25	SAMP-6	BY-LAWS REVISED 12.05.04 FINAL.PDF	378	386
	SAMP-7	VESTRY MINUTES 12/5/04	378	386
	SAMP-8	INDENTURE OF TRUST ESTABLISHING ST. ANDREWS CHURCH-MOUNT PLEASANT LAND TRUST (RECORDED)	378	384, 386

1	NO.	DESCRIPTION	ID	EVD
2	SAMP-9	ST. ANDREWS MORTGAGE 06.09	378	385, 386
	SAMP-10	ST. ANDREWS NOTE 06.09	378	386
3	SAMP-11	SAMP LAND TRUST 501C3 APPROVAL LETTER	378	386
4	SAMP-12	ST. ANDREWS USE AGREEMENT-EXECUTED COPY	378	386
5	SAMP-13	ST. ANDREWS NOTE MODIFICATIONS 2009	378	386
6	SAMP-14	DIOCESE OF SC CONSENT LETTER ALIENATION OF PROPERTY	378	386
7		10.2.2009		
	SAMP-15	VESTRY MINUTES 3/10/10	378	386
8	SAMP-16	NOTICE OF SPECIAL CORPORATE MEETING MAILING 3/12/2010	378	386
9	SAMP-17	VESTRY MINUTES 3/24/10	378	386
	SAMP-18	VESTRY MINUTES 3/28/10	378	386
10	SAMP-19	SAMP CORPORATION MEETING 3.28.2010 TRANSCRIPT	378	386
11	SAMP-20	SC SEC OF STATE ARTICLES OF MERGER-ST.	378	386
12		ANDREWS WITH ST. MARY'S 3/30/10		
	SAMP-21	SC SEC OF STATE ARTICLES OF AMENDMENT TO CERTIFICATE OF INCORPORATION 3/30/10	378	386
13				
14	SAMP-22	CPA DOCS-AGREED-UPON PROCEDURES - VOTE RESULTS 3/28/10	378	386
15	SAMP-23	SAMP BYLAWS ADOPTED 3/28/2010	378	386
	SAMP-24	ST ANDREWS CHURCH SPECIAL MEETING AGENDA, BYLAWS - MERGER 3/28/10	378	386
16				
17	SAMP-25	SALT & SAMP 501C3 AND RELATED TAX DOCUMENTS	378	386
18	SAMP-26	ST. ANDREWS LAND TRUST FIRST AMENDMENT 6/16/10	378	386
19	SAMP-27	DIOCESE OF SC QUIT CLAIM DEED 11/9/2011 (RECORDED)	378	386
20	SAMP-28	REAL PROPERTY RECORDS FOR ST. MARY'S (MERGED WITH SAMP IN 2010)	378	386
21				
	SAMP-29	REAL PROPERTY RECORDS FOR SAMP	378	386
22				
	E-1	CERTIFICATE OF INCORPORATION, JUNE 27, 1911	405	407
23				
	E-2	QUITCLAIM DEED OCTOBER 4, 2011	405	409
24	E-3	VESTRY MINUTES, JUNE 14, 2012	405	416
	E-4A	APPROVAL OF BYLAWS, JUNE 14, 2012	405	415
25				

1	NO.	DESCRIPTION	ID	EVD
2	E-4B	APPROVAL OF BYLAWS, MARCH 8, 2012	405	412
3	E-5	VESTRY MEETING, DECEMBER 13, 2012	405	418
4	E-6	RESOLUTION OF SUPPORT DECEMBER 16, 2012	405	420
5	E-7	VESTRY MEETING MINUTES, JANUARY 10, 2013	405	421
6	E-8	ARTICLES OF AMENDMENT, MARCH 27, 2013	405	422
7	E-9	SUMMARY OF REAL ESTATE	405	408

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1 (Plaintiff's Exhibits DSC-56 through DSC-59 premarked
2 for identification.)

3 (Defendant's Exhibits 1-6 premarked for identification.)

4 THE COURT: I would like to report before we begin this
5 morning that, if you will recall, there was a bit of a ruckus
6 next door, and as I know you know, there's criminal court
7 that's ongoing, and I saw the concern on everyone's faces
8 when we heard the outburst from next door. I just thought I
9 would report those were voices of joy. Apparently the Judge,
10 Judge Cothran, had granted the bond that was requested, and
11 that was the family's relief and joy. Sounded like agony to
12 me, but I did want to report that it was -- those were voices
13 of joy, for what it's worth.

14 Come on back around.

15 Good morning.

16 THE WITNESS: Good morning.

17 THE COURT: All right. Plaintiffs ready to proceed?

18 MR. RUNYAN: Plaintiffs are ready, Your Honor.

19 THE COURT: Wonderful. The defendants?

20 MR. TISDALE: Your Honor, may I?

21 THE COURT: Yes, sir.

22 JAMES BARTON LEWIS, JR.,
23 having been previously duly sworn, testified as follows:

24 CROSS-EXAMINATION BY MR. TISDALE:

25 Q. Good morning, Canon Lewis.

1 A. Good morning.

2 Q. Got a few questions for you this morning. Hope it won't
3 be too long.

4 A. Makes two of us.

5 Q. We have agreement.

6 Canon Lewis, yesterday in your testimony Mr. Runyan
7 asked you about a document that was called constitution of
8 the diocese from some early date, 1785, perhaps. Do you
9 recall that?

10 A. The constitution, I believe, was dated 1786.

11 Q. Oh, okay. '86. Do you recall that?

12 A. Yes, I do.

13 Q. Do you have the exhibits that you used yesterday before
14 you?

15 A. Yes, sir.

16 Q. Could you take that one out? That's Exhibit 41A. It's
17 this paper, three pages (indicating).

18 A. All right.

19 Q. You obviously have read that document, I presume?

20 A. I have.

21 Q. And does the word diocese appear anywhere on any of
22 these three pages? You said it was a constitution of a
23 diocese, I think?

24 A. That is correct.

25 Q. And my question to you is, does the word diocese appear

1 anywhere in the document?

2 A. Not that I can see.

3 Q. Okay. Have you reviewed other aspects of the book that
4 it was bound in? Obviously, it was a later binding than the
5 document itself, but have you reviewed the other documents in
6 the binder?

7 A. Yes, I have.

8 Q. And did you see reference to anything else about the
9 1786 convention or constitution being for a diocese?

10 A. I do not recall.

11 Q. Thank you. Now, I want to talk to you a little bit
12 about the trademarks that you had testified that you -- I
13 think you applied for.

14 A. Yes, sir.

15 Q. In, I think, 2010. Do you have those trademarks? I
16 think they were referred to yesterday.

17 A. They're in this stack of documents somewhere. If you'll
18 give me an exhibit number, I can --

19 Q. It looks like 46A through E.

20 A. Mine seems to go from 44 to 47, unless they've gotten
21 shuffled, if you'll give me a moment.

22 Q. Well, I have a copy you can look at if you need to.

23 A. That would be of some help. Thank you.

24 Q. This is the only copy I have with me right this minute,
25 but you might -- I might be able to question you without

1 looking at it.

2 Did you sign the application for those trademarks?

3 A. Yes, sir.

4 MR. TISDALE: Your Honor, I have the application for
5 these trademarks that I would like to introduce. Would you
6 prefer that we mark them for identification at this stage, or
7 if they're admissible, let them go on into evidence?

8 THE COURT: Let's inquire if there's going to be an
9 objection. Then we'll mark them for identification purposes.
10 Otherwise, we'll put them --

11 MR. TISDALE: They'll be in evidence?

12 THE COURT: Yes.

13 MR. TISDALE: Okay.

14 THE COURT: Is there an objection to the application?

15 MR. TISDALE: We've marked them preliminarily as
16 exhibits -- Defendant's Exhibit 1 through 4.

17 THE COURT: Let's just see if there's going to be an
18 objection.

19 MR. RUNYAN: No objection.

20 MS. GOLDING: No objection.

21 THE COURT: Very well. Then they'll be Defense
22 Exhibit 1 through 4 in evidence without objection.

23 (Defendant's Exhibits 1-4 admitted into evidence.)

24 MR. TISDALE: Thank you very much, Your Honor.

25 MS. GOLDING: Do I understand that the defendants --

1 this is collective exhibits for both defendants?

2 THE COURT: I would think so.

3 Is that correct?

4 MR. TISDALE: We've agreed to do that to save difficulty
5 of who is who.

6 MS. GOLDING: Very good.

7 THE COURT: Absolutely. And if there's a reason at some
8 point that they need to be delineated, you just let us know;
9 otherwise, we'll just put it general defendants. But if
10 there's a reason, we'll handle that and we'll delineate that.

11 MR. TISDALE: Thank you.

12 Q. Canon Lewis, have you been able to look at Exhibits 1
13 through 4, defendants?

14 A. Yes.

15 Q. What are these?

16 A. These are application for registration of trademark or
17 service mark.

18 Q. And let's look at No. 1, if we can.

19 A. Yes, sir.

20 Q. What is this an application for specifically?

21 A. For the mark the Diocese of South Carolina and logo it
22 says.

23 Q. What's the date of this application made to the State of
24 South Carolina?

25 A. October 29, 2010.

1 Q. Did you sign the application?

2 A. That is correct.

3 Q. In what capacity did you sign it?

4 A. I signed by title as canon to the ordinary since that is
5 my working title most days, but I was at this point the
6 registered agent of the diocese as well.

7 Q. Were you an officer of the corporation, the plaintiff
8 corporation?

9 A. I am its registered agent.

10 Q. I understand that. Were you an officer?

11 A. I am not an elected officer at that point, I do not
12 believe.

13 Q. So you signed this as registered agent or as canon to
14 the ordinary, one or the other?

15 A. That's correct.

16 Q. And part of this application says that -- on the top of
17 page 2, that the date of the first use anywhere was what
18 date?

19 A. The date of first use for that service mark, the Diocese
20 of South Carolina, to the best of our ability to determine,
21 it was 1869.

22 Q. And that goes for the logo as well?

23 A. No, it does not. There was confusion in the application
24 process that resulted in the logo being submitted under the
25 same date as that service mark, the Diocese of South

1 Carolina. Not sure why that happened or how it happened, but
2 that was in error.

3 Q. Was this application filed on behalf of the plaintiff
4 corporation, the Protestant Episcopal Church in the Diocese
5 of South Carolina?

6 A. That is correct.

7 Q. And you're saying it was first used in 1769 -- I mean,
8 excuse me, 1869?

9 A. 1869. To the best of my knowledge on researching
10 documents and journals, the Diocese of South Carolina was
11 used as a service mark of the diocese at least that far back.

12 Q. Now, when was the corporation formed, the Protestant
13 Episcopal Church in the Diocese of South Carolina?

14 A. 1973.

15 Q. All right. Could you tell us, if you know, how the
16 corporation acquired this from whoever had it beginning in
17 1869 since it wasn't formed until 1973?

18 A. Not being an attorney, I'm not able to answer that
19 question for you.

20 Q. Have you asked anybody about it?

21 A. No, I have not.

22 Q. All right. So you're unable to tell us whether or not
23 the corporation the Protestant Episcopal Church in the
24 Diocese of South Carolina has been assigned this mark, has
25 bought the mark, has been licensed the mark in any way?

1 A. I'm not competent to answer that question, sir.

2 Q. All right. How would we find that out?

3 A. I would suggest you speak with legal counsel.

4 Q. Anyone in particular?

5 A. I believe Mr. Logan would have been a good place to
6 start with that line of questioning.

7 Q. Okay. So now let's look at what's been marked as
8 Defendant's Exhibit 2 without objection.

9 A. Yes, sir.

10 Q. Did you sign this application?

11 A. Yes, sir, I did.

12 Q. Did you sign it in the same capacity as you signed
13 Exhibit 1?

14 A. That's correct.

15 Q. And as a registered agent?

16 A. That's correct.

17 Q. Or canon to the ordinary, as it says here?

18 A. Yes, sir.

19 Q. If you were signing as registered agent, why didn't you
20 put that on the application?

21 A. It was a document that I was asked to sign, and my habit
22 is to sign things as canon to the ordinary.

23 Q. Who asked you to sign this document?

24 A. This was prepared for us by legal counsel.

25 Q. Which legal counsel?

1 A. David Cox, if I recall correctly.

2 Q. All right. Now, what is this particular application for
3 Exhibit 2?

4 A. To register the mark the Episcopal Diocese of South
5 Carolina.

6 Q. And was the applicant in this case also the Protestant
7 Episcopal Church in the Diocese South Carolina?

8 A. That's correct.

9 Q. The corporation?

10 A. The corporation.

11 Q. That was formed in 1973?

12 A. Incorporated in 1973, yes.

13 Q. So would you be able to give us a better answer as to
14 how it was acquired by the corporation?

15 A. No, sir.

16 Q. Now, when was the first use of this particular mark?

17 A. What we've presented in evidence in the registration
18 process was 1997.

19 Q. Okay.

20 A. So at least that far back --

21 Q. All right.

22 A. -- it was in common use.

23 Q. Look at what's been marked and entered into evidence as
24 Exhibit 3, if you will.

25 A. Yes, sir.

1 Q. Did you likewise sign this application in the same
2 capacity as the other two?

3 A. Yes, I did.

4 Q. When did you report to the State of South Carolina --
5 well, first of all, what's the mark for?

6 A. The Protestant Episcopal Church in the Diocese of South
7 Carolina.

8 Q. And what did you report to the State as the first use of
9 this name?

10 A. 1821.

11 Q. All right. And did you know of any evidence in this
12 case, or do you know how the corporation acquired this -- the
13 right to use this mark from whoever had it in 1821 to 1973?

14 A. Pardon me, would you please clarify your question. I
15 thought I heard two questions there.

16 Q. If you did, I'm sorry.

17 Are you able to tell us how the corporation that you've
18 applied, in whose name you applied, was able to acquire this
19 mark from whoever had it before 1973 when the corporation was
20 formed?

21 A. To my knowledge, no one had it before, but how the
22 diocese comes to have it is a legal question I am not
23 competent to answer.

24 Q. Okay. Now, coming to Defendant's Exhibit 4, what does
25 this seek to get a service mark for?

1 A. The seal of the Diocese of South Carolina.

2 Q. And a copy of it is attached in black and white, I
3 believe?

4 A. Yes, that is correct.

5 Q. And without going into a lot of detail because we've
6 already covered it, but did you apply for this in the same
7 capacity as you applied for the other three?

8 A. That is correct.

9 Q. And you're not an officer of the corporation?

10 A. I am not an elected officer of the corporation.

11 Q. You're a registered agent?

12 A. Correct.

13 Q. When was this service mark, being the seal of the
14 diocese, first used?

15 A. The seal was initially approved and first used in 1911,
16 and in its final form as it's presented here in 1930.

17 Q. And would your testimony be the same, that you don't
18 know how the corporation claimed or acquired the right to use
19 it?

20 A. That's correct.

21 Q. And apply for a service mark for it?

22 A. That is correct.

23 Q. Now, Canon Lewis, do you know whether or not the
24 plaintiff corporation, the Protestant Episcopal Church in the
25 Diocese of South Carolina, has acquired any permission in any

1 form, agreement, assignment, purchase, license, anything
2 else, from the Episcopal Church to use the marks covered by
3 these applications and trademarks?

4 A. Has the diocese, the corporation, gotten permission from
5 the national church?

6 Q. The national church.

7 A. For the use of these registered trademarks?

8 Q. Yes.

9 A. None that I'm aware of, sir.

10 Q. Would you know it if they had?

11 A. Not necessarily, no.

12 Q. Do you know whether or not the Episcopal Church, the
13 national church, has made any assignment of any of these
14 marks to the Protestant Episcopal Church in the Diocese of
15 South Carolina?

16 A. Not to my knowledge.

17 Q. I want to ask you briefly about Plaintiff's Exhibit 9.
18 It's the nonprofit corporation articles of amendment. If you
19 don't have it, I have a copy.

20 A. Please, sir.

21 Q. It was an exhibit, I think, used yesterday. Could have
22 been in Mr. Logan's testimony.

23 A. I believe so.

24 Q. You're familiar with this document, Canon Lewis?

25 A. I have seen this document, yes, sir.

1 Q. All right. And this is dated what date?

2 A. This is dated -- stamped March 13, 2013.

3 Q. That's at the top on the left, but that's from the
4 Secretary of State. Look at the second page and see the date
5 of the application.

6 A. October 19, 2010.

7 Q. All right. And do you recognize this as an application
8 to the Secretary of State of South Carolina to amend the
9 articles of a nonprofit corporation?

10 A. Yes, sir.

11 Q. And who signed this?

12 A. This is signed by Mark Lawrence.

13 Q. All right. Now, Bishop Lawrence, you've testified
14 earlier, was not a member of the standing committee, was he?
15 You might not have testified to that, but let me ask you --

16 A. I've not testified to that.

17 Q. -- was he a member of the standing committee?

18 A. The bishop has seat and voice but no vote in meetings of
19 the standing committee.

20 Q. The standing committee's actually a council of advice to
21 the bishop, isn't it?

22 A. By some definitions, yes.

23 Q. In fact, that's what the canon says, isn't it?

24 A. Some canons say that, yes, sir.

25 Q. Okay. Now, he was not a member of the standing

1 committee, and while we're on the subject, do you know how
2 the standing committee got to be a board of directors of this
3 corporation?

4 A. If you're looking for a legal rationale for how that
5 came to be, no, sir, I cannot answer that question.

6 Q. I'm not looking for -- I just want to know what you know
7 about it, if anything.

8 A. I know that bylaws were adopted in the fall of 2010 that
9 named the standing committee as being the board of directors
10 of the diocese.

11 Q. Who authorized the standing committee, either by canon,
12 constitution or any other authority, to be board of directors
13 of the diocese, of the corporation?

14 A. I do not know of any such authorization.

15 Q. Wouldn't you know of it if there had been an
16 authorization for that act?

17 A. If there had been explicit action on someone's part, I
18 probably would, yes.

19 Q. But you know of none?

20 A. I know of none.

21 Q. Okay. Now, so can we agree that Bishop Lawrence was not
22 a member of the standing committee? You don't need to look
23 at the paper to answer that, I don't think.

24 A. No, but it helps me to take a moment to reflect before I
25 answer that question.

1 Q. Go ahead and reflect.

2 A. I believe that would be correct.

3 Q. That Bishop Lawrence is not a member of the standing
4 committee?

5 A. Yes, sir.

6 Q. So therefore, even if it was legal to have the standing
7 committee as the board of directors of the plaintiff
8 corporation, he would not have been a member of the board of
9 directors, would he, because he wasn't a member of the
10 committee?

11 A. I don't believe so at that time.

12 Q. That's fine. Now, in what capacity did he sign this
13 application, Defendant's Exhibit -- Plaintiff's Exhibit 9, to
14 change the purpose of the plaintiff corporation?

15 A. As the bishop of the diocese and president of diocesan
16 convention.

17 Q. Where does it say that he signed it as bishop of the
18 diocese in this document?

19 A. He simply is, sir.

20 Q. I understand that.

21 A. If you look at his signature, you will see at the front
22 end of his name a cross there. That is a standard
23 designation for a signature by a bishop of the church.

24 Q. Does this document contain a reference anywhere that
25 Bishop Lawrence signed this document as bishop of the

1 diocese?

2 A. It does not.

3 Q. It does not. We're in agreement on that?

4 A. That this document does not say that explicitly, no.

5 Q. That's what my question was.

6 All right. Now, in what capacity does it say he signed
7 it?

8 A. It says president.

9 Q. And does it say what he's president of?

10 A. The document here does not.

11 Q. All right. And he certainly wasn't president of this
12 corporation, was he, this plaintiff's corporation?

13 A. No, sir.

14 Q. Okay.

15 A. He's bishop and president of the diocesan convention.

16 Q. I was just asking you what the document said. I
17 appreciate your response to it.

18 A. Yes, sir.

19 MS. GOLDING: Your Honor, I'm going to make an objection
20 to that colloquial. The witness has a right to make an
21 explanation.

22 MR. TISDALE: Of course he does.

23 MS. GOLDING: Mr. Tisdale, by his response just now, was
24 basically intimidating that all I want is your answer. I
25 don't think that's appropriate on behalf of counsel.

1 MR. TISDALE: I withdraw that question.

2 THE COURT: All right. Well, let me see if I can be of
3 assistance.

4 If you're asked a yes-or-no question and you can answer
5 the question with a yes or no, I would ask you to do that.
6 However, having said that, if you need to give an
7 explanation, yes, however, I would like to explain, that's
8 certainly appropriate.

9 THE WITNESS: Thank you, Your Honor.

10 THE COURT: Very well.

11 MR. TISDALE: Thank you very much, Your Honor.

12 THE COURT: Yes, sir.

13 MR. TISDALE: Your Honor, next I want to hand to the
14 witness a proposed exhibit which is marked Defendant's
15 Exhibit 5 which is entitled Application for Recognition of
16 Exemption Under Section 501(c)(3) of the Internal Revenue
17 Code.

18 THE COURT: Give them a moment just to take a look at
19 it.

20 MR. TISDALE: Yes.

21 MR. RUNYAN: No objection.

22 MS. GOLDING: No objection.

23 MR. TISDALE: No objection, Your Honor.

24 THE COURT: Very well. So Exhibit No. 5 is in evidence
25 without objection, Defendant's Exhibit No. 5 is in evidence

1 without objection. You may proceed.

2 (Defendant's Exhibit 5 admitted into evidence.)

3 MR. TISDALE: Thank you.

4 Q. You're familiar with this document, Canon Lewis?

5 A. Yes, sir, I am.

6 Q. And just what is it?

7 A. An application for recognition of exemption under
8 Section 501(c) of the Internal Revenue Code.

9 Q. And who were you filing this -- on whose behalf were you
10 filing this? First of all, did you file this?

11 A. Yes, sir, that is correct.

12 Q. And on whose behalf did you file it?

13 A. The Protestant Episcopal Church in the Diocese of South
14 Carolina.

15 Q. The plaintiff corporation?

16 A. That's correct.

17 Q. And if you look at -- there are some numbers at the
18 bottom of the page on the right. If you look at the one that
19 has the last four numbers 6790.

20 A. Yes, sir.

21 Q. Did you sign this application?

22 A. That is correct.

23 Q. And on what date did you sign it?

24 A. October 21, 2011.

25 Q. And in what capacity did you sign it?

1 A. I have signed it, as is my custom, as canon to the
2 ordinary.

3 Q. Same as trademark applications, correct?

4 A. That is correct.

5 Q. Now, look at page 6782, if you will.

6 A. Yes, sir.

7 Q. Would you look at paragraph No. 10 on that page.

8 A. Yes, sir.

9 Q. And read it, please, if you will, in the record.

10 Now, when it says do you or you publish on and so forth,
11 that's referring to the plaintiff corporation, correct?

12 A. Correct.

13 Q. Go ahead and read it for us, if you would.

14 A. Do you or will you publish, own or have rights in music,
15 literature, tapes, artwork, choreography, scientific
16 discoveries or other intellectual property? If yes, explain.
17 Describe who owns or will own any copyrights, patents or
18 trademarks where fees are or will be charged, how the fees
19 are determined and how many items are or will be produced,
20 distributed and marketed.

21 Q. Now, I think you testified you signed this on
22 October 21st, 2011, correct?

23 A. That is correct.

24 Q. And how did you answer that question, No. 10?

25 A. I mistakenly answered no to that question.

1 Q. You can explain it, but how did you answer the question?

2 A. No.

3 Q. All right. Do you wish to explain it?

4 A. I would wish to explain. Thank you, sir.

5 Q. Well, go right ahead.

6 A. When this application was being completed, it was done
7 with the assistance of an accountant who like myself is not
8 completely versed in all the nuances of the law. And in
9 reading this, trademarks was an item that slipped by us. It
10 will be noted that later in the application one of the
11 evidences of incorporation and identity that was included
12 were the trademarks, and particularly the seal of the
13 diocese. It was never intended to exclude or suggest that
14 those were not items that were part of the intellectual
15 property of the diocese. It was simply a question of being
16 unaware of that being covered when this application was
17 completed.

18 Q. Did anybody in the plaintiff corporation management
19 review this before you filed it?

20 A. It had some review. I cannot recall who reviewed it at
21 that time.

22 Q. How many people reviewed it?

23 A. I do not recall.

24 Q. Canon Lewis, was this application submitted to the
25 Internal Revenue Service?

1 A. That is correct.

2 Q. And was the exemption granted?

3 A. Yes, sir, that's correct.

4 Q. Has the Internal Revenue Service ever been informed or
5 advised that this application was false in that regard?

6 A. That it was in error in that regard, no, sir, not to my
7 knowledge.

8 Q. Well, it's certainly not a true statement, is it?

9 A. It was an error.

10 Q. Okay. And has the exemption been granted?

11 A. Yes, sir, that's correct.

12 Q. With regard -- moving on to a different subject, with
13 regard to the resolutions that the diocese -- when I say
14 diocese, I mean plaintiff's corporation -- adopted in its
15 conventions in 2010 and 2011 --

16 A. Yes, sir.

17 Q. -- you testified at some length about those yesterday, I
18 think, didn't you?

19 A. Yes, sir.

20 Q. Was the Episcopal Church, the national church, ever
21 informed of the substance and planned action on these
22 resolutions by anyone?

23 MS. GOLDING: Your Honor, I'm going to make an
24 objection. I'm not sure that this witness is competent to
25 testify what everybody else in the world told the national

1 church.

2 MR. TISDALE: I'm asking him if he knows anything about
3 it, Your Honor. That's all, if he knows somebody did.

4 THE COURT: The question is do you know at this point.
5 That is all, Mr. Lewis. Not what did they say, but do you
6 know. That's a different question because, depending on what
7 your response is, there may or may not be an objection that I
8 would need to handle. So the question is do you know if
9 there were.

10 THE WITNESS: I do not.

11 MR. TISDALE: Thank you.

12 Q. Canon Lewis, you testified at some length yesterday
13 about when the plaintiff corporation, Protestant Episcopal
14 Church in the Diocese of South Carolina, decided to depart
15 the Episcopal Church, that the Episcopal Church in South
16 Carolina had a series of meetings and put out various notices
17 and so forth. That was in the fall of 2012, was it not?

18 A. That is correct.

19 Q. All right. And do you agree that Her Honor's injunction
20 in this case to prohibit the use of some of the things that
21 were previously used was issued on or about January 23rd,
22 2013?

23 A. That is correct.

24 Q. Okay. Do you know anything about some federal trademark
25 registrations that were filed by the diocese, diocese, the

1 plaintiff corporation?

2 A. I was given to understand that such application had been
3 made, but that's the extent of my knowledge.

4 Q. Do you know whether or not those applications were
5 granted or withdrawn?

6 A. I do not know.

7 Q. Do not know.

8 MR. TISDALE: Excuse me, will Your Honor give us
9 30 seconds, please?

10 THE COURT: Certainly.

11 Q. Canon Lewis, when you became a priest -- a deacon and
12 priest in the Episcopal Church, the national church, did you
13 take an oath to --

14 MR. RUNYAN: Your Honor, we would object to this line of
15 questioning, and the basis for that is relevance. The issues
16 here are the right of the entity the Protestant Episcopal
17 Church in the Diocese of South Carolina to withdraw its
18 association from an unincorporated association and also the
19 interest, if any, that the Episcopal Church, the Episcopal
20 Church in South Carolina, might have in the real personal
21 property of the diocese and the parishes. Whether Mr. Lewis,
22 when he became a priest and was ordained, stated a
23 declaration or signed a declaration is completely irrelevant
24 to those issues.

25 MS. GOLDING: Your Honor, on behalf of all remaining

1 plaintiffs, I believe all the attorneys join in that
2 objection, Your Honor.

3 THE COURT: All right.

4 MR. TISDALE: Excuse me one second, please, Your Honor.

5 THE COURT: Certainly.

6 MR. TISDALE: Your Honor, we believe this is entirely
7 relevant and that Your Honor will be satisfied before the end
8 of this case that it is indeed relevant evidence whether or
9 not he took an oath to conform to the doctrine, discipline
10 and worship of the Episcopal Church. And so what we would
11 propose to do is proffer this exhibit, once he identifies it,
12 and ask you to consider it before the end of the trial as to
13 whether it's relevant or not. It's up to you as to whether
14 it is ultimately, but we would like to get it in the record
15 in form of a proffer.

16 THE COURT: Even if I disallow it, it ought to be
17 proffered for purposes of appeal, clearly.

18 MR. TISDALE: Yes.

19 THE COURT: Counsel, let me hear from you in that
20 regard.

21 MR. RUNYAN: As long as it's marked in some way to
22 indicate it's not an exhibit.

23 THE COURT: It will simply be for identification
24 purposes and a proffer.

25 MR. TISDALE: Let's put it for identification only, one

1 that will be with the clerk.

2 THE COURT: Yes.

3 MR. TISDALE: Thank you.

4 THE COURT: And we'll note it in the record that this is
5 part of defendant's proffer --

6 MR. TISDALE: Yes.

7 THE COURT: -- at this point.

8 MR. TISDALE: Yes, Your Honor.

9 THE COURT: Very well.

10 Q. Do you recall testifying about this particular oath that
11 you avow in your deposition?

12 MR. RUNYAN: Your Honor, I --

13 MR. TISDALE: It's proffered.

14 MR. RUNYAN: Is this part of the proffer?

15 MR. TISDALE: All this is part of the proffer. That's
16 what the Judge ruled.

17 Q. Do you recall talking about this in your deposition?

18 MS. GOLDING: Your Honor, I would also object to any
19 references to his deposition. That's an improper way of
20 questioning the witness based on a deposition.

21 MR. TISDALE: I was just trying to refresh his
22 recollection a little bit.

23 THE COURT: I gotcha. It may not need that.

24 MR. TISDALE: Okay.

25 THE COURT: It may not need that.

1 Q. Look at Defendant's Exhibit 6, Canon Lewis.

2 A. Yes, sir.

3 Q. And what is the first page?

4 A. First page of this Exhibit says the Book of Common
5 Prayer.

6 Q. Is that, to your knowledge, a copy of the title page of
7 the current Book of Common Prayer?

8 A. Yes, sir.

9 Q. Now, when did you become a deacon in the Episcopal
10 Church?

11 A. I was ordained in 1994.

12 Q. Where were you ordained?

13 A. That would be here in South Carolina by Bishop Salmon.

14 Q. Now, if you will look at the last page on this Exhibit 6
15 for identification, do you see the question that Bishop
16 Salmon asked you?

17 A. Yes, sir, I do.

18 Q. Which is the second paragraph from the bottom?

19 A. Yes, sir.

20 Q. Would you read what the Bishop said to you.

21 A. Will you be loyal to the doctrine, discipline and
22 worship of Christ as this church has received them, and will
23 you, in accordance with the canons of this church, obey your
24 bishop and other ministers who may have authority over you
25 and your work.

1 Q. On that occasion, did you answer the question?

2 A. I did, sir.

3 Q. And what was your answer?

4 A. I am willing and ready to do so, and I solemnly declare
5 that I do believe the holy scriptures of the Old and New
6 Testaments to be the word of God and contain all things
7 necessary to salvation, and I do solemnly engage to conform
8 to the doctrine, discipline and worship of the Episcopal
9 Church.

10 Q. All right. Now, let's turn to -- could you have been
11 ordained a deacon in the Episcopal Church without making that
12 vow or oath?

13 A. I do not believe so.

14 Q. All right. Now, let's turn to page 524 -- 525, which is
15 titled the ordination of a priest. When did you become a
16 priest in the Episcopal Church?

17 A. That would be later in 1994.

18 Q. And who ordained you a priest in the Episcopal Church?

19 A. That would be Bishop Salmon.

20 Q. Did Bishop Salmon on that occasion, looking at page 526,
21 ask you the same question that he asked of you when you were
22 ordained a deacon?

23 A. That is correct.

24 Q. And what was your response to Bishop Salmon?

25 A. The same as when I was ordained a deacon.

1 Q. Go ahead -- for the record, since we're proffering this,
2 go ahead and read it, if you will.

3 A. I am willing and ready to do so, and I solemnly declare
4 that I do believe the holy scriptures of the Old and New
5 Testaments to be the word of God and to contain all things
6 necessary to salvation, and I do solemnly engage to conform
7 to the doctrine, discipline and worship of the Episcopal
8 Church.

9 Q. Are you presently a priest of the Episcopal Church?

10 A. No, sir, I'm not.

11 Q. Have you been relieved of those duties and
12 responsibilities?

13 A. That is correct.

14 Q. All right. And when did that occur?

15 A. I believe that occurred in late summer of 2013.

16 MS. GOLDING: Your Honor, is that the conclusion of the
17 proffer?

18 THE COURT: I don't know.

19 MR. TISDALE: Hold on just one second, if you would.

20 Your Honor, the proffer should have ended right before I
21 asked him was he any longer a priest in the Episcopal Church.
22 That is not proffered because that is just asking what his
23 situation is right now. Doesn't have anything to do with the
24 oaths.

25 MR. RUNYAN: I think that's irrelevant. I don't think

1 it -- whether he is or is not a priest in the Episcopal
2 Church doesn't have anything to do with whether the diocese
3 can leave or whether you --

4 THE COURT: Let me stop for just a second. In other
5 words, it was your belief that it was part of the proffer,
6 which is, Ms. Golding, why you stood up to say now we're
7 finished with the proffer; is that correct?

8 MS. GOLDING: Correct.

9 THE COURT: What you're telling me is that if you had
10 known that the proffer was ended, you would have objected to
11 the prior question; is that correct?

12 MS. GOLDING: That's correct.

13 MR. RUNYAN: That's correct.

14 THE COURT: I understand. And the basis would be that
15 of relevance, whether or not he is --

16 MR. RUNYAN: The basis is relevance, yes, Your Honor.

17 THE COURT: I understand. Whether or not he is
18 currently a priest is of no relevance to these proceedings.

19 MR. RUNYAN: Right, that's correct.

20 MR. TISDALE: That is your ruling, Your Honor?

21 THE COURT: I was just figuring out where we were
22 procedurally.

23 MR. TISDALE: Oh, I thought that you were --

24 THE COURT: No, I have not. Tell me what the relevance
25 is.

1 MR. TISDALE: The relevance is simply that he is no
2 longer a priest in the Episcopal Church, and that's relevant.
3 And he is carrying on his ministry in some other way, and I
4 don't see anything irrelevant about that. It's just part of
5 the story of his life.

6 THE COURT: All right. Yes, sir.

7 MR. RUNYAN: He's not a party. Whether or not he's a
8 priest doesn't have anything to do with the action of a
9 diocese in voting to leave and whether that was done
10 properly. And it doesn't have anything to do with whether
11 they have any interest in the real or personal property. And
12 those are the issues.

13 THE COURT: Very well.

14 MR. TISDALE: He calls himself a priest, so we're
15 entitled to know that, but he's not a priest of the Episcopal
16 Church.

17 THE COURT: I understand. I'm with you completely. I'm
18 going to allow the question because at this point, as I hear
19 the testimony, there is an argument that could be made in
20 that this witness has testified to matters which may be in
21 dispute. It may go to bias. That would be the basis of my
22 allowing that question and for no other reason other than the
23 potentiality that it could enter into testimony with regards
24 to bias. And on that basis, I will allow that last question
25 for that reason.

1 Now, so that our record is clear, we are now finished
2 with the proffer; is that correct?

3 MR. TISDALE: Excuse me, Your Honor?

4 THE COURT: We're finished with the proffer --

5 MR. TISDALE: Yes.

6 THE COURT: -- is that correct?

7 MR. TISDALE: Yes.

8 THE COURT: The proffer is now ended?

9 MR. TISDALE: Yes.

10 THE COURT: Just so we're tidy, the exhibit for
11 identification purposes is Exhibit No. 6, isn't it?

12 MR. TISDALE: 6.

13 THE COURT: 6 for identification purposes, and we've
14 given that to our court reporter? I just want to be sure we
15 don't lose it.

16 MR. TISDALE: We'll get it from the witness to give to
17 the reporter.

18 THE COURT: Thank you. You may proceed.

19 MR. TISDALE: I'm finished, Your Honor.

20 THE COURT: You're finished. Very well.

21 Yes, sir.

22 CROSS-EXAMINATION BY MR. BEERS:

23 Q. Canon Lewis, you may know, my name is David Beers and I
24 represent the national church.

25 A. Yes, sir.

1 Q. Let's go back to when you were ordained as a deacon in
2 1994. Where was that?

3 MS. GOLDING: Your Honor, we would again object, along
4 with the same --

5 THE COURT: I understand. And we're now back into a
6 proffer?

7 MR. BEERS: No, I wasn't going to ask him about -- he
8 just testified he was ordained as a deacon in '94. I'm not
9 going to --

10 THE COURT: That was part of the proffer, sir.

11 MR. BEERS: If I could just ask another couple of
12 questions, I think I could allay Ms. Golding's concerns.

13 THE COURT: Well, it sort of doesn't work that way.
14 You've sort of got to tell me now instead of saying hold up
15 and let me ask the questions.

16 MR. BEERS: I want to ask him something about his
17 compensation when he first went to work.

18 THE COURT: You want to ask him about his compensation
19 when he went to work?

20 MR. BEERS: Yeah.

21 THE COURT: And the relevancy is?

22 MR. BEERS: It relates to his pension and the pension
23 plan about which there's been testimony, particularly from
24 the chancellor.

25 THE COURT: I'm going to deny that, but you certainly

1 may proffer the testimony if you wish.

2 Q. All right. What was your first job as an ordained
3 person?

4 A. I was called to be the rector of St. Jude's in
5 Walterboro, South Carolina.

6 Q. Just for fun, can you remember how much you were paid?

7 A. I have no recollection of how much I was paid at that
8 time.

9 Q. Did you remember whether you were paid something in cash
10 and then something for a housing allowance?

11 A. That is correct.

12 Q. And has that pattern continued throughout your ordained
13 ministry?

14 A. That pattern has continued.

15 Q. And so do you understand that you were given a certain
16 amount of compensation, a portion of which you were allowed
17 to deduct from your income tax?

18 A. Yes, sir.

19 Q. Now, your employer paid premiums to the church pension
20 fund based upon your total compensation; is that right?

21 A. Yes, sir, that is correct.

22 Q. And each of your employers was required to do that by
23 the canons of the church relating to the church pension fund;
24 is that correct?

25 A. That is correct.

1 Q. Now, and you had -- your employment by the Diocese of
2 South Carolina before it purported to disaffiliate from the
3 Episcopal Church, continued to pay premiums to the pension
4 fund on your behalf?

5 A. I do believe that pension contributions were made on my
6 behalf through sometime in 2012.

7 Q. 2012, all right. And are your rights under the pension
8 program vested?

9 A. Yes, they are. That's correct.

10 Q. Have you retired for purposes of the church pension
11 fund?

12 A. No, I have not.

13 Q. But some day, presumably, you will?

14 A. Presumably, yes, God willing.

15 Q. And will receive a pension from the pension fund?

16 A. Yes, sir.

17 Q. Could you fish out for me Exhibit 45A.

18 A. Yes, sir, if you'll give me a moment. The pile is deep.
19 All right, sir, I have 45A before me.

20 Q. Would you look at the second page, and if you would go
21 down the page with me, one, two, three, four, five, six,
22 seven -- the seventh whereas.

23 A. Yes, sir.

24 Q. All right. Now, before I ask you a question about that,
25 can you tell us again what that document is?

1 A. This document was resolution R-1 passed at the special
2 convention of the Diocese of South Carolina in October of --
3 I mean, November of 2012.

4 Q. And it was passed?

5 A. And it was passed.

6 Q. Now, turn to the seventh whereas.

7 A. Yes, sir.

8 Q. Do you see where it says that repeated actions by the
9 leadership and the general convention of TEC, the national
10 church?

11 A. Yes, sir.

12 Q. Do you see where that is? And do you see that this
13 resolution says that those actions were -- violated the
14 church's own constitution and canons?

15 A. Yes, sir.

16 Q. And then you see where it says that those actions have
17 been repugnant to the plain teaching of scripture?

18 A. Yes, sir.

19 Q. Now, could you -- I know you've testified about some of
20 this before, but could you summarize for me what actions of
21 the general convention you believe or you understand or you
22 perceive that your convention believed were contrary to the
23 plain teachings of scripture?

24 A. Yes, sir. How long a list would you like?

25 Q. Well, give me whatever you want.

1 A. Very good. Yes, sir. To start --

2 Q. Are you referring to a piece of paper?

3 A. I have a timeline here to remind me of dates.

4 MR. RUNYAN: Judge, I don't even think it's relevant for
5 proffer. He's asking him about religious beliefs, which just
6 simply don't belong here.

7 MR. BEERS: They introduced this document in evidence,
8 Your Honor.

9 THE COURT: The document being the convention notice?

10 MR. BEERS: Resolution in which they state that there
11 were actions taken by the national church that were repugnant
12 to the plain teachings of scripture. I'd like to know what
13 those are. And he's already -- both the chancellor and
14 Canon Lewis have referred to some of these, and I'd just like
15 to sort of see if I can get Canon Lewis's understanding as to
16 what they were.

17 THE COURT: It's my understanding that the documents
18 that were introduced, such as you're mentioning this
19 particular document regarding that meeting, that they were
20 introduced for the purpose of talking about whether or not
21 the marks and the trademarks, the use was being violated in
22 some form or fashion, that's my understanding, and not with
23 regards to, if you will, the underlying ecclesiastic merit or
24 lack thereof of the meeting. I didn't take that evidence to
25 be evidence which was offered as a commentary on the

1 underlying religious ecclesiastic tenor or otherwise, so his
2 opinion about the relationship between that meeting and
3 scripture is really of no moment here. And I know this is a
4 proffer, but our law is so very clear that when I enter into
5 those discussions even it's very clear to me that our law
6 simply doesn't allow it, that you're now into the separation
7 of church and state.

8 MR. BEERS: But, Your Honor, we're going to contend in
9 this case that the very subject we're talking about does not
10 entered into any kind of first amendment thicket, that there
11 is a doctrinal dispute here, and there is a dispute over the
12 governance and polity of the Episcopal Church that the Court
13 is going to, in our view, will have to wrestle with, and
14 that's why we're trying to get the facts out. And both Mr.
15 Logan and Canon Lewis have said what some of the concerns
16 were that led to the decision to disaffiliate, and I just
17 want to ask him to fill in some blanks.

18 THE COURT: I think they didn't. I think they said that
19 there were decisions that were made with which there was a
20 group of individuals that they did not agree with, and that
21 was as far as they went, and as a result of that feeling then
22 certain other actions were taken. As I understand the
23 testimony, that was as far as the plaintiffs had gone, at
24 least to this point, with regards to, as you say, any
25 doctrinal concerns. So the law does not allow me, nor do I

1 believe that our courts under the All Saints decision and
2 Jones vs. Wolf, for example, allow this Court to get into the
3 doctrinal determinations. It is what it is. And whether or
4 not the courts like it, don't like it, agree or disagree,
5 truly is of no moment. The determinations that I will make
6 will not be on that basis. They will be on the basis of, as
7 you say, corporate governance, our corporate law, and not
8 with regards to the ecclesiastic or doctrinal beliefs,
9 whatever they may be. I'm not allowed that, and that wades
10 into, in my mind, the separation of church and state. That
11 was a lot of explanation to get back around to what this
12 witness may think of a meeting and how it relates to the holy
13 scripture is really of no moment and no moment with regards
14 to the proffer.

15 MR. BEERS: Well, if the Court please, please understand
16 that we have a profound disagreement, with all due respect to
17 you, and under Jones v. Wolf, the Supreme Court provides
18 certain safeguards under the first amendment. And we're not
19 here to ask Canon Lewis what he believes or what -- or ask
20 this Court to get into a discussion of who's right and who's
21 wrong, but we are here to discuss the nature of the dispute
22 between the Episcopal Church, the national church, and the
23 diocese and the parishes. And we have a view that the Court
24 must deal with our contention that in disputes of this kind
25 this Court is required by the First Amendment to defer to

1 decisions made by the national church, even as they affect
2 the property of the church.

3 The other side, obviously, disagrees and is trying to
4 confine this case to one of completely secular terms, and we
5 don't agree. And I take it -- I mean, I understand where
6 you're coming from, but I must say once more, this is a
7 profound breach, a profound moment in the course of this
8 litigation, and we respectfully believe that proper would
9 be -- given the importance of this issue and the difficulty
10 of having to get back and do this all over again, if you
11 conclude or anybody else concludes that your perception is
12 wrong, we think that it would be appropriate to continue with
13 this under a proffer, if nothing else.

14 THE COURT: And the proffer that you -- the question, as
15 I understand the question that you've asked him, is tell me
16 how you believe a particular meeting was in violation of the
17 holy scripture. Isn't that the question?

18 MR. BEERS: I'm asking -- just taking the words from
19 their own convention, what acts of the Episcopal Church does
20 he understand the diocese, diocese, believed were so in
21 violation of scripture that it warranted them to
22 disaffiliate? Just what identification of them, not a
23 discussion about what they're about, not a discussion whether
24 he personally believes that, but what is the basis of this
25 decision?

1 THE COURT: Yes, sir, that's not relevant. Thank you.

2 MR. BEERS: Thank you. That's all I have.

3 THE COURT: It's not relevant in regards to a proffer,
4 in my mind. Thank you. All right.

5 Any further questions, Mr. Beers?

6 MR. BEERS: I apologize.

7 THE COURT: That concludes all of your questions?

8 MR. BEERS: Absolutely. I thought I made that clear. I
9 apologize. I'm done.

10 THE COURT: Redirect.

11 REDIRECT EXAMINATION BY MR. RUNYAN:

12 Q. Mr. Lewis, could you get Defendant's Exhibit 5, which is
13 the application for recognition of exemption to the IRS, in
14 front of you, please, sir.

15 A. Yes, sir.

16 Q. You were asked some questions about a statement made
17 with respect to the absence of trademarks. Do you recall
18 that?

19 A. Yes, sir.

20 Q. Could you turn to page 06811?

21 A. Yes, sir.

22 Q. Was that document attachment to the application?

23 A. Yes, sir, it was.

24 Q. What is that document?

25 A. That is the service mark registration for the name the

1 Protestant Episcopal Church in the Diocese of South Carolina.

2 Q. So attached to the application for recognition of
3 exemption was, in fact, a service mark that you've testified
4 previously to here before?

5 A. That is correct.

6 Q. You were also asked about the original constitution of
7 the diocese, and I believe you were asked if there were any
8 words in that document that had the word diocese in it?

9 A. Yes, sir.

10 Q. I'm going to hand you a document, please, sir, ask you
11 if you've seen that or something like that before?

12 A. Yes, this is the cover of the convention journals from
13 1785 to 1799.

14 Q. Would you just flip through it and tell me if it has the
15 appearance of a copy of the original that we looked at
16 yesterday?

17 A. Yes, sir, it does.

18 MR. RUNYAN: I offer that into evidence.

19 THE COURT: Any objection?

20 MR. TISDALE: We have no objection.

21 MR. RUNYAN: Plaintiff's Exhibit 56.

22 THE COURT: In evidence without objection.

23 (Plaintiff's Exhibit DSC-56 admitted into evidence.)

24 Q. Mr. Lewis, would you read the cover of that document,
25 please, sir.

1 A. It says minutes of conventions, Protestant Episcopal
2 Church, Diocese of South Carolina, 1785 to 1799.

3 Q. Mr. Lewis, I'm going to hand you a document. I ask you
4 if you would identify it, please, sir.

5 A. This is -- the cover says Journal of the 183rd Annual
6 Meeting of the Convention Held in 1973, Holy Trinity Church,
7 Charleston.

8 Q. What convention?

9 A. The Protestant Episcopal Diocese of South Carolina.

10 Q. That's my only copy, so let me borrow it a minute, show
11 it to Mr. Tisdale.

12 MR. TISDALE: It's the journal?

13 MR. RUNYAN: It's the journal.

14 MR. TISDALE: I have no objection. '73?

15 MR. RUNYAN: 1973.

16 MR. TISDALE: You don't have a copy, do you?

17 MR. RUNYAN: No, I don't, but I'll get you one.

18 MR. TISDALE: Okay.

19 MR. RUNYAN: That'll be Plaintiff's Exhibit 57.

20 THE COURT: And was there an objection?

21 MR. TISDALE: No objection.

22 MS. KOSTEL: No objection.

23 THE COURT: 57 in evidence without objection.

24 (Plaintiff's Exhibit DSC-57 admitted into evidence.)

25 MR. TISDALE: He said he'll give us a copy.

1 Q. Mr. Lewis, I'm going to hand you this document, ask you
2 to look at the page that I have it open to.

3 A. Yes, sir.

4 Q. For the record, if you would read the number at the
5 bottom right-hand corner.

6 A. The page number of the journal is page 129.

7 Q. Is there anything on that page that has to do with the
8 creation of the corporation known as the Protestant Episcopal
9 Church in the Diocese of South Carolina? You may have to
10 turn the page.

11 Mr. Lewis, let me have it back, see if I can help you,
12 sir.

13 A. Thank you.

14 Q. Direct your attention to page 129 of this journal, the
15 last paragraph. Could you tell me, please, sir, if there
16 were any proposed resolutions from the committee on
17 constitution and canons?

18 A. The last paragraph says the chair called for the first
19 report of the committee on the constitution and canons.
20 Mr. Thomas S. Tisdale, Jr. reported that the committee on
21 constitutions and canons under Article 12 of the constitution
22 and canon 30 received -- I mean, Article 12 of the
23 constitution and of canon 30 received the following proposed
24 amendments to the constitution and canons for its
25 consideration.

1 Q. And then is there a list of amendments after that?

2 A. I see one, two, three, four, five, six amendments.

3 Q. Turn to the next page. Does the list continue, and is
4 there one concerning the incorporation of the diocese, top
5 left page?

6 A. I'm afraid I'm not tracking with you.

7 Q. Just read that first top left page paragraph, please.

8 A. Yes, sir. It says, Mr. Tisdale reported the committee
9 on constitution and canons had also received for
10 consideration the following: A new standing resolution 14
11 having to do with the board of trustees of Porter Academy, a
12 resolution having to do with incorporation of the diocese and
13 a resolution amending Section 10 of Rule of Order No. 1.

14 Q. There's another yellow sticky on a page further back.
15 Would you turn to that, please, and tell us the page number.

16 A. That would be page 141.

17 Q. Do you see on there the resolution for incorporation of
18 the diocese recorded?

19 A. Yes, sir, I do.

20 Q. Does it have the resolution printed in its entirety?

21 A. Yes, sir, I believe so.

22 Q. All right. Thank you, sir.

23 Can you tell by looking there if the resolution passed?

24 A. I believe it says here it was seconded and approved.

25 Q. Thank you, sir. Hand you a document, ask you if you can

1 identify this.

2 A. Yes, sir.

3 Q. Would you tell us what that is?

4 A. Copy of the lease agreement between the cathedral and
5 the Diocese of South Carolina.

6 Q. Lease of what?

7 A. The property on which the diocesan offices sit.

8 Q. All right. Does it contain a cover letter?

9 A. It does.

10 Q. Who is the author of the cover letter?

11 A. Thomas S. Tisdale, Jr.

12 Q. Is it on stationery?

13 A. That is correct.

14 Q. Do you see the seal at the top?

15 A. Yes, sir, I do.

16 Q. Do you recognize that seal?

17 A. I do.

18 Q. What is that?

19 A. It is the seal of the Diocese of South Carolina.

20 Q. Is there an indication to the left of what office the
21 signer has with the diocese at that time?

22 A. It says office of the chancellor.

23 MR. RUNYAN: Offer it into evidence.

24 MR. TISDALE: No objection.

25 MS. KOSTEL: No objection.

1 THE COURT: Very well.

2 MR. RUNYAN: It's Diocese Exhibit 58. I'll just publish
3 the date of the cover letter from Mr. Tisdale to the Very
4 Reverend Lynwood C. Magee, Cathedral of St. Luke and
5 St. Paul, dated May 11, 1983. The attached lease agreement
6 is dated May 9, 1983.

7 MR. TISDALE: What exhibit number is it?

8 MR. RUNYAN: 58.

9 (Plaintiff's Exhibit DSC-58 admitted into evidence.)

10 MR. RUNYAN: That's all for me, Your Honor.

11 MS. GOLDING: Just one.

12 THE COURT: Yes, ma'am.

13 REDIRECT EXAMINATION BY MS. GOLDING:

14 Q. Mr. Lewis, with respect to Defendant's Exhibit No. 5,
15 the document that was submitted to the IRS, when did you
16 personally -- when did you discover this error that you
17 testified about? Was it recent?

18 A. Very recent.

19 Q. When we say very recent, just about a month or so ago?

20 A. About a month or so ago, yes.

21 MS. GOLDING: Thank you. No further questions, Your
22 Honor.

23 THE COURT: Anybody else from the side of the
24 plaintiffs?

25 All right. Recross.

1 MR. TISDALE: Just one second, please, Your Honor.

2 THE COURT: Sure.

3 MR. TISDALE: One quick question, Your Honor.

4 RECROSS-EXAMINATION BY MR. TISDALE:

5 Q. With respect to Plaintiff's Exhibit 58 which was just
6 put into evidence about the cathedral, lease with the
7 cathedral, do you see that, Canon Lewis?

8 A. Yes, sir.

9 Q. Look at page 4 of that lease.

10 A. Yes, sir.

11 Q. Who signed this lease on behalf of the diocese?

12 A. It appears to be C. FitzSimons Allison.

13 Q. And below the signature line, does it have the capacity
14 listed in which he signed?

15 A. It says bishop.

16 MR. TISDALE: All right. Nothing further, Your Honor.

17 THE COURT: Mr. Beers.

18 MR. BEERS: Well, I don't have any cross because I'm not
19 allowed to, but -- by your ruling. So I'm not here for
20 cross. I'm here to ask you a question.

21 THE COURT: Of course you can cross.

22 MR. BEERS: I'm sorry, on the issue that I care about
23 that we've talked about. But Ms. Kostel reminds me that
24 there are two things I should have said on the question of
25 whether we should be entitled to a proffer.

1 THE COURT: You had a proffer.

2 MR. BEERS: No, you think that -- the questions that --
3 the issues I want to raise you have said are not even
4 relevant to a proffer, and I accept that.

5 THE COURT: Right, the ones when you asked about, tell
6 me how you believe the meeting violated the holy scriptures.

7 MR. BEERS: Correct.

8 THE COURT: Yes, sir, that's correct.

9 MR. BEERS: Ms. Kostel reminds me that there are two
10 passages from the Supreme Court's decision in All Saints,
11 Waccamaw that she thinks that I should bring to your
12 attention, at least for the record.

13 THE COURT: Thank you.

14 MR. BEERS: The Court first discussed an earlier
15 decision by the Supreme Court of South Carolina, Church of
16 God versus Pearson -- sorry, other way around, Pearson versus
17 Church of God, where the Supreme Court explained that courts
18 may not engage in resolving disputes as to religious law,
19 principle, doctrine, discipline, custom or administration.
20 Courts cannot avoid adjudicating rights growing out of civil
21 law. And in resolving such civil law disputes, courts must
22 accept as final and binding the decision of the highest
23 religious judicatories as to religious law, principle,
24 doctrine, discipline, custom and administration.

25 Then the Supreme Court went on to say that under

1 Pearson, where a civil court is presented an issue which is a
2 question of religious law or doctrine masquerading as a
3 dispute over church property or corporate control, the court
4 must defer to the decisions of the proper church judicatories
5 insofar as it concerns religious or doctrinal issues.

6 We believe that this is a question of religious law,
7 doctrine, polity and so forth, all of which we would like to
8 present evidence about masquerading as a dispute over church
9 property. Thank you.

10 THE COURT: Thank you very much. That was great for the
11 record, but I'm not prepared to change my ruling on that
12 basis.

13 Very well. And no other recross.

14 MR. BEERS: No, Your Honor.

15 THE COURT: You may step down.

16 Good time for a break. Let's say a 20-minute break. I
17 will see you all back about 25 till 12:00.

18 (Recess held.)

19 THE COURT: All right.

20 MS. GOLDING: I can go ahead and call the next witness,
21 Your Honor. I'll call Mr. Kunes, please, Mr. Bob Kunes.

22 ROBERT M. KUNES,
23 being first duly sworn, testified as follows:

24 THE COURT: If you could just state your name for the
25 record again for us, please.

1 THE WITNESS: Surely. My name is Robert M. Kunes.

2 THE COURT: And can you spell your last name.

3 THE WITNESS: K-U-N-E-S.

4 THE COURT: Thank you.

5 Your witness.

6 MS. GOLDING: Thank you.

7 DIRECT EXAMINATION BY MS. GOLDING:

8 Q. Mr. Kunes, can you please tell us where you reside?

9 A. I reside at 1573 Fairway Drive in Charleston.

10 Q. And how long have you been a resident of Charleston?

11 A. Since 1985.

12 Q. And can you give us the benefit of your educational
13 background?

14 A. I have an undergraduate degree in English from the
15 University of South Carolina, 1970; juris doctorate in law,
16 1973; master's in tax law, 1975.

17 Q. And are you licensed to practice by the South Carolina
18 Supreme Court?

19 A. I am.

20 Q. And how long have you been licensed to practice law?

21 A. Since 1973.

22 Q. And what is your specialty or the type of law you
23 primarily practice?

24 A. I do a fair amount of trust and estate work and some
25 corporate work.

1 Q. Are you associated or affiliated with a law firm?

2 A. I am. The firm is called Evans, Carter, Kunes &
3 Bennett.

4 Q. Where's that law firm located?

5 A. 115 Church Street in Charleston.

6 Q. Are you associated or do you attend a church?

7 A. I do. I attend St. Michael's.

8 Q. Where is St. Michael's?

9 A. St. Michael's office location is 71 Broad. It's the
10 corner of Broad and Meeting Street.

11 Q. And how long have you been in attendance at
12 St. Michael's?

13 A. I've been a member there since 1986.

14 Q. And have you been in any type of positions in
15 St. Michael's, any type of leadership roles in that parish?

16 A. I've served on the vestry, both as junior and senior
17 warden.

18 Q. Currently are you a member of the governance in
19 St. Michael's?

20 A. I'm not now.

21 Q. Currently are you associated with the corporation, the
22 Trustees of the Protestant Episcopal Church in South
23 Carolina?

24 A. I am.

25 Q. And what is your position with that corporation?

1 A. I am a trustee -- excuse me, I am the treasurer of that
2 organization.

3 Q. And that organization is a plaintiff in this lawsuit; is
4 that correct?

5 A. Yes, ma'am.

6 Q. That organization, that South Carolina corporation, is
7 there a board of directors?

8 A. There is.

9 Q. And are you a member of the board of directors?

10 A. I am.

11 Q. And what is the purpose of that corporation?

12 A. The corporation was chartered by the legislature by an
13 act in 1880 to hold title to property, receive assets under
14 wills or gifts made by individuals or other organizations.

15 Q. Let me hand you what's already been admitted as
16 Plaintiff's Diocese Exhibits 13 and 14. Just for the record,
17 can you identify Exhibits 13 and 14?

18 A. Exhibit 13 contains a copy of an act to grant certain
19 powers to the bishop and standing committee of the Protestant
20 Episcopal Church of the Diocese of South Carolina. And
21 Exhibit 14 is an act to amend an act entitled an act to grant
22 certain powers to the bishop and standing committee of the
23 Protestant Episcopal Church of the Diocese of South Carolina.

24 Q. To your knowledge, has either of those statutory
25 provisions, the enactments of the South Carolina General

1 Assembly, have they been rescinded, amended or revised up to
2 the present?

3 A. I'm not aware of any changes beyond these two documents.

4 Q. With respect to the board of directors of the plaintiff
5 trustees, how were those members selected?

6 A. The board members are elected by the diocesan
7 convention.

8 Q. And that is the annual diocesan convention?

9 A. That's correct.

10 Q. With respect to the functioning or the relationship of
11 the plaintiff trustee with the plaintiff diocese, can you
12 describe that to the Court?

13 A. The trustee -- excuse me, that corporation, as the
14 legislation indicates, is charged with holding property or
15 other assets that are given to it. Some of those assets are
16 given specifically for uses related to what the diocese does.

17 Q. How long have you been a member of the board of
18 directors for the plaintiff trustees?

19 A. I was elected to the board in March of 2010.

20 Q. And how long have you been a treasurer of the plaintiff
21 trustees?

22 A. I'm not certain, but I think since 2011.

23 Q. As the trustee primarily what is your responsibility
24 with respect to the plaintiff trustees as a board of
25 directors -- as a treasurer, excuse me, as the treasurer of

1 the plaintiff trustees what are your responsibilities?

2 A. The bylaws define the responsibilities of the treasurer,
3 which include overseeing funds received and things of that
4 nature.

5 Q. Let me hand you exhibits -- Plaintiff Diocese
6 Exhibits 15, 16 and 17. And can you identify those
7 documents, please?

8 A. Exhibit 15 is labeled, Bylaws, Trustees of the
9 Protestant Episcopal Church in South Carolina, a Corporation.
10 Exhibit 16 is identified as bylaws of the Trustees of the
11 Protestant Episcopal Church in South Carolina, a corporation.
12 Exhibit 17 is bylaws of the Trustees of the Protestant
13 Episcopal Church in South Carolina, a corporation.

14 Q. With respect to Exhibit 17, what is the date of that?

15 A. This is dated January 4th, 2013.

16 Q. In those bylaws dated January 2013 who was the president
17 of the plaintiff trustees?

18 A. Article 2 says, under the section captioned officers,
19 Mark J. Lawrence shall be president of the corporation.

20 Q. Do you have knowledge of any other governing documents
21 of the plaintiff trustee other than the two statutes and the
22 three sets of bylaws?

23 A. I do not.

24 Q. And today does your plaintiff trustees, is it governed
25 outside by any documents other than the statutes and the

1 bylaws?

2 A. No. The corporation is governed by state law chartered
3 in these three sets of bylaws.

4 Q. Thank you. Can you identify essentially some of the
5 properties that the plaintiff trustees owns or operates or
6 has dealings with?

7 A. There are two basic classes of resources that the
8 corporation owns. One is real estate. The second is
9 marketable securities.

10 Q. Let me give you what's marked as Plaintiff's Exhibit
11 No. 30. Plaintiff's Diocese Exhibit No. 30 is a deed dated
12 1951. Do you know the property that's referenced in the deed
13 which is Plaintiff's Diocese Exhibit 31?

14 A. In scanning this exhibit, it appears to be a deed
15 related to the property on Seabrook Island commonly known as
16 Camp St. Christopher.

17 Q. What entity owns that property that is known as Camp
18 St. Christopher?

19 A. The corporation, the Trustees of the Protestant
20 Episcopal Church of South Carolina.

21 Q. To your knowledge does the national church, does it have
22 any type of rights, to your knowledge, as to that property?

23 A. To my knowledge it does not.

24 Q. With respect to the governance of the plaintiff
25 corporation, does the national church have any type of voice

1 with respect to the governance of that plaintiff corporation?

2 A. It does not.

3 Q. With respect to the governance, does the national church
4 have any type of veto power with respect to the plaintiff
5 corporation?

6 A. It does not.

7 Q. Do you know if any outside entity has any type of veto
8 power over the plaintiff trustees?

9 A. Any outside entity? No, I'm not aware that there is
10 any.

11 MS. GOLDING: Indulge the Court for just a moment.

12 THE COURT: All right.

13 Q. Please tell us the difference between restricted and
14 unrestricted assets of the plaintiff corporation.

15 A. There's some assets that were given with restrictions as
16 to usage. Those obviously are segregated and used only for
17 the purposes for which given. Restricted assets would be
18 available for any use by the corporation consistent with its
19 purpose.

20 Q. Is there a percentage of the amount of assets of the
21 plaintiff trustees as to restricted versus unrestricted?

22 A. I don't recall off the top of my head. I'd have to look
23 at a financial statement.

24 Q. With respect to restricted assets, can you provide us a
25 few examples?

1 A. Well, as I mentioned a moment ago, there really are two
2 classifications of assets, real estate and marketable
3 securities. There are some securities that were given with
4 designations for use for educational purposes or things of
5 that sort.

6 MS. GOLDING: Thank you. Please answer any questions
7 the defendants may have.

8 THE COURT: Cross-examination, Mr. Tisdale.

9 CROSS-EXAMINATION BY MR. TISDALE:

10 Q. Mr. Kunes, good morning.

11 A. Good morning.

12 Q. I just have a couple of questions for you.

13 A. Yes, sir.

14 Q. With regard to the governing documents, governing
15 documents that affect the operation of the trustees, I think
16 you said the trustees were elected by the convention of the
17 diocese?

18 A. Yes, sir.

19 Q. So the constitution and canons of the Diocese of South
20 Carolina would certainly have something to do with the
21 operation of that board of trustees, wouldn't it?

22 A. If I understand your question correctly, yes. Again,
23 the legislature provided in the legislation how the members
24 of the trustee corporation would be selected.

25 Q. Right. And it's also contained in the constitution and

1 canons of the diocese to perpetuate that, is it not?

2 A. I have not reviewed those. I do not know.

3 Q. Have not reviewed them.

4 Now, the trust that you are trustee of, it holds
5 property, as you've testified. It does manage that property,
6 does it not, in a proper way?

7 A. It does. As a matter of clarification, again, it's a
8 corporation chartered by the legislature, but it's known as
9 the trustees. So there's a little confusion in the title.

10 Q. But my point is, the property that you hold in trust is
11 managed by the board of the trustees?

12 A. Yes, sir.

13 Q. Now, the trust, does it not -- does anything provide a
14 way to change a beneficiary of the trust, or is it set?

15 MS. GOLDING: Your Honor, I'm going to make an
16 objection. The witness has already testified it's not a
17 trust. It's a South Carolina corporation. So this line of
18 testimony, at the best, is confusing.

19 MR. TISDALE: He's a trust lawyer. I'm just asking him
20 do they have the power, the trustees of the diocese, to
21 change the beneficiary of the trust. I think that takes care
22 of her objection.

23 MS. GOLDING: There's no foundation for what the trust
24 is. That's the problem, there is no trust.

25 THE COURT: I understand the objection. If you could --

1 I will ask you, for my purposes, if you could lay some
2 foundation questions, I think that would be helpful for me.

3 Q. Mr. Kunes, you've testified that you hold and manage
4 property and that the authority for doing that is under the
5 act of legislature in 1880 --

6 A. Yes, sir.

7 Q. -- is that correct?

8 And that is the basic foundational governing document of
9 that trust that you all manage, right?

10 A. Of the corporation, yes, sir.

11 Q. Corporation.

12 Does anyone have authority in that context to change the
13 beneficiary of the trust from one person or corporation to
14 another?

15 MS. GOLDING: Your Honor, I again object. He has not
16 identified the trust.

17 MR. TISDALE: It's the property that they hold and
18 manage as trustees of the diocese.

19 THE COURT: When you asked him about the trust, he said,
20 yes, the corporation. And it can't be, yes, the corporation
21 because the corporation is not the trust. And so again I
22 find myself needing some foundational information. I'm with
23 you, and I think I know where you're going, and that would be
24 good information for me. I want that information, but I
25 don't think it is -- they're not trustees in the typical and

1 normal -- as I understand it.

2 MR. TISDALE: We believe they are.

3 THE COURT: You can work your way there. I guess maybe
4 that's why I'm asking for some foundational information,
5 because right now I think they're a corporation.

6 MR. TISDALE: Your Honor, I'll do the best I can.

7 THE COURT: Go for it.

8 Q. The trustees are governed by a corporation, right?

9 A. The legislature, again, created the corporation known as
10 the Trustees of the Diocese of South Carolina.

11 Q. In 1880?

12 A. Yes, sir.

13 Q. Is there any provision in the documents creating this
14 corporation that allow the change of the beneficiary of the
15 property that you all manage?

16 A. I would presume the legislature would have to change the
17 articles to modify any beneficiaries.

18 Q. Well, the question to you is, do you know whether it
19 provides that power, the corporate grant?

20 A. I'm not aware the corporate grant would provide that
21 power. To amend the articles, again, would require
22 legislative action.

23 Q. Has that been done?

24 A. I'm only aware of the two acts that Ms. Golding asked me
25 about earlier.

1 Q. Do you know whether or not such power to change
2 beneficiary is within any of the those two statutes?

3 MS. GOLDING: Your Honor, there again, the foundation
4 has not been set as to the existence of who any beneficiaries
5 are, and the statutes are silent as to beneficiaries.

6 THE COURT: I understand.

7 MR. TISDALE: And I read from Exhibit 14, which is the
8 statute of 1880, as amended.

9 MS. GOLDING: Are you going to publish the whole --

10 MR. TISDALE: No, I'm just going to publish -- I'm going
11 to ask him a question about it.

12 MS. GOLDING: May I provide the witness the statutes?

13 THE COURT: You may.

14 MR. TISDALE: Certainly.

15 MS. GOLDING: Thank you.

16 Q. This is Act No. 612, Mr. Kunes, and I think this might
17 answer our question, part of it. Do you see the first
18 paragraph of this statute?

19 A. Section 1 or the whereas clause?

20 Q. The whereas clause.

21 A. Yes, sir.

22 Q. Could you read -- it's a very long sentence. In fact,
23 it's a whole paragraph, but just read about six lines of
24 that. I'll tell you when you can stop.

25 A. Whereas in and by an act entitled, An Act to Grant

1 Certain Powers to the Bishop and Standing Committee of the
2 Diocese of South Carolina, approved February 20th, 1888, the
3 bishop and members of the standing committee for the time
4 being of the Protestant Episcopal Church for the Diocese of
5 South Carolina --

6 THE COURT: Got to slow down just a little bit for my
7 court reporter.

8 THE WITNESS: I'm sorry.

9 -- standing committee for the time being of the
10 Protestant Episcopal Church for the Diocese of South Carolina
11 and their successors in office were appointed trustees --

12 Q. All right. This is what I want to emphasize, the next
13 line.

14 A. -- for the purpose of holding in trust any property
15 heretofore given or acquired for objects connected with said
16 church and said diocese.

17 Q. All right. Now, that is the charge from the corporate
18 act to the board you're on, right?

19 A. I'm sorry, that's the what?

20 Q. That's what your responsibilities are as defined by this
21 statute.

22 A. That's a whereas clause. The statute's obviously
23 contained in the subsequent sections.

24 Q. Now, is there anything in here that allows -- first of
25 all, let me ask you this background question: Do the

1 trustees, the corporation, hold property for others for a
2 beneficiary?

3 A. Does the corporation hold property for others?

4 Q. For a beneficiary. Who is the beneficiary of this?

5 A. There have been funds contributed to the corporation
6 that are restricted in the sense of their use, and there are
7 other unrestricted assets.

8 Q. Right. Well, does anyone get the benefit of the income
9 from the gain on the trust?

10 A. Yes, sir.

11 Q. Who?

12 A. The restricted funds are disbursed consistent with the
13 documents that create those restricted funds. Other funds
14 that are produced by the income or growth in the corpus are
15 distributed from time to time by the corporation to the
16 diocese.

17 Q. Diocese?

18 A. Yes, sir.

19 Q. And has that been the case all along in the history of
20 this corporation?

21 A. I only know since my time as a member of the board of
22 trustees -- excuse me, board of directors, but yes.

23 Q. Well, since then, give us the answer to that.

24 A. The answer would be that since I've been a member of the
25 board of that corporation, there have been distributions

1 consistent with restricted gifts and other distributions to
2 the diocese.

3 Q. So would it be fair to say, then, that the property held
4 by the corporation is used for the benefit of others?

5 A. For the benefit of others, yes, sir.

6 Q. All right. So that's what I was trying to get at.

7 Now, is there any provision in anything that you know
8 that would allow a change of the beneficiary of this
9 corporation?

10 A. Again, absent legislative action, I think the
11 corporation's purposes are set forth in these documents.

12 Q. All right. And so far as you know, have they been
13 changed in any way by the general assembly?

14 A. No, sir, I'm not aware they have.

15 MR. TISDALE: Thank you very much.

16 THE COURT: Thank you.

17 Ms. Kostel.

18 MS. KOSTEL: Yes.

19 THE COURT: Yes, ma'am.

20 CROSS-EXAMINATION BY MS. KOSTEL:

21 Q. Good afternoon, Mr. Kunes.

22 A. Good afternoon.

23 Q. Mary Kostel for the national church.

24 A. I need to ask you, I'm a little hard of hearing at my
25 age, so if you don't mind speaking a little more loudly, I'd

1 appreciate it.

2 THE COURT: We've got a microphone right here. I'm
3 going to put it a little bit closer to the podium.

4 Q. See if this works. Is that better?

5 A. A little bit.

6 Q. Okay. I'll just kind of bring it up on the podium.
7 Let's try this.

8 A. All right.

9 Q. Mr. Kunes, I think you testified that the only governing
10 documents of the trustees corporation were its -- were the
11 acts incorporating it and bylaws; is that correct?

12 A. That's correct.

13 Q. You're aware that the canons of the diocese also contain
14 provisions governing the trustees corporations, correct?

15 A. I'm not aware of that.

16 Q. Oh, you're not aware of that. Okay. Thank you.

17 And -- but you've been a trustee?

18 A. I've been a member of the board of the corporation.

19 Q. You've been a member of the board of the corporation?

20 A. Correct.

21 Q. And you're not familiar with the canons governing the
22 trustees corporation?

23 MS. GOLDING: Object to the form of the question. I
24 don't think there exist any canons that govern the trustee
25 corporation.

1 MS. KOSTEL: I'll rephrase it.

2 THE COURT: Okay.

3 Q. You're not aware of any canons in the diocesan canons --
4 you do know what I'm talking about when I refer to the
5 diocesan canons?

6 A. I do, but I -- I've had no reason to review those. I'm
7 not aware of any provisions in those documents.

8 MS. KOSTEL: Okay. Thank you. Nothing further.

9 THE COURT: Very well. Redirect.

10 MS. GOLDING: Nothing, Your Honor.

11 THE COURT: Very well. Thank you, sir. You may step
12 down.

13 Call your next witness, please.

14 MR. RUNYAN: Your Honor, I have one exhibit that I'd
15 like to offer into evidence. It's a summary that was used
16 yesterday in the chart, summary of Mr. Lewis's testimony of
17 the voting in convention.

18 MR. TISDALE: We just think it's for demonstrative
19 purposes, Your Honor. It shouldn't be an exhibit.

20 MR. RUNYAN: Summaries of testimony as demonstrative
21 purposes are admissible. We would ask that it be admitted.

22 THE COURT: Summaries certainly are allowed of other
23 information, and I'll allow the exhibit for demonstrative
24 purposes. In other words, it is the testimony that would be
25 the evidentiary part of it, but for demonstrative purposes,

1 I'll admit the exhibit.

2 MR. RUNYAN: Diocese Exhibit 59.

3 THE COURT: Meaning that it will be helpful to me to
4 have that demonstrative aid. Yes.

5 (Plaintiff's Exhibit DSC-59 admitted into evidence.)

6 THE COURT: All right. Now your next witness.

7 MR. RUNYAN: Just a couple of things I'd like to
8 publish, and then we'll have another witness.

9 THE COURT: All right.

10 MR. RUNYAN: I'm publishing from the Episcopal Church in
11 South Carolina's responses to the Protestant Episcopal Church
12 in the Diocese of South Carolina's Requests for Admissions
13 dated October 3, 2013, Request No. 6. The Episcopal Church
14 in South Carolina attempted to revise the constitution and
15 canons of the Protestant Episcopal Church in the Diocese of
16 South Carolina on January 26, 2013 and March 9, 2013.
17 Answer, admitted.

18 No. 7, the Episcopal Church in South Carolina used the
19 website <http://www.episcopaldioceseofsc.org> on or after
20 October 17, 2012 and continued to use the website until
21 around July 15, 2013 by directing web visitors to that site
22 when web visitors entered www.episcopalchurchsc.org. Answer,
23 admitted.

24 No. 16, the Episcopal Church in South Carolina operates
25 or has operated a bank account at BB&T in the name "Episcopal

1 Diocese of South Carolina". Answer, admitted.

2 MR. CAMPBELL: Your Honor, if I may have just a second
3 to get set up since I'm back in the gallery.

4 THE COURT: Certainly.

5 MR. CAMPBELL: Your Honor, may it please the Court, for
6 the record, since I've been in the back, Pierce Campbell,
7 Turner Padgett Law Firm in Florence. I represent three
8 plaintiffs in this case, All Saints Protestant Episcopal
9 Church, Incorporated, St. Bartholomew's Episcopal Church and
10 Church of the Holy Cross in Stateburg, South Carolina. If I
11 may call my witness.

12 THE COURT: I was going to ask you to please call your
13 witness.

14 MR. CAMPBELL: Thank you, Your Honor. Ms. Iris Hodge.

15 MR. TISDALE: Your Honor, could we inquire as to what
16 named plaintiff this witness will be testifying for?

17 THE COURT: I gather, for All Saints, St. Bartholomew's
18 and the third church.

19 MR. CAMPBELL: Your Honor, I believe her testimony will
20 speak for herself. I mean, she's not obviously a member of
21 all three churches, so I don't want the record to be
22 confusing as to that. I represent all of those churches, but
23 she is not a part of all of those organizations.

24 THE COURT: I understand. Mr. Campbell, is there a
25 particular parish or a particular party that her testimony

1 will be most relevant to, or do you believe that her
2 testimony will be relevant to all of these matters?

3 MR. CAMPBELL: No, Your Honor, she's a member of
4 All Saints Parish, one of the plaintiffs that I represent.

5 THE COURT: So you believe that her testimony will be
6 most relevant to All Saints?

7 MR. CAMPBELL: I believe so, Your Honor. I don't think
8 there's any -- perhaps it might be relevant to the diocese or
9 trustees in some way, but it would not relate to other
10 parishes.

11 THE COURT: I hope that's helpful.

12 MR. HOLMES: For clarification, she's being called on
13 behalf of All Saints, that party?

14 THE COURT: That is my understanding.

15 MR. HOLMES: Thank you.

16 (Plaintiff's Exhibits AS-1 through AS-9 premarked for
17 identification.)

18 IRIS LANGSTON HODGE,
19 being first duly sworn, testified as follows:

20 MR. TISDALE: Your Honor, just for clarification only,
21 are we moving now to the parish plaintiffs for testimony as
22 opposed to the corporation, diocese corporation?

23 THE COURT: I don't know the answer to that, but we are
24 there at the moment for sure, I think.

25 You may proceed.

1 MR. CAMPBELL: Thank you, Your Honor. May it please the
2 Court?

3 THE COURT: Yes.

4 DIRECT EXAMINATION BY MR. CAMPBELL:

5 Q. Would you state your name, please, for the record.

6 A. My name is Iris Langston Hodge.

7 Q. Ms. Hodge, where do you live?

8 A. I live in Florence, South Carolina.

9 Q. If you don't mind me asking for the record, how old are
10 you?

11 A. I'm 72 years old.

12 Q. What do you do for a living, Ms. Hodge?

13 A. I'm a retired insurance agent. I owned my own agency in
14 Florence, South Carolina.

15 Q. What kind of agency was that?

16 A. It's a Nationwide Insurance Agency.

17 Q. And how long did you have that agency?

18 A. 34 years.

19 Q. Before that did you have another job or career?

20 A. Yes, I did. I lived in Durham, North Carolina, and I
21 worked for Duke Medical School. I was director of their
22 grants and contracts program.

23 Q. And are you a member of a parish?

24 A. Yes, I am.

25 Q. What parish?

1 A. All Saints, Florence.

2 Q. And how long have you been a member at All Saints,
3 Florence?

4 A. About 30 years.

5 Q. And while you've been a member of the parish All Saints,
6 Florence, have you held any positions of leadership or
7 authority?

8 A. Yes, I have.

9 Q. What are those positions?

10 A. I've been a member of the vestry. I've been a senior
11 warden, and I've been a junior warden.

12 Q. And what does the vestry do?

13 A. The vestry is the board of directors of the corporation.

14 Q. Generally what does the vestry do in that function?

15 A. Well, we have meetings monthly to take care of the
16 business of the corporation. We review financial reports and
17 so forth.

18 Q. Thank you. And I believe you said that you were the
19 senior warden; is that correct?

20 A. I have been the senior warden.

21 Q. And when were you last senior warden?

22 A. When was I last? Last year.

23 Q. What does the senior warden do?

24 A. The senior warden is considered to be the rector's
25 warden.

1 Q. And who is the rector?

2 A. Father Karl Burns.

3 Q. Is he the clergy for the parish?

4 A. Yes.

5 Q. And you said you've been the junior warden as well; is
6 that correct?

7 A. I am the junior warden now.

8 Q. Now?

9 A. Mm-hmm.

10 Q. What does the junior warden do?

11 A. The junior warden is considered to be the peoples'
12 warden, and in some instances we handle the buildings and
13 grounds.

14 Q. Okay. And where is All Saints Parish located?

15 A. It's on Cherokee Road in Florence, South Carolina.

16 Q. Is that the same location that it's always been?

17 A. Yes, it is.

18 Q. I'm going to show you a photograph, if we could. Can
19 you see that photograph in front of you?

20 A. Yes, I can.

21 Q. Is that a picture of the property belonging to
22 All Saints Parish?

23 A. Yes, that's our church and our parishioners.

24 Q. Is that an accurate representation of what your parish
25 property looks like?

1 A. Yes, it is. It's Palm Sunday of this year.

2 Q. Approximately how many members does your parish have?

3 A. Approximately 125 to 130.

4 Q. And when was All Saints started?

5 A. All Saints was started back in 1958.

6 Q. And how did it come to begin?

7 A. Florence had begun to grow. St. John's in Florence had
8 some parishioners who thought it was time to plant another
9 church in Florence, and there were about 20 couples who got
10 together to start this church and met for that reason.

11 Q. And you should have some documents there before you. Do
12 you see a document marked as Plaintiff's AS-1? For the
13 record, this is All Saints 1.

14 A. Yes, I do.

15 Q. Are you familiar with that document?

16 A. Yes, I am.

17 Q. What is that?

18 A. It's a certificate of incorporation by the Secretary of
19 the State of South Carolina.

20 MR. CAMPBELL: I move to admit All Saints 1 into
21 evidence.

22 THE COURT: Have you shared that document with the
23 defendants?

24 MR. CAMPBELL: I have, Your Honor.

25 MR. TISDALE: No objection.

1 MS. KOSTEL: No objection.

2 THE COURT: Very well.

3 (Plaintiff's Exhibit AS-1 admitted into evidence.)

4 Q. Ms. Hodge, has All Saints existed as a South Carolina
5 corporation since 1958?

6 A. Yes, they have.

7 Q. And what is the purpose of that corporation?

8 A. It's stated, the purpose of the said proposed
9 corporation is to do all and any -- to do any and all things
10 required to further the work of our Lord Jesus Christ, the
11 Diocese of South Carolina and the service to the individual
12 communities making up the corporate body (as read).

13 Q. Has that purpose ever changed?

14 A. No, it has never changed.

15 Q. And does your corporation have a board of directors?

16 A. Yes, we do.

17 Q. Who is it?

18 A. The vestry.

19 Q. And where are the board of directors' responsibilities
20 set out?

21 A. They're set out in the bylaws of our parish.

22 Q. Does your corporation have any officers?

23 A. Yes, we do.

24 Q. What are they?

25 A. The rector is the president. The senior warden is the

1 vice president, and we have a treasurer and a secretary.

2 Q. And where are those offices set out?

3 A. In the bylaws.

4 Q. Does All Saints Protestant Episcopal Church, Inc. own
5 any real estate?

6 A. Yes, we do.

7 Q. Do you see a document before you marked as All Saints 2?

8 A. I do.

9 Q. Do you know what that document is?

10 A. This is the deed for the property we're located on for
11 Cherokee Road.

12 Q. Approximately how much land is it there on Cherokee?

13 A. It's five, five and a half acres.

14 MR. CAMPBELL: I move to put this deed into evidence as
15 All Saints 2.

16 MR. TISDALE: No objection.

17 MS. KOSTEL: No objection.

18 THE COURT: Very well.

19 (Plaintiff's Exhibit AS-2 admitted into evidence.)

20 Q. Is that the same property that All Saints has operated
21 on since the time it received this deed?

22 A. Yes, it is.

23 Q. What's the date of this deed, for the record?

24 A. November 1958.

25 Q. Does All Saints own any other real estate?

1 A. No, we do not.

2 Q. Over the years has it owned other real estate?

3 A. Yes, we have.

4 Q. Like what type of real estate has it owned?

5 A. We've owned a lot that was given to us, and we have
6 owned a house for the rector.

7 Q. But you don't own those anymore?

8 A. No, we do not.

9 Q. What happened to them?

10 A. We've had the lot for sale for some time and it finally
11 sold. And it was not located conveniently to our property,
12 and so we've had it on the market for a while. The rector's
13 home we sold. Financially, it was not a good situation for
14 our church.

15 Q. There's a document before you marked as AS-3. Do you
16 see that document?

17 A. Yes, I do.

18 Q. Can you identify that document?

19 A. This is a quitclaim deed we received.

20 Q. Who received?

21 A. The rector of our church received this.

22 Q. Who did the rector receive it from?

23 A. It came from our diocese. I don't know what individual
24 mailed it to him.

25 MR. CAMPBELL: I would move to admit All Saints 3 into

1 evidence.

2 THE COURT: Any objection?

3 MR. TISDALE: No objection.

4 MS. KOSTEL: No objection.

5 THE COURT: Very well.

6 (Plaintiff's Exhibit AS-3 admitted into evidence.)

7 Q. Ms. Hodge, do you know what the purpose of this
8 quitclaim deed was?

9 A. If I understand it correctly, the purpose of a quitclaim
10 deed is to show that the person presenting it to the other
11 person is stating if they have any rights to that, that they
12 are giving those rights to someone else, but to my knowledge
13 the diocese has no rights to All Saints Church.

14 Q. And did All Saints Church record this deed?

15 A. Yes, we did.

16 Q. Did there come a time in 2012 where you were aware of a
17 dispute between the Diocese of South Carolina and the
18 national church?

19 A. Yes.

20 Q. And what did you understand that the diocese had done?

21 A. The diocese had disassociated from the national church.

22 Q. And how did you come to learn that?

23 A. Through correspondence from our rector and from the
24 actions at the convention.

25 Q. And did the leadership of All Saints at the time discuss

1 those issues?

2 A. Yes, we did.

3 Q. And did the vestry decide to do anything?

4 A. Yes, we did.

5 Q. What did the vestry decide to do?

6 A. We had a called meeting of the vestry in December and --

7 Q. December of what year?

8 A. December of 2012.

9 Q. Do you see a document before you marked as All Saints 4?

10 A. I do.

11 Q. Can you identify that document?

12 A. This is the email that went out to all the vestry
13 members alerting them of a meeting that would take place on
14 December 6th of 2012.

15 Q. Who's the email from?

16 A. Father Karl Burns.

17 Q. Is that your rector?

18 A. Yes, it is.

19 Q. Who did it go to?

20 A. It went to all members of the vestry, including our -- I
21 believe our treasurer and our secretary as well.

22 Q. Did you receive that email?

23 A. I did.

24 MR. TISDALE: Can she identify her name on this just for
25 record purposes.

1 Q. Ms. Hodge, do you see your name on the address line of
2 this email?

3 A. Yes. It's hodge1941@gmail.

4 MR. TISDALE: Thank you.

5 Q. And there are some documents stapled to this email.
6 What are those documents?

7 A. Yes. I beg your pardon?

8 Q. Do you know why those documents were attached to this
9 email?

10 A. This was the resolution that we were going to consider
11 at our meeting, and Father Karl wanted us to have this to
12 review before the meeting.

13 Q. And does the email on the heading note that there were
14 two attachments to it? Is there a line that says
15 attachments?

16 A. Oh, I'm sorry. Yes, it says attachments.

17 Q. What does that line note?

18 A. It says, All Saints' commitment to continue diocese
19 relationship document and motion of declaratory suit.

20 Q. And are those the two documents that are attached?

21 A. Yes, they are.

22 MR. CAMPBELL: I move to admit All Saints 4 into
23 evidence, please.

24 THE COURT: Any objection?

25 MR. TISDALE: No objection.

1 MS. KOSTEL: No objection.

2 THE COURT: Very well.

3 (Plaintiff's Exhibit AS-4 admitted into evidence.)

4 Q. Ms. Hodge, the meeting that was noticed for December 9,
5 2012, did that meeting actually occur?

6 A. Yes, it did.

7 Q. And were you present at that meeting?

8 A. I was present at that meeting.

9 Q. And what happened at that meeting?

10 A. We discussed the attached form, and the vestry voted to
11 sign this form and make it a part of our records.

12 Q. For the record, if you could clarify, what form did you
13 mean?

14 A. The commitment to continue diocesan relationship.

15 Q. Do you see a document marked AS-5?

16 A. Yes.

17 Q. Can you identify that document?

18 A. That is the document I'm talking about, the commitment
19 to continue diocesan relationship.

20 Q. And did the vestry take action on that document at the
21 December 9, 2012 meeting?

22 A. Yes, we did.

23 Q. In summary, what was the purpose of that resolution?

24 A. The purpose of that resolution was to show our support
25 to Bishop Lawrence and to the Diocese of South Carolina and

1 their decision to disassociate with the national church.

2 Q. Did it have any other purposes?

3 A. It also -- excuse me a minute. It also declared that we
4 would be a part of the declaratory suit.

5 Q. Do you see a document before you marked as AS-5?

6 A. I do.

7 Q. And could you read the last paragraph on the first page
8 that begins with, resolved that we. Do you see that
9 paragraph?

10 A. Yes, I do.

11 Q. Could you read the first four lines of that.

12 A. Okay. Resolved that we, the undersigned vestry and
13 clergy of All Saints Episcopal Church, hereby declare that we
14 no longer are in any relationship with the Episcopal Church,
15 nor are we in union with the Episcopal Church, but the
16 remaining affiliation with the -- remain affiliated with the
17 Protestant Episcopal Church of the Diocese of South Carolina.

18 MR. CAMPBELL: I would move to admit All Saints 5 into
19 evidence.

20 THE COURT: Any objection?

21 MR. TISDALE: No objection.

22 MS. KOSTEL: No objection.

23 THE COURT: Very well.

24 (Plaintiff's Exhibit AS-5 admitted into evidence.)

25 Q. Ms. Hodge, did the vestry sign the document marked as

1 All Saints 5?

2 A. Yes, we did.

3 Q. Did everybody agree with this resolution?

4 A. Yes, we did.

5 Q. Was there any dissent?

6 A. No.

7 Q. Did All Saints Parish decide to take any additional
8 action regarding the diocese's disaffiliation with the
9 national church?

10 A. Yes, we did. After passing this resolution it became
11 evident that we needed to make some changes in our bylaws.

12 Q. And do you see a document marked as AS-6 before you?

13 A. Yes, I do.

14 Q. Were these the bylaws that were in effect at that time?

15 A. Yes, these were.

16 MR. CAMPBELL: I move to admit All Saints 6 into
17 evidence.

18 THE COURT: Any objection?

19 MR. TISDALE: No objection, except they're not signed.
20 I guess she could verify.

21 Q. Ms. Hodge, does All Saints have a practice of signing
22 its bylaws?

23 A. No, unfortunately, we don't.

24 Q. Have you reviewed most of All Saints' corporate
25 documents?

1 A. I have.

2 Q. Are there other significant documents that are unsigned?

3 A. Yes, there are.

4 Q. And are these an accurate depiction of what the bylaws
5 were at the time that the resolution was passed?

6 A. Yes, these came from our official records.

7 MR. CAMPBELL: Thank you. I move to admit All Saints 6
8 into evidence.

9 THE COURT: Does that remove any concerns on behalf of
10 the defendants?

11 MR. TISDALE: No objection.

12 MS. KOSTEL: No objection.

13 THE COURT: Very well.

14 (Plaintiff's Exhibit AS-6 admitted into evidence.)

15 Q. Ms. Hodge, in the bylaws that were then in effect,
16 All Saints 6, is there a section about amendments?

17 A. Yes, there is.

18 Q. What do the bylaws require to be amended?

19 A. Under article 8, is that what you're referring to?

20 Q. If that's the article in amendments, yes, ma'am.

21 A. It says, no alteration or repeal of these bylaws shall
22 be made unless upon motion for that purpose is made at one
23 and referred to in consideration of the subsequent meetings
24 of the congregation (as read).

25 Q. So does that require two meetings of the congregation to

1 change the bylaws?

2 A. Yes, it does.

3 Q. And did the parish have meetings to change the bylaws?

4 A. Yes, we did.

5 Q. And how were those meetings of the congregation noticed?

6 A. The rector of our congregation gave an announcement of
7 these meetings one week prior to the meetings from the
8 chancel.

9 Q. From the where, I'm sorry?

10 A. From the pulpit.

11 Q. Did you use a different word the first time? I just
12 didn't hear you.

13 A. From the chancel.

14 Q. What is the chancel, for the record?

15 A. It's where he speaks and normally delivers his messages.

16 Q. Basically the front of the church?

17 A. Right.

18 Q. And is that what the bylaws require for notice of
19 congregational meetings?

20 A. Yes, that is written in the bylaws.

21 Q. And were you present when he made that announcement?

22 A. Yes, I was.

23 Q. When did he make the announcement?

24 A. He made it one week prior to our first meeting, which
25 was January the 13th.

1 Q. One week before that would have been January 6th?

2 A. Right.

3 Q. What year is this?

4 A. In 2013.

5 Q. And you were present when he made that announcement?

6 A. I was.

7 Q. Did he describe what the purpose of the specially called
8 congregational meeting would be?

9 A. Yes. He described it, and he also indicated that the
10 bylaws would be available if anyone wanted to take them as we
11 left church or if they had any questions.

12 Q. How did he describe what the changes would be?

13 A. He described that the Diocese of South Carolina had --
14 was no longer affiliated with the national church and we were
15 changing our bylaws to take any affiliation from the national
16 church out of it.

17 Q. And copies were provided to people who wanted them?

18 A. They were. Copies were available to people who wanted
19 them. We did not pass them out.

20 Q. But they were available in the church?

21 A. They were.

22 Q. And did the special meetings occur?

23 A. Yes, they did.

24 Q. When was the first meeting?

25 A. The first meeting was January the 13th, 2013.

1 Q. And were you present at that meeting?

2 A. I was.

3 Q. And was a quorum present for that meeting?

4 A. Yes, it was.

5 Q. What do your bylaws require for a quorum?

6 A. 25 people.

7 Q. What happened at the January 13th, 2013 special meeting?

8 A. Father Karl explained all the changes that were to be
9 made in the bylaws. We passed the bylaws out to parishioners
10 to have copies of, and those changes were highlighted so that
11 they could follow as he was explaining them.

12 Q. And was there discussion about the issues, the
13 proposals?

14 A. There was minimum discussion with the parishioners, but
15 we didn't have many questions.

16 Q. Did the people who had questions have the opportunity to
17 voice?

18 A. Yes.

19 Q. Do you see a document before you marked as All Saints 7?

20 A. I do.

21 Q. Can you identify that document?

22 A. This is the minutes from that called meeting that I was
23 referring to.

24 Q. On what date?

25 A. January the 13th, 2013.

1 Q. And are these minutes an accurate representation of what
2 occurred at that meeting?

3 A. Yes, they are.

4 Q. These minutes are unsigned, aren't they?

5 A. Yes, they are.

6 Q. Are most of All Saints' minutes unsigned?

7 A. Yes, they are. It is official. We got it out of our
8 official records, but they were unsigned.

9 MR. CAMPBELL: I move to admit All Saints 7 into
10 evidence.

11 THE COURT: Any objection?

12 MR. TISDALE: No objection.

13 MS. KOSTEL: No objection.

14 THE COURT: Very well. All Saints now 1 through 7 are
15 in evidence without objection.

16 (Plaintiff's Exhibit AS-7 admitted into evidence.)

17 Q. How did the vote at the first meeting on January 13th
18 turn out?

19 A. It was a unanimous vote to accept the changes that were
20 presented.

21 Q. All changes to the bylaws?

22 A. All changes to the bylaws.

23 Q. And were you present at the second meeting?

24 A. I was.

25 Q. When was that?

1 A. The second meeting took place on January the 14th.

2 Q. And has it been noticed also?

3 A. Yes, it has. It was noticed the Sunday before, and it
4 was announced at the -- when he made the first announcement
5 that we would have two meetings.

6 Q. He announced both meetings at the same time?

7 A. He did.

8 Q. And was a quorum present at the January 14th, 2013
9 meeting?

10 A. Yes, a quorum was present at that time.

11 Q. Okay. And what happened at that meeting?

12 A. At that meeting Father Karl asked if there were any
13 other questions and discussions, and to my knowledge there
14 were not, and so we started reconfirming each section that
15 was being changed and for an agreement on the past vote that
16 we had made.

17 Q. For the bylaw amendments?

18 A. Yes.

19 Q. And was there any objection raised by any member of the
20 parish at that meeting?

21 A. No, there was not.

22 Q. Do you see a document marked as All Saints 8?

23 A. I do.

24 Q. And is that -- what is that document?

25 A. This is the minutes of -- official minutes for the

1 called parish meeting on January 14th, 2013.

2 Q. And are those minutes an accurate representation of what
3 occurred at that meeting?

4 A. Yes, it is.

5 Q. And they are unsigned as well, are they not?

6 A. Yes.

7 Q. But are these the official minutes from that meeting?

8 A. These are the official minutes, yes.

9 Q. Kept in All Saints' corporate records?

10 A. Right.

11 MR. CAMPBELL: I move to admit All Saints 8 into
12 evidence.

13 MR. TISDALE: No objection.

14 MS. KOSTEL: No objection.

15 THE COURT: Very well.

16 (Plaintiff's Exhibit AS-8 admitted into evidence.)

17 Q. Ms. Hodge, do you see a document marked as All Saints 9
18 in front of you?

19 A. Yes, I do.

20 Q. What is that document?

21 A. This is the bylaws of All Saints Episcopal Church as
22 they were revised in 2013.

23 Q. At those two meetings you just described?

24 A. Yes.

25 Q. Are these the bylaws that are still in effect today?

1 A. Yes, it is.

2 MR. CAMPBELL: I move to admit All Saints 9 into
3 evidence.

4 THE COURT: Any objection?

5 MR. TISDALE: No objection.

6 MS. KOSTEL: No objection.

7 THE COURT: All Saints 9 is in evidence without
8 objection.

9 (Plaintiff's Exhibit AS-9 admitted into evidence.)

10 Q. Ms. Hodge, does the national church have any right to
11 control the activities of All Saints Parish?

12 A. Not to my knowledge.

13 Q. Has All Saints Parish ever sought permission from the
14 national church to do anything?

15 A. Not to my knowledge.

16 Q. Has the national church ever indicated to All Saints
17 Parish that it needs their consent to do anything?

18 A. Not to my knowledge.

19 Q. Does All Saints have any ongoing relationship with the
20 national church?

21 A. No.

22 Q. Are you familiar with an organization known as the
23 Episcopal Church in South Carolina?

24 A. Yes.

25 Q. And do you understand that to be a diocesan organization

1 of some kind?

2 A. The Episcopal Church of South Carolina?

3 Q. The Episcopal Church in South Carolina.

4 A. In South Carolina. It's my understanding they are not a
5 member of the South Carolina diocese.

6 Q. Do you understand that's an organization led by
7 Bishop VonRosenberg?

8 A. I do.

9 Q. And does All Saints Protestant Episcopal Church,
10 Incorporated have any relationship with that organization
11 known as the Episcopal Church in South Carolina?

12 A. No, we do not.

13 Q. Have you ever had any relationship with them?

14 A. No, we have not.

15 Q. Have you ever participated with them in any fashion?

16 A. No, we have not.

17 Q. Has All Saints used the name All Saints Protestant
18 Episcopal Church, Incorporated or All Saints Parish since its
19 inception?

20 A. We've used our corporate name and we've used the parish
21 name as well.

22 Q. And have you ever given anyone else permission to use
23 that name?

24 A. No, we have not.

25 Q. Have you ever authorized the Episcopal Church in South

1 Carolina to use your name?

2 A. No, we have not.

3 Q. Have you ever authorized the Episcopal Church in South
4 Carolina to list your parish on their website?

5 A. No, we have not.

6 Q. Is All Saints Protestant Episcopal Church, Incorporated
7 a parish of the Episcopal Church in South Carolina?

8 A. No, we are not.

9 Q. Have you ever been?

10 A. No, we have not.

11 Q. Has All Saints Protestant Episcopal Church, Incorporated
12 ever participated in any convention or other meeting called
13 by the Episcopal Church in South Carolina?

14 A. No, we have not.

15 Q. Have you ever sent delegates to any meeting of that
16 organization?

17 A. No, we have not.

18 Q. Did the vestry become concerned about delegates
19 attending meetings of the Episcopal Church in South Carolina?

20 A. Yes, there was some concern about that.

21 Q. What was the concern?

22 A. We didn't have delegates going there and we didn't want
23 any confusion about that.

24 Q. Did you have reason to believe there might be confusion?

25 A. If I remember correctly, we might have been listed

1 somewhere as a church under that, and we have never given
2 permission to have that done.

3 Q. And you were not a church under that organization?

4 A. No, we were not.

5 Q. Did you or did you not want to send delegates to their
6 meeting?

7 A. No, we did not.

8 Q. Did the vestry take official action stating that?

9 A. I'm not sure.

10 Q. Do you recall any resolutions the vestry may have made?

11 A. Yes, we had a resolution. That was at the called vestry
12 meeting.

13 MR. CAMPBELL: I have no further questions, Ms. Hodge.
14 Thank you. If you would answer any questions they may have.

15 THE COURT: First of all, any questions by any of the
16 plaintiffs?

17 MR. RUNYAN: None from the diocese.

18 THE COURT: Very well. All right. And I'm looking
19 for --

20 MS. GOLDING: No questions, Your Honor. Thank you.

21 THE COURT: Very well. Mr. Tisdale.

22 MR. TISDALE: Any chance of taking our lunch break at
23 this time? It would help us with examination, I think.

24 MR. CAMPBELL: Your Honor, Ms. Hodge has to be on the
25 road. She has other responsibilities.

1 THE COURT: We were going to take a break at 1, so if
2 you could proceed, I would appreciate it.

3 MR. TISDALE: Ms. Kostel will go first.

4 THE COURT: Thank you. Just don't let me forget now and
5 go back.

6 CROSS-EXAMINATION BY MS. KOSTEL:

7 Q. Good afternoon, Ms. Hodge.

8 A. Good afternoon.

9 Q. Hi. I'm Mary Kostel for the national church.

10 You testified about parish bylaws, correct?

11 A. Yes.

12 Q. Were you familiar with the bylaws before they were
13 amended in 2010?

14 A. Yes, I was.

15 Q. And so you were aware that before they were amended in
16 2010, they stated that we, meaning All Saints Parish, are
17 bound by the constitution and canons of the national church;
18 is that right?

19 A. Yes, that was in our preamble, I believe.

20 Q. Yes, it was.

21 And are you aware that that was adopted by the parish in
22 1985?

23 A. Yes.

24 Q. Does your -- does All Saints have permission from the
25 Episcopal Church to use its name, the Episcopal Church?

1 A. When you say do we have permission from the Episcopal
2 Church, are you speaking of the national church?

3 Q. Yes.

4 A. No.

5 Q. And does your parish have permission from the national
6 church to use its trademark?

7 A. No.

8 Q. Or its seal, shields or anything like that?

9 A. Not at this time, since we've had the disassociation
10 with the national church.

11 MS. KOSTEL: Okay. That's all my questions. Thank you.

12 THE COURT: Mr. Tisdale.

13 CROSS-EXAMINATION BY MR. TISDALE:

14 Q. Ms. Hodge, just a couple of questions, please.

15 Were there any people in the All Saints Parish,
16 All Saints Episcopal Church, when this dispute in 2012 came
17 up, who did not want to leave the Episcopal Church?

18 A. Not to my knowledge.

19 Q. Okay. And did you have any contact from any outside
20 people, when this dispute arose, to encourage you to leave
21 the Episcopal Church, your parish?

22 A. No.

23 Q. Did not?

24 A. Hm-mm.

25 MR. TISDALE: Thank you.

1 Thank you, Your Honor.

2 THE COURT: Very well. All right. Redirect.

3 MR. CAMPBELL: Yes, Your Honor, very briefly.

4 REDIRECT EXAMINATION BY MR. CAMPBELL:

5 Q. Ms. Hodge, Ms. Kostel asked you if you had permission to
6 use the phrase the Episcopal Church. Do you recall that
7 question?

8 A. Yes.

9 Q. Does All Saints Protestant Episcopal Church use the
10 phrase the Episcopal Church?

11 A. We use All Saints Protestant Episcopal Church,
12 Incorporated. Is that what you mean?

13 Q. The specific phrase, the Episcopal Church, does your
14 parish use that phrase?

15 A. No, we do not.

16 Q. Have you used it at all since 2012?

17 A. No, we have not.

18 Q. Had you stopped using it before 2012?

19 A. Yes, we have.

20 Q. And do you know what the national church's seal is?

21 A. Yes.

22 Q. And does All Saints Parish use the seal of the national
23 church?

24 A. We have before, but we don't use it anymore.

25 Q. Have you used it since 2012?

1 A. No, we have not.

2 Q. On anything?

3 A. No.

4 Q. Had you stopped using it before 2012?

5 A. I'm not sure. I don't think we had, but we did stop at
6 that point.

7 MR. CAMPBELL: Thank you. No further questions.

8 THE COURT: Recross.

9 MS. KOSTEL: Yes, just one question.

10 RE CROSS-EXAMINATION BY MS. KOSTEL:

11 Q. Ms. Hodge, I think you testified that All Saints since
12 2012 has used the name Protestant Episcopal Church, has used
13 that phrase in its nomenclature; is that right?

14 A. Our corporate name is All Saints Protestant Episcopal
15 Church, Incorporated, and that's what I was referring to.

16 Q. That's the name you have used since 2012; is that
17 correct?

18 A. Well, we haven't changed our corporation name at all.

19 Q. So the answer is yes, correct?

20 A. That's correct.

21 MS. KOSTEL: Thank you.

22 THE COURT: All right. Mr. Tisdale.

23 MR. TISDALE: No, thank you, Your Honor.

24 THE COURT: Very well. You may come down.

25 Call your next witness, please. Does that wrap it up

1 for you right now, Mr. Campbell?

2 MR. CAMPBELL: It does, Your Honor. That's all I have
3 right this minute.

4 THE COURT: Very well. Thank you.

5 MR. MCCARTY: I'm Keith McCarty, Your Honor. I
6 represent Christ St. Paul's Episcopal Church.

7 THE COURT: All right, sir, if you'd please call your
8 witness.

9 MR. MCCARTY: I call Reverend Craige Borrett.

10 (Plaintiff's Exhibits CSP-1 through CSP-16 premarked for
11 identification.)

12 CRAIGE NORTON BORRETT,
13 being first duly sworn, testified as follows:

14 THE COURT: If you'd please state your full name for our
15 record again, and spell your last name.

16 THE WITNESS: Craige Norton Borrett, B-O-R-R-E-T-T.

17 THE COURT: Thank you.

18 Your witness.

19 THE WITNESS: Your Honor, if it matters, my first name
20 is a unique spelling. It's C-R-A-I-G-E.

21 THE COURT: Thank you.

22 DIRECT EXAMINATION BY MR. MCCARTY:

23 Q. Reverend Borrett, would you please tell the Court where
24 you live.

25 A. I live at 5005 Chapel Road, Yonges Island, South

1 Carolina.

2 Q. And obviously you have a position with this church, so
3 why don't you go ahead and tell us what your position is with
4 Christ St. Paul's.

5 A. I'm the rector of Christ St. Paul's.

6 Q. And how long have you had that position?

7 A. Roughly 22 years.

8 Q. What are your job duties in that position?

9 A. It's a small parish. I am pretty much the chief bottle
10 washer and cook. I do a lot of -- tons of things. As a part
11 of my responsibilities, I take spiritual responsibility for
12 the members of the parish, I open and close the parish
13 frequently, I do all -- I do -- I lead and run vestry
14 meetings, I do all the administrative tasks of the church, I
15 just do a lot of stuff.

16 Q. All right. As a rector did you come to learn about the
17 history of Christ St. Paul's?

18 A. I have.

19 Q. Would you tell us a little bit about it.

20 A. We were -- as a parish, we were founded as a part of the
21 church act, and we were one of the -- those parishes that
22 were founded -- I believe it's in the 1700s that we were
23 founded, and we have had a long history, about 300 years
24 since then.

25 Q. You have in front of you a set of documents. The first

1 document which is CSP Exhibit 1, would you please take a look
2 at that?

3 A. Okay.

4 Q. Do you recognize what that document is?

5 A. I believe I do.

6 Q. Can you tell us what that is?

7 A. I believe it's the statutes of the church act itself.

8 Q. And what date is that statute?

9 A. 18th day of December 1708.

10 Q. Is our parish -- Christ St. Paul's Parish mentioned in
11 that statute?

12 A. We were founded at that time as St. Paul's Stono, and
13 yes, we're there.

14 Q. Could you tell the Court what paragraph that is?

15 A. It's a legal document that I'm not positive how to
16 describe it. It appears in paragraph 3 on the third page --
17 or second page.

18 MR. MCCARTY: That's sufficient.

19 Move to admit Exhibit 1 into evidence, Your Honor.

20 THE COURT: Any objection?

21 MR. TISDALE: None, Your Honor.

22 MS. KOSTEL: No.

23 THE COURT: Very well.

24 (Plaintiff's Exhibit CSP-1 admitted into evidence.)

25 Q. Where's the church located?

1 A. Currently we're at 4981 Chapel Road.

2 Q. How many members do we have?

3 A. Our average Sunday attendance, which is how we keep
4 track of it -- because of being a parish for so long, we have
5 lots of members, but our average Sunday attendance is roughly
6 212.

7 Q. Would you tell us a little bit about how the history
8 evolved from 1708 up to the present.

9 A. The church was founded on the water at that time as a --
10 one of the colonial parishes, and with the growth and
11 development and the change of the community, it has had
12 movements throughout those various years in different
13 locations, moving around and having a diverse and rich
14 history throughout the community with different locations.
15 At one point the parish also -- where the Christ Church came
16 was in the 1800's a different part of the geographical parish
17 bounds had Christ Church established, and so it continued to
18 minister and flourish, and at one point they then
19 re-established over in the geographic area where we currently
20 are in the same parish bounds. The chapel of ease had
21 developed and grew as well as its own parish, which would
22 have been St. Paul's, and they merged together about 50 -- 40
23 or 50 years ago.

24 Q. Basically, has this parish continuously existed since
25 1708 in one form or fashion?

1 A. Yes, it has.

2 Q. Has it continuously carried out its religious purposes
3 since then?

4 A. Yes, it has.

5 Q. Would you please look at CSP Exhibit 2 for me, please.
6 Can you identify that document?

7 A. The Articles of Incorporation of a nonprofit corporation
8 in the State of South Carolina.

9 Q. And is this the Articles of Incorporation of Christ
10 St. Paul's?

11 A. Yes, it is.

12 Q. And how did this document come into being in 1997?

13 A. At the request of our treasurer that we should have
14 incorporation within the state, so it was done following his
15 request.

16 Q. And has Christ St. Paul's been continuously incorporated
17 since 1997?

18 A. Yes, we have.

19 MR. MCCARTY: Move to admit Exhibit No. 2 into evidence,
20 Your Honor.

21 THE COURT: All right. Any objection?

22 MR. TISDALE: None, Your Honor.

23 MS. KOSTEL: No objection.

24 THE COURT: Very well. Christ St. Paul's No. 2 is in
25 evidence without objection.

1 (Plaintiff's Exhibit CSP-2 admitted into evidence.)

2 Q. Reverend, does the church have officers?

3 A. Yes, it does.

4 Q. Would you please describe for the Court what those are.

5 A. We have me as the rector. I have a senior warden. I
6 have a junior warden, clerk and a treasurer.

7 Q. And I assume all those officers have duties; is that
8 correct?

9 A. They do.

10 Q. And are the positions and the duties set out in the
11 bylaws?

12 A. Yes, they are.

13 Q. Does the church own any property?

14 A. Yes, we do.

15 Q. Can you tell me basically how many pieces of property
16 the church owns at this time?

17 A. I believe that we currently own five pieces of property.

18 MR. MCCARTY: Your Honor, can I confer with my counsel
19 just for a moment?

20 THE COURT: Sure.

21 (Counsel confer.)

22 MR. MCCARTY: Exhibits 3, 4, 5, 6 and 7, Your Honor,
23 represent deeds to pieces of property owned by the church.

24 MR. TISDALE: And we have no objection.

25 THE COURT: Very well.

1 MS. KOSTEL: No objection.

2 THE COURT: Very well. In other words, you're going to
3 mark each of the deeds numbers 3, 4, 5, 6 and 7?

4 MR. MCCARTY: They're previously marked as that,
5 Your Honor, for the Court, and I didn't know, I just wanted
6 him to testify.

7 (Plaintiff's Exhibits CSP-3 through CSP-7 admitted into
8 evidence.)

9 Q. Is this the property owned by the church?

10 A. Yes, it is.

11 Q. Does the church own any other property?

12 A. Not that I'm aware of.

13 Q. In each of those exhibits -- would you please take a
14 look at the front of each of those exhibits. On each of
15 those you'll find a quitclaim deed; is that correct?

16 A. Correct.

17 Q. Could you please tell us how those quitclaim deeds came
18 into being, to your knowledge?

19 A. To my knowledge the diocese prepared these quitclaim
20 deeds and offered them to us and we accepted them.

21 Q. Did the diocese have any interest in the property owned
22 by Christ St. Paul's?

23 A. We believe not.

24 Q. Did Christ St. Paul's request these deeds?

25 A. We did not.

1 Q. Is there any reason -- when these deeds were received,
2 did you question the diocese or anything?

3 A. We did not.

4 Q. Thank you. Did there come a time when you knew the
5 diocese had a dispute with the national church?

6 A. Yes, there was.

7 Q. Was this issue discussed amongst the church leadership?

8 A. Yes, it was.

9 Q. Church leadership, would you describe who the church
10 leadership was who discussed it?

11 A. Well, it was specifically discussed by the leadership of
12 the parish, the vestry in particular, but it was discussed
13 amongst the greater part of the congregation as well.

14 Q. All right. And did the vestry decide to take action
15 regarding this matter?

16 A. The vestry did.

17 Q. And would you please look at what's been marked as CSP
18 Exhibit No. 8 for me, please.

19 A. Yes.

20 Q. And would you please read the second sentence on the
21 sixth paragraph.

22 A. Beginning with Keith McCarty?

23 Q. Beginning with the word Terry. Want me to show you?

24 A. I think I might not have the right document.

25 Q. Terry (indicating).

1 A. Okay. I have it.

2 Q. Could you read that for the Court?

3 A. Terry made a motion for Keith to write a resolution from
4 the vestry of Christ St. Paul's showing our support to
5 Bishop Lawrence and our intent on staying with the Diocese of
6 South Carolina. The motion was seconded by Francis Toby, and
7 all agreed. Members of the vestry are to sign this
8 resolution.

9 Q. Now, let me back up a little bit.

10 What is the document from which you're reading?

11 A. This is the minutes of the vestry meeting of
12 November 11th, 2012.

13 Q. Was this a regularly called vestry meeting?

14 A. I believe it was.

15 Q. Would you please tell the Court how vestry meetings are
16 regularly called in the church?

17 A. Vestry meetings are held monthly on a regular basis on,
18 I believe it's the second Monday of the month.

19 Q. Is that on a regular basis?

20 A. On a regular basis.

21 Q. All right.

22 MR. MCCARTY: Your Honor, I move to admit Exhibit 8 into
23 evidence.

24 MR. TISDALE: No objection.

25 MS. KOSTEL: No objection.

1 THE COURT: Very well.

2 (Plaintiff's Exhibit CSP-8 admitted into evidence.)

3 Q. Reverend, would you please turn to CSP Exhibit No. 9 for
4 me.

5 A. Yes, sir.

6 Q. Have you got that?

7 A. I do.

8 Q. Have you seen that before?

9 A. Yes, I have.

10 Q. And what is it?

11 A. It's a certificate of corporate resolution authorizing
12 commitment to continue the diocesan relationship.

13 Q. Is this the resolution that grew out of the meeting on
14 the previous exhibit?

15 A. I believe it is.

16 Q. Was this document signed?

17 A. Yes, it is.

18 Q. Would you please turn to page 2 and 3 and take a look at
19 the signatures.

20 A. Yes, sir.

21 Q. And who are the members -- or are you familiar with the
22 members who signed it?

23 A. Yes, I am.

24 Q. Who are they?

25 A. They're the wardens and the members of the vestry and

1 myself.

2 Q. And what's the date that they signed?

3 A. There's some various dates that they actually signed.

4 Most are signed on December 2nd. One vestry member failed to
5 sign and came back on December 27th and signed.

6 Q. What was the purpose of the resolution?

7 A. The purpose of the resolution was for the vestry to
8 declare our commitment to remain with the Diocese of South
9 Carolina, I believe.

10 Q. Any other purpose?

11 A. To declare that we are no longer in any way affiliated
12 with or in union with the Episcopal Church, but to remain
13 affiliated with the Protestant Episcopal Church in the
14 Diocese of South Carolina, not in union with the national
15 church.

16 Q. All right. Did you make the congregation aware of the
17 vestry's actions?

18 A. Yes, I did.

19 Q. How did you do it?

20 A. In various formats. We notified them by newsletter. We
21 told them on Sunday morning and other informal ways as well.

22 Q. Would you please take a look at CSP Exhibit No. 10,
23 please.

24 A. I have it.

25 Q. Do you recognize that document?

1 A. I do.

2 Q. What is it?

3 A. This is the copy of our weekly newsletter, and it's
4 January 6th through the 12th edition in which it is a
5 letter from -- on the cover page is a letter from me
6 explaining the actions of the vestry and to begin to give
7 notice for a special called meeting of the vestry of the
8 congregation.

9 Q. Okay. Who gets this document?

10 A. All members of the parish and lots of other people
11 throughout the community and probably the country.

12 MR. MCCARTY: Move to admit CSP Exhibit No. 10 into
13 evidence.

14 THE COURT: Any objection?

15 MR. TISDALE: What is it?

16 MR. MCCARTY: It's the bulletin.

17 MR. TISDALE: No objection.

18 MS. KOSTEL: No objection.

19 THE COURT: Very well.

20 (Plaintiff's Exhibit CSP-10 admitted into evidence.)

21 Q. Did the parish take any other actions regarding the
22 diocese disassociating with the national church?

23 A. As a result of that, in that same document I just was
24 referring to, we announced the actions as a result of that
25 that would require some changes to our bylaws so that they

1 would be in conformity with where we were, and so we made
2 notice of those at our upcoming congregational meeting.

3 Q. Look back at Exhibit No. 10, the second page -- I'm
4 sorry, to the first page.

5 A. Yes, sir.

6 Q. Read the paragraph midway down the thing. It's marked
7 with an asterisk.

8 A. Mm-hmm.

9 Q. Would you please read that for the Court.

10 A. As a result of the vestry's action, we will need to make
11 a couple of changes to our bylaws so that they will be in
12 conformity with our new status. These two changes will be
13 presented at our upcoming annual congregational meeting
14 Sunday, January 13th.

15 Q. Would you flip to the second page of that document, and
16 on the second box down there, would you please identify that
17 for the Court.

18 A. This is from our Sunday morning bulletin, and it is also
19 giving notice of the annual congregational meeting Sunday,
20 January 13th.

21 Q. Would you please look at what's been previously provided
22 to you as CSP Exhibit No. 11. Can you please identify that
23 document.

24 A. These are the bylaws of Christ St. Paul's Church.

25 Q. Were those the bylaws that were in effect at the time

1 that you noticed the meeting mentioned in the previous
2 exhibit?

3 A. I believe they are.

4 Q. Okay. Now, it's been brought up before, so let's clear
5 it up. These bylaws aren't signed at the end, are they?

6 A. No, they are not.

7 Q. Are there other documents that have been put forward in
8 the corporation that are submitted without signature?

9 A. That is correct.

10 Q. Thank you. Would you please turn to Article No. 9.
11 It's on the last page.

12 A. Yes, sir.

13 Q. And read Section 2.

14 A. Section 2 of Article 9, it says, no alteration,
15 amendment, addition or repeal of these bylaws shall be made
16 unless the same be proposed in writing at a congregational
17 meeting and adopted by a majority vote at the meeting in
18 which it is proposed and further adopted by a two-thirds vote
19 at the next congregational meeting to be held no sooner than
20 30 days following the first meeting.

21 Q. You may have already mentioned, but were these the
22 bylaws that were in effect at the time that you noticed them
23 for the congregational meeting regarding the changes to these
24 bylaws?

25 A. I believe they were.

1 MR. MCCARTY: I move to admit Exhibit No. 11 into
2 evidence, Your Honor.

3 THE COURT: Any objection?

4 MR. TISDALE: No objection.

5 MS. KOSTEL: No objection.

6 THE COURT: Very well.

7 (Plaintiff's Exhibit CSP-11 admitted into evidence.)

8 Q. We've already talked about notice. Would you please
9 look at Exhibit No. 12 for me, please. I'm sorry, look back
10 at Exhibit No. 10 and ignore No. 12.

11 A. 10, you say?

12 Q. Yes.

13 A. Yes, sir.

14 MR. MCCARTY: For the record, it's the same exhibit,
15 Your Honor. I don't know how it got in there twice, but it's
16 there. So there's going to be a hole in my exhibits.

17 Q. That exhibit's already been admitted and we've already
18 talked about it. On the second page, is that the notice of
19 the congregational meeting?

20 A. Yes, sir.

21 Q. Was it stated that the bylaws in these two documents --
22 was it stated that a change in the bylaws was going to be
23 contemplated?

24 A. Yes.

25 Q. Did the annual meeting occur?

1 A. Yes, it did.

2 Q. Was a quorum present?

3 A. It was.

4 Q. What is a quorum in the Church of Christ St. Paul's,
5 according to the bylaws?

6 A. I believe according to the bylaws it's either 12 members
7 or 50 percent.

8 Q. Did the congregation vote to change the bylaws?

9 A. They did.

10 Q. What was the vote?

11 A. Unanimously.

12 Q. Would you please look at CSP Exhibit No. 13.

13 A. I have it.

14 Q. Can you identify that document for me?

15 A. The annual parish meeting minutes, I believe, is what
16 these are.

17 Q. What's the date on those?

18 A. January 13th of 2013.

19 Q. Would you please read paragraph No. 2 for me out of
20 that, the second paragraph.

21 A. I see. Bill Kirby made a motion to approve the two
22 bylaw changes to Article 1 and Article 9. The motion was
23 seconded by Terry Jenkins, and the congregation approved.

24 Q. Was there any objection to the proposed changes?

25 A. There was none.

1 Q. Did the parish schedule another vote on the proposed
2 changes?

3 A. We did.

4 Q. Would you please look at CSP Exhibit No. 14 for me,
5 please. What is that document that you're looking at?

6 A. This is another weekly newsletter of the parish.

7 Q. What's the date on that?

8 A. February 3rd through the 9th of 2013.

9 Q. And would you please turn to the second page of that
10 document? And in the box on the left, can you read that.
11 Tell us what that is.

12 A. It's an announcement announcing a special congregational
13 meeting. It reads, there is a special congregational meeting
14 scheduled for Sunday, February 17th at 9:15 a.m. This
15 meeting is for the second vote on the bylaw changes approved
16 at our annual meeting.

17 Q. Was the date of this proposed meeting outside the 30-day
18 window required by the bylaws?

19 A. It was greater than. Just to make sure I understand
20 your question, yes, it was more than 30 days.

21 MR. MCCARTY: Your Honor, I move to admit Exhibit No. 14
22 into evidence.

23 MR. TISDALE: No objection.

24 MS. KOSTEL: No objection.

25 THE COURT: Very well.

1 (Plaintiff's Exhibit CSP-14 admitted into evidence.)

2 Q. All right. Would you please look at -- first off, was
3 the meeting held?

4 A. Yes, it was.

5 Q. And please tell us what happened at the meeting with
6 regard to the change to the -- with regard to the proposed
7 change to the bylaws.

8 A. They were presented to the congregation and voted and
9 unanimously approved.

10 Q. Would you please look at CSP Exhibit No. 15 for me.
11 Could you tell us what that document is?

12 A. These are the minutes from that meeting.

13 Q. And, please, if you can summarize for the Court what
14 those minutes say.

15 A. It was -- the congregation met for the purpose of a
16 second vote on those proposed bylaw changes, and they were
17 made -- a motion was made and they were changed.

18 Q. Was there a quorum present?

19 A. There was.

20 Q. And what was the vote?

21 A. Unanimously again.

22 MR. MCCARTY: Thank you. Move to admit Exhibit No. 15
23 into evidence, Your Honor.

24 THE COURT: Any objection?

25 MR. TISDALE: No.

1 MS. KOSTEL: No objection.

2 THE COURT: Very well. Exhibit 15 in evidence without
3 objection.

4 (Plaintiff's Exhibit CSP-15 admitted into evidence.)

5 Q. Please look at CSP Exhibit No. 16 for me, would you,
6 Reverend?

7 A. Yes, sir.

8 Q. And can you identify for us what that document is?

9 A. I believe these are the current bylaws of the parish as
10 approved at that February 17th, 2013 meeting.

11 Q. Do they reflect the changes that were voted upon at the
12 two meetings by the congregation?

13 A. I believe I do. I believe we changed -- made a change
14 in Article 1 and a change in Article 9.

15 Q. That's correct.

16 Now, this document isn't signed either. Is that in
17 comport with the practices of the corporation Christ
18 St. Paul's?

19 A. It is.

20 Q. Does Christ St. Paul's have any relationship with the
21 national church as it's been described here in the last
22 couple of days?

23 A. We do not.

24 Q. Are you aware of any funds that Christ St. Paul's has
25 received from the national church?

1 A. I'm not aware of any.

2 Q. Does Christ St. Paul's use any of the marks of the
3 national church?

4 A. Do not.

5 Q. Is there any relationship at all between Christ
6 St. Paul's and the national church?

7 A. None that I'm aware of.

8 Q. Do you or any member of the vestry or the officers of
9 Christ St. Paul's attend conventions of the national church?

10 A. No, we do not.

11 Q. Have any members of your congregation been authorized --
12 not in the vestry, not in the leadership -- to attend
13 conventions of the national church?

14 A. I believe one of my assistants was elected and attended
15 a national convention many years -- several years ago.

16 Q. Was it before he was admitted, before he was a member of
17 Christ St. Paul's?

18 A. I believe it was while he -- well, he was just a
19 part-time assistant.

20 Q. All right. Have you ever authorized the use of the
21 parish name by the national church?

22 A. No, we have not.

23 Q. Have you ever authorized the national church to include
24 your name on its website?

25 A. No, we have not.

1 MR. MCCARTY: If you'll please give me about 30 seconds,
2 Your Honor?

3 THE COURT: Yes, sir.

4 Q. You mentioned one of your assistants was elected to go
5 to the national convention. Did Christ St. Paul's elect him?

6 A. No, we did not.

7 Q. Who did?

8 A. The Diocese of South Carolina.

9 MR. MCCARTY: Thank you. I don't have any further
10 questions. Please answer any questions for the other side.

11 THE COURT: Very well. Any questions, Mr. Tisdale?

12 MR. TISDALE: I think I'll defer to Ms. Kostel for the
13 time being.

14 THE COURT: Ms. Kostel.

15 CROSS-EXAMINATION BY MS. KOSTEL:

16 Q. Good afternoon, Father Borrett.

17 A. Good afternoon.

18 Q. Mary Kostel for the Episcopal Church. I think you've
19 figured that out by now.

20 A. Yes, ma'am.

21 Q. For the national church.

22 MS. KOSTEL: I'm sorry, Your Honor.

23 Q. You testified about parish bylaws?

24 A. Yes, ma'am.

25 Q. And you were on the vestry?

1 A. Yes, ma'am.

2 Q. So you're familiar with the bylaws as they existed
3 before they were amended, the bylaws you spoke about?

4 A. Yes, ma'am.

5 Q. And is it true that before they were amended, with the
6 documents that you looked at today, they stated that this
7 parish is organized for the purpose of operating an Episcopal
8 Church pursuant to the constitution and canons of the
9 Episcopal Church in the Diocese of South Carolina and of the
10 Episcopal Church in the United States now in force or as
11 hereafter may be adopted?

12 A. Yes, ma'am.

13 Q. And are you aware that those were adopted in 1980?

14 A. I believe they were.

15 Q. And, Father Borrett, were you also familiar with the
16 vestry handbook of your parish?

17 A. No, ma'am. We don't -- I've never used one.

18 Q. Are you aware that your parish produced a vestry
19 handbook?

20 A. I discovered that in my deposition.

21 Q. Okay. So before your deposition you had never seen it?

22 A. I had never used it or seen it, no, ma'am.

23 Q. Now, have you reviewed it since your deposition?

24 A. I have not. It was Monday.

25 Q. Yes, I'm painfully aware of that fact.

1 Okay. Father Borrett, since your parish -- since 2012
2 when your parish was no longer part of the Episcopal Church,
3 has it received permission from the Episcopal Church to use
4 any of the Episcopal Church's names?

5 MR. RUNYAN: Judge, I would interpose an objection to
6 this line of questioning. The Episcopal Church has a
7 counterclaim, actually several, Counts 2, 3, 4, 5 and 6 for
8 trademark infringement of a variety of types. It is only
9 against individual counterclaim defendants, and those
10 defendants are listed in paragraphs 5 and 6 -- 4 and 5 of
11 that counterclaim, and they are the same 24 to 36 individuals
12 that the Court previously denied a motion to add. So there
13 is no claim, and therefore no relevance, to a line of
14 questioning against the parish about infringement.

15 MS. KOSTEL: Well, we will move to amend our pleadings
16 to conform to the evidence, Your Honor, but this evidence is
17 certainly relevant to a trademark claim.

18 MR. RUNYAN: I think the point is that that's why I'm
19 making the objection.

20 THE COURT: That's the way that happens. In other
21 words, once -- if the issue is tried by consent, then the
22 motion could be made to amend for the purpose of conforming
23 to the evidence. That's why counsel is objecting at this
24 point, to keep that from happening. But let me mention, it's
25 1:00, and so even with that objection, if you don't mind,

1 after lunch let me know, perhaps this issue has arisen at
2 some other point, and if so I certainly want to hear that.

3 MS. KOSTEL: Thank you, Your Honor.

4 MR. MCCARTY: Your Honor, out of an abundance of
5 caution, I can't remember whether I moved to admit the final
6 Exhibit No. 16 into evidence.

7 MR. TISDALE: We don't have any objection to it even if
8 you didn't.

9 THE COURT: And there you have it.

10 (Plaintiff's Exhibit CSP-16 admitted into evidence.)

11 THE COURT: All right. We will reconvene at 2:30. And
12 see you all then. Have a good lunch.

13 (Lunch recess held.)

14 THE COURT: Ready to proceed?

15 MR. MCCARTY: Yes, Your Honor.

16 MS. KOSTEL: Yes, Your Honor.

17 THE COURT: Thank you. Cross-examination.

18 MS. KOSTEL: Good afternoon, Your Honor.

19 THE COURT: Good afternoon.

20 MS. KOSTEL: I think where we left off, Your Honor, was
21 a question about relevance.

22 THE COURT: Exactly.

23 MS. KOSTEL: Right, and the question that I had asked
24 Father Borrett was whether his parish, Christ St. Paul's, had
25 permission since 2012 to use the Episcopal Church's names and

1 marks. And I will now tell the Court how that question's
2 relevant.

3 First, the plaintiffs have alleged in their complaint
4 that the church has used Christ St. Paul's name in a variety
5 of ways that violates their rights, and any evidence that
6 Christ St. Paul's has used the Episcopal Church's name with
7 the Episcopal Church's permission would go to prove that. In
8 fact, the mark is the Episcopal Church's to license.

9 Should I continue?

10 THE COURT: Yes, because Mr. Runyan will probably speak
11 to that, so, yes, absolutely, let me hear all of your
12 grounds.

13 MS. KOSTEL: Secondly, the Episcopal Church in its
14 counterclaims contended that the parish -- for all the
15 parishes, but including Christ St. Paul's, that the property
16 held by -- or for the parish is held and may only be used for
17 the mission and benefit of the church and its subordinate
18 Episcopal Church diocese.

19 I think we all agree that a license to use a trademark
20 or any other kind of intellectual property is personal
21 property. And so to the extent that property has been
22 misused or not used as permitted, then that's part of our
23 claim against the parish.

24 THE COURT: And that language was general?

25 MS. KOSTEL: Yes.

1 THE COURT: It wasn't separated out?

2 MS. KOSTEL: Correct. It's all property.

3 THE COURT: Got it.

4 MS. KOSTEL: Yes.

5 THE COURT: And all parishes?

6 MS. KOSTEL: Correct.

7 THE COURT: Got it.

8 All right. Yes, Mr. Runyan.

9 MR. RUNYAN: First of all, what she just mentioned is
10 not anywhere in the counts that allege infringement. The
11 infringement counts are Count 2, 3, 4, 5 and 6, and they all
12 very specifically recite the name, the shield of the
13 Episcopal Church, and they make counterclaims against
14 individual defendants.

15 Secondly, as to the property, I will check on it, but my
16 recollection is that was not generic to all property. It was
17 real property and personal property. I don't remember it
18 breaking out or saying marks or intellectual property or
19 using those kind of words. Very clearly, however, in
20 Counts 2, 3, 4, 5 and 6 they're clearly talking about
21 intellectual property, and those are the only counts that are
22 alleged against -- involving trademarks, and they're alleged
23 against individuals. So I still don't think the issue is
24 joined by consent.

25 MS. KOSTEL: Mr. Runyan hasn't discussed the issue of

1 our defense now that it's relevant to our defense. And, in
2 fact, just because the church has made specific claims under
3 trademark and then made a more general claim regarding all
4 property does not mean that the property in the larger more
5 general claim does not include the property rights in the
6 more specific claims.

7 THE COURT: Yes, sir.

8 MR. RUNYAN: Well, it's an issue of whether we've
9 consented to this and whether the issues were joined in the
10 beginning, and they've not been joined on that issue from the
11 get-go as to the parishes, or the diocese for that matter.
12 And so if the question is, is it relevant, I don't think it's
13 relevant based on the pleadings that have been filed, and we
14 certainly have not consented to that. So I'll look at the
15 section that she's mentioned in terms of the property --
16 generic claims of property, but I don't think it mentions
17 marks or shields.

18 THE COURT: And the other issue, of course, is that it
19 is a defense to the claim by the parish that its rights and
20 its marks have been infringed.

21 MR. RUNYAN: I'm lost on that one I'm afraid. As I
22 understood it, the claim by the parishes were that certain
23 people or entities were using their marks, the parish marks.
24 I'm not sure how the defense you used our marks is a defense
25 to that. The question is we didn't -- their defense is, no,

1 we didn't use your marks, not, well, you used ours, because
2 they didn't allege you used ours -- I really don't get that.
3 I still don't get the relevance of that.

4 THE COURT: I understand.

5 MS. KOSTEL: Would you like to hear further?

6 THE COURT: No, but can you point him to the paragraph
7 that you just referred to me where it talked about the
8 general property issues?

9 MS. KOSTEL: Yes. It's the answer and counterclaims of
10 the Episcopal Church, not the Episcopal Church in South
11 Carolina.

12 THE COURT: I got it.

13 MR. RUNYAN: Could you give me a paragraph?

14 THE COURT: Is that a general answer, or is it the
15 counterclaim?

16 MS. KOSTEL: It's the answer and counterclaim. So we're
17 now in the counterclaim section.

18 THE COURT: And give me a paragraph.

19 MS. KOSTEL: Well, the paragraph numbers started over
20 with each count, Your Honor. I'll give you a page number
21 which is in Count 7, and Count 7 is as to All Saints, but all
22 the other parish counts -- which each parish then had a
23 following count where they incorporated by reference all the
24 claims. So I'll show you what's in All Saints.

25 THE COURT: Got it.

1 MR. RUNYAN: Could you give me a page number?

2 MS. KOSTEL: Yes, page 60.

3 MR. SMITH: Your Honor, to the extent that this issue
4 affects our client as well, I'd just like to point out in our
5 pleading, on page 54 of our pleading, our 11th defense is
6 non-ownership of trademarks. Plaintiffs are not the true and
7 lawful owners of the names, marks and trademarks in which
8 they claim ownership, and therefore they are entitled to no
9 relief.

10 Our 13th defense, authorization, any such use of the
11 defendants of the said names and marks is and has been lawful
12 and authorized use for which plaintiffs are entitled to no
13 relief.

14 And our 14th defense, invalidity, the rights and
15 interests claimed by the plaintiffs and the names and marks
16 that are subject of the complaint are and were derived by
17 plaintiffs wholly from and through defendants, and the rights
18 and interests therein claimed by plaintiffs against
19 defendants are therefore invalid and do not constitute a
20 basis for the relief sought.

21 THE COURT: Okay. That's it. That claim would
22 encompass it. Okay. Yes.

23 MS. KOSTEL: Okay. Thank you. So let me try to see if
24 I get the question right now.

25 Q. Father Borrett, does Christ St. Paul's have permission

1 from the Episcopal Church to use any of its official names or
2 marks?

3 A. Not that I'm aware of.

4 Q. And does Christ St. Paul's represent itself to the
5 public as an Episcopal Church or a Protestant Episcopal
6 Church?

7 A. No, ma'am.

8 Q. Did it before 2012?

9 A. Maybe a long time ago, but not for quite some time.

10 Q. But its name is Christ St. Paul's Episcopal Church?

11 A. Correct, that's its legal incorporated name.

12 Q. Father Borrett, I think you testified that the parish
13 decided to remain with the diocese in its decision to
14 withdraw from the Episcopal Church, correct?

15 A. I believe so.

16 Q. And is it your understanding that it was your
17 parish's -- the reason for the departure was a dispute with
18 the church over matters of doctrine?

19 MR. MCCARTY: Objection, Your Honor. I think that's
20 been covered already today. Aren't we staying away from
21 ecumenical matters?

22 MS. KOSTEL: Well, I'm not actually inquiring into the
23 actual doctrine, Your Honor.

24 THE COURT: If you will recall, there was some doctrinal
25 differences, and on the basis of those doctrinal differences,

1 then the following things happened. That's been testified to
2 by plaintiff, so you certainly can go into that, yes.

3 Overruled.

4 MS. KOSTEL: Right.

5 Q. So is that --

6 A. Phrase your question again, please.

7 Q. Yes, okay. You testified earlier today that your parish
8 joined with the diocese to withdraw itself from the national
9 church for reasons of doctrinal dispute with the Episcopal
10 Church; is that correct? I'm sorry, you testified that you
11 withdrew from the Episcopal Church along with the diocese,
12 correct?

13 A. We voted, as I believe, to remain with the diocese.

14 Q. Right, with the understanding that the diocese was
15 withdrawing from the Episcopal Church, correct?

16 A. That they had perhaps.

17 Q. Had perhaps or had?

18 A. They had, that they had.

19 Q. Right. And was it your parish's understanding that it
20 was joining with the diocese in that action for reasons
21 because of a doctrinal dispute with the Episcopal Church?

22 MR. MCCARTY: Renew my objection, Your Honor.

23 THE COURT: I have no problem with the question. One of
24 the concerns, and I apologize, the Episcopal Church being the
25 national church --

1 MS. KOSTEL: I'm sorry.

2 THE COURT: No, that's how you've studied this case.

3 It's okay. But because I've done that, I don't know that
4 it's exactly fair to the witness. It's the national church
5 and the corporate diocese, stayed with the corporate diocese
6 and withdrew from the national church.

7 MS. KOSTEL: Okay.

8 THE COURT: Because I've sort of done that.

9 MS. KOSTEL: Should I try it again?

10 THE COURT: I almost want to do it for you.

11 MR. MCCARTY: I don't know that she needs any help,
12 Your Honor.

13 THE COURT: That's because you all know it. You've
14 studied it. You've lived it, and here I've imposed different
15 terms, and that's a little confusing for witnesses and a
16 little bit unfair, but the -- and just again, for everyone's
17 edification, we have a corporate diocese and we've sort of
18 adopted the corporate diocese, which is the -- the corporate
19 diocese plaintiff -- I think we called it plaintiff diocese,
20 corporate diocese, and the unincorporated or the defendant
21 diocese or the unincorporated association, and then we've
22 talked about the national church. And I have sort of imposed
23 those terms.

24 THE WITNESS: I'm clear.

25 THE COURT: Okay. Good.

1 MS. KOSTEL: Okay. So I'll try again?

2 THE COURT: Go for it.

3 Q. I'm not going to restate what you testified to earlier,
4 that's in the record, but is it your understanding that your
5 parish -- your parish's decision to remain with the diocese
6 in its withdrawal from the national church was a result of a
7 doctrinal dispute with the Episcopal Church?

8 A. In thinking about the question and thinking back on when
9 this all took place, I might -- well, no, I would say that
10 for Christ St. Paul's the issue was the treatment of our
11 bishop and the actions that were taken against the bishop
12 that led us to take the actions that we did, ultimately took.

13 Q. And was Christ St. Paul's ever forced by the Episcopal
14 Church to do anything that it disagreed with doctrinally?

15 A. Can you give me some parameters what you mean by forced?

16 Q. Required.

17 A. None that I can think of off the top of my head.

18 Q. Okay. Thank you.

19 A. You're welcome.

20 Q. Sorry for the painful questioning.

21 A. No problem.

22 THE COURT: Mr. Tisdale.

23 MR. TISDALE: Just a few questions, Your Honor.

24 THE COURT: All right.

25 CROSS-EXAMINATION BY MR. TISDALE:

1 Q. Good afternoon, Father.

2 A. Good afternoon.

3 Q. You've perhaps covered this earlier, but have you served
4 on the standing committee?

5 A. Yes, sir, I have.

6 Q. And what were those dates?

7 A. I don't recollect.

8 Q. Well, was it in --

9 A. It was under Bishop Salmon's tenure as the bishop.

10 Q. It was under Bishop Salmon's tenure?

11 A. Yes, sir.

12 Q. Were you president of the standing committee at one
13 point?

14 A. Yes, sir, I was.

15 Q. When was that?

16 A. I'm thinking it might have been -- I really -- can I --
17 I don't want to guess. I don't honestly remember. It's been
18 several years.

19 Q. Was it in Bishop Salmon's tenure?

20 A. Yes, sir.

21 Q. Episcopate?

22 A. Yes, sir.

23 Q. And have you served on the trustees of the corporation,
24 the plaintiff's corporation?

25 A. I currently serve on the trustees.

1 Q. You do. When did you begin that service?

2 A. I believe it was five and a half years ago.

3 Q. Which would take us about to '09, 2009?

4 A. I think that sounds right.

5 Q. All right. During the time looking back to when you
6 were on the standing committee --

7 A. Yes, sir.

8 Q. -- do you recall or can you tell us whether or not the
9 standing committee ever conducted what are now called in the
10 minutes executive sessions?

11 A. I don't recall any.

12 Q. Don't recall any?

13 A. No, sir.

14 Q. Now, with regard to what you've heard testimony about,
15 I'm sure, and others, quitclaim deeds --

16 A. Yes, sir.

17 Q. -- you said that Christ St. Paul's received one or two
18 or maybe more?

19 A. Five, I believe.

20 Q. Five?

21 A. Yes, sir.

22 Q. And you accepted them all and recorded them, I presume?

23 A. Yes, sir.

24 Q. All right. Was that during the time that you were a
25 member of the board of trustees or the corporation's

1 trustees?

2 A. I believe it was.

3 Q. Trustee corporation?

4 Did you know anything as trustee or outside of being a
5 trustee, but were the trustees informed in advance about
6 these quitclaim deeds?

7 MS. GOLDING: Your Honor, I'm going to make an
8 objection. There are no trustees. It is a corporation that
9 has a board of directors, but the board of directors is not
10 known as -- a member is not known as a trustee.

11 MR. TISDALE: I'm not going to stand on the question
12 that way because she's objected, but the trust statute itself
13 says they hold property in trust, so I would assume that
14 makes them trustees, but I can get around that.

15 THE COURT: Okay.

16 Q. Father, when you were serving on the board of the
17 corporate -- corporate board of the trustees, were you ever
18 informed that the other corporation, the Protestant Episcopal
19 Church in South Carolina, was preparing to issue quitclaim
20 deeds?

21 A. Because I was sort of on both ends, I guess, I don't
22 recall --

23 Q. What do you mean both ends?

24 A. I was receiving one as a director of a church, so I had
25 information about receiving one.

1 Q. I mean, before you received it.

2 A. I had information it was coming, so I had that, but I
3 don't recall -- I can't recall if and when I heard anything
4 as a trustee about it.

5 Q. Do you recall anything about quitclaim deeds coming up
6 at a meeting, to use your words, when you were trustee?

7 A. I do not remember that.

8 Q. Okay. And were you involved in any way, shape or form
9 in the decision to grant quitclaim deeds?

10 A. No, sir.

11 Q. Were you informed about it by anyone outside of the
12 corporate trustees?

13 A. No.

14 Q. All right.

15 MR. TISDALE: One second, Your Honor, please.

16 THE COURT: Sure.

17 Q. In connection with your -- well, first let me ask you
18 this: Where does the standing committee get its authority to
19 do what it does?

20 A. I believe from the constitution and canons of the
21 Diocese of South Carolina.

22 Q. Exactly. And when you were on the standing committee
23 and the corporation representing the trustees, did you have
24 an opportunity to study the constitution and canons of the
25 diocese?

1 A. When you say and, I didn't serve on them at the same
2 time.

3 Q. No, I understand that.

4 A. Okay. I never spent a lot of time studying them, no,
5 sir.

6 Q. You have not?

7 A. No, sir.

8 Q. But you are familiar with the fact that you just
9 testified to, that whatever authority it has it gets from the
10 constitution and canons, the standing committee.

11 A. That's what I believe, yes.

12 MR. TISDALE: Thank you very much, Your Honor.

13 Thank you, Father.

14 THE COURT: Redirect.

15 MS. GOLDING: Well, this is not redirect.

16 THE COURT: That's right. Exactly. That's right.

17 MS. GOLDING: I'm asking a question on behalf of
18 St. Luke's.

19 EXAMINATION BY MS. GOLDING:

20 Q. Reverend Borrett, isn't it a fact that any and all
21 disputes that your parish had with either the national church
22 or the defendant association was because your parish did not
23 believe that these defendants had any property rights in your
24 parish's property? Isn't that not correct?

25 A. That is correct.

1 Q. And is it a fact the major factor is the property issue?

2 MS. KOSTEL: Objection, leading. She's leading the
3 witness.

4 THE COURT: Yes.

5 MS. GOLDING: Well, this is not my witness. I assume
6 that I can cross-examine anyone that's not my witness,
7 Your Honor. I believe that's appropriate.

8 MR. MCCARTY: Your Honor, I think the objection to
9 leading was mine, and I didn't make it. He's my witness.

10 THE COURT: Well, here's where I am. Under the rules,
11 the rule with regards to cross-examination is are your
12 interests aligned. And --

13 MS. GOLDING: I'll withdraw, Your Honor.

14 THE COURT: All right. I'm not absolutely positively
15 certain, having heard their testimony, that they're on
16 absolutely all fours with your client.

17 MS. GOLDING: I agree.

18 THE COURT: Having said that, they are a whole lot
19 closer to you than they are them.

20 MS. GOLDING: I agree. Thank you, Your Honor.

21 THE COURT: Yes.

22 Q. With respect to any disputes that your parish had with
23 the defendants in this case, what was the primary dispute?

24 A. The primary dispute, the ownership of our property.

25 Q. Was there ever any time the position of your parish that

1 the national Episcopal Church had any ownership interest in
2 your parish's property?

3 A. None that I'm aware of.

4 MS. GOLDING: Thank you.

5 THE COURT: Anybody else have questions?

6 MR. MCCARTY: Nothing from me, Your Honor.

7 THE COURT: Very well. Do we have another parish?

8 MR. OXNER: Your Honor, we call Richard Bruce.

9 MR. TISDALE: Which parish?

10 MR. OXNER: Christ the King, Waccamaw.

11 (Plaintiff's Exhibits CTK-1 through CTK-19 premarked for
12 identification.)

13 RICHARD PATTEN BRUCE, III,
14 being first duly sworn, testified as follows:

15 THE COURT: Your witness, Mr. Oxner.

16 MR. OXNER: May it please the Court.

17 THE COURT: Yes, sir.

18 MR. OXNER: For the court reporter's benefit,
19 Harry Oxner of Oxner & Stacy for Christ the King, Waccamaw.

20 DIRECT EXAMINATION BY MR. OXNER:

21 Q. Mr. Bruce, where do you live?

22 A. I live in Pawleys Island, South Carolina.

23 Q. How long have you lived there?

24 A. For 12 years.

25 Q. And how old are you?

1 A. I am 60.

2 Q. Are you married?

3 A. I am.

4 Q. How long have you been married?

5 A. 31 years.

6 Q. And can you give us your education, please, sir.

7 A. I have a bachelor of industrial management from
8 Georgia Tech.

9 Q. And where do you currently work?

10 A. I work for The Litchfield Company.

11 Q. What do you do for The Litchfield Company?

12 A. I am a real estate broker.

13 Q. And how long have you been employed as a real estate
14 broker?

15 A. Nine years.

16 Q. Do you attend a church in Pawleys Island?

17 A. I do.

18 Q. What church do you attend?

19 A. Christ the King, Waccamaw.

20 Q. How long have you been attending Christ the King,
21 Waccamaw?

22 A. Since it was incorporated in June of 2010.

23 Q. Were you one of the original incorporators?

24 A. Yes, I was.

25 Q. I'm going to ask you to look at Exhibit 1. That's

1 Christ the King Exhibit 1.

2 MR. TISDALE: Do you have another copy?

3 Thank you.

4 Q. Is this the original Articles of Incorporation, a copy
5 of it?

6 A. Yes, it is.

7 Q. Does it have your signature on it?

8 A. It does.

9 Q. And does it list you as senior warden?

10 A. It does.

11 Q. And what is the name that this corporation was
12 incorporated under?

13 A. Christ the King, Waccamaw.

14 Q. Does it anywhere in this document refer to TEC or TECSC?

15 A. No.

16 Q. Does it refer to the Diocese of South Carolina?

17 A. No.

18 MR. OXNER: Your Honor, at this time we'd like to
19 introduce CTK No. 1 into evidence.

20 MR. TISDALE: No objection.

21 MS. KOSTEL: No objection.

22 THE COURT: All right. Very well. CTK Exhibit 1 is in
23 evidence without objection.

24 (Plaintiff's Exhibit CTK-1 admitted into evidence.)

25 THE COURT: And just with regards to plaintiffs, I just

1 anticipate that you all know these documents, and if you all
2 have any objection you all -- I'm not looking to you, and I'm
3 uncomfortable not doing that, but I figure you all know them.
4 So if I need to, you all need to speak up.

5 MR. RUNYAN: Understood, Your Honor.

6 Q. Did Christ the King, Waccamaw get its own EIN number
7 when it incorporated?

8 A. We did.

9 Q. Since the original incorporation in 2010 were the
10 Articles of Incorporation by Christ the King, Waccamaw ever
11 amended?

12 A. No.

13 Q. And that's until today, still have not been amended?

14 A. No.

15 Q. Does the corporation of Christ the King, Waccamaw have a
16 board of directors?

17 A. Yes.

18 Q. And who would that be?

19 A. The vestry.

20 Q. Did it have any corporate officers?

21 A. Yes.

22 Q. What type of corporate officers did it have?

23 A. The senior warden, junior warden, secretary, I mean
24 clerk and treasurer.

25 Q. And did the vestry ever adopt any bylaws?

1 A. Yes, we did.

2 Q. When did the bylaws get adopted? September 13, 2010?

3 A. Yes.

4 Q. Okay. I'd ask you to refer to Exhibit No. 6. Is that
5 the original bylaws that was executed by the vestry and you
6 as senior warden?

7 A. Yes, it was. Yes, it is.

8 MR. OXNER: At this time, Your Honor, we'd like to enter
9 into evidence CTK No. 6.

10 THE COURT: Any objection?

11 MR. TISDALE: None, Your Honor.

12 MS. KOSTEL: No objection.

13 THE COURT: Very well.

14 (Plaintiff's Exhibit CTK-6 admitted into evidence.)

15 MR. TISDALE: Can we see a copy of the bylaws?

16 MR. OXNER: Yes. You all were given all of these, but
17 here you go.

18 MR. TISDALE: Thank you very much.

19 Q. When you adopted these bylaws, this was done by the
20 vestry?

21 A. Yes.

22 Q. And at that time you all adopted the proper procedures
23 for future changes to the bylaws?

24 A. We did.

25 Q. And that's under, it appears to be, Section 15.1 and

1 Section 15.2 of the original bylaws?

2 A. I believe that is right. Yes.

3 Q. And what was the procedure for changing the bylaws in
4 the future if you ever wanted to change them?

5 A. They could be changed by a two-thirds vote of the vestry
6 or majority vote of the congregation with proper notice to
7 both.

8 Q. And did you, in fact, ever change the bylaws since 2010?

9 A. Yes, we did.

10 Q. And how many times did you change it?

11 A. Four.

12 Q. I'd ask you to look at CTK No. 7, and if you could tell
13 us what that is?

14 A. It is the Christ the King, Waccamaw vestry minutes dated
15 April 21st, 2012.

16 Q. And what did the vestry do at that time?

17 A. Well, as it relates to the bylaws?

18 Q. Yes, sir.

19 A. The rector brought up that the previous bylaws needed to
20 be amended and reflect some changes, and copies of those
21 changes were passed out, notice given to the vestry for a
22 vote at the next vestry meeting.

23 Q. And what was the major change in that set of bylaws?

24 A. To remove references to the national church from our
25 bylaws.

1 MR. OXNER: At this time I'd like to enter into evidence
2 Exhibit No. 7.

3 THE COURT: Any objection?

4 MR. TISDALE: No objection.

5 MS. KOSTEL: No objection.

6 THE COURT: Very well.

7 (Plaintiff's Exhibit CTK-7 admitted into evidence.)

8 Q. Did the vestry have a subsequent meeting to adopt those
9 bylaws?

10 A. Yes, we did.

11 Q. And is that contained in CTK No. 8?

12 A. Yes.

13 Q. And was a proper notice given of the change to the
14 bylaws?

15 A. Yes, both to the vestry and to the parish.

16 Q. And was the bylaws approved by the vestry at that time?

17 A. Yes.

18 Q. And how did that vote go?

19 A. Unanimous.

20 MR. OXNER: At this time we'd like to enter into
21 evidence Exhibit 8.

22 MR. TISDALE: No objection.

23 MS. KOSTEL: No objection.

24 (Plaintiff's Exhibit CTK-8 admitted into evidence.)

25 Q. At that time when you changed the bylaws, why did you

1 take out any reference to TEC?

2 A. Well, we had never paid any money to the national church
3 nor received any, and we've -- I, quite frankly, don't know
4 why we had it in there. It was an oversight when we did the
5 original bylaws.

6 Q. And did the original bylaws require you to conform to
7 any canons or constitution of TEC?

8 A. No.

9 Q. Did it require you to accede to the constitution and
10 canons of the Diocese of South Carolina?

11 A. Yes.

12 MR. OXNER: In just an abundance of caution, I believe
13 we've already entered the bylaws of Exhibit No. 9 into
14 evidence, but I want to make sure we have.

15 THE COURT: I was up to 8.

16 MR. OXNER: Up to 8?

17 THE COURT: Yes, sir.

18 MR. OXNER: Now we're at 9.

19 THE COURT: Any objection to No. 9?

20 MR. TISDALE: No objection.

21 MS. KOSTEL: No objection.

22 THE COURT: Very well.

23 (Plaintiff's Exhibit CTK-9 admitted into evidence.)

24 Q. All right. I now ask you to look at Exhibit No. 10.

25 Appears to be vestry minutes held on October 25th, 2012?

1 A. Yes.

2 Q. All right. And can you tell us, in regards to the
3 bylaws, what the vestry was attempting to do?

4 A. Our rector proposed that we make changes to the church's
5 bylaws and they were attached and are to be voted upon at the
6 next meeting on November 15th.

7 Q. And what were those changes? Were they more
8 housekeeping changes?

9 A. Yes, they were housekeeping, vestry, tenure, things like
10 that.

11 MR. OXNER: At this time we'd like to enter into
12 evidence Exhibit No. 10.

13 MR. TISDALE: No objection, Your Honor.

14 MS. KOSTEL: No objection.

15 THE COURT: Very well.

16 (Plaintiff's Exhibit CTK-10 admitted into evidence.)

17 Q. I want to ask you to look at CTK No. 11. Is this where
18 the vestry met on November 15, 2012, and did they approve the
19 bylaw changes that were discussed the month prior?

20 A. They did unanimously, yes.

21 MR. OXNER: Now we'd ask that CTK No. 11 be entered into
22 evidence.

23 MR. TISDALE: No objection, Your Honor.

24 MS. KOSTEL: No objection.

25 THE COURT: Very well.

1 (Plaintiff's Exhibit CTK-11 admitted into evidence.)

2 Q. Now I ask you to look at Exhibit No. 12, bylaws adopted
3 November 15th, 2012. Are you familiar with that document?

4 A. Yes.

5 Q. Can you tell us what occurred in that bylaw change?

6 A. These are where the housekeeping items were taken care
7 of, the vestry and some proxies in terms of annual meeting
8 and voting, et cetera.

9 Q. So those are the actual bylaws that were adopted?

10 A. Yes.

11 Q. After the notices we've already talked about in
12 Exhibit No. 10 and 11?

13 A. Yes.

14 MR. OXNER: We'd ask that Exhibit No. 12 be entered into
15 evidence.

16 THE COURT: Any objection?

17 MR. TISDALE: No objection.

18 MS. KOSTEL: No objection.

19 THE COURT: Very well.

20 (Plaintiff's Exhibit CTK-12 admitted into evidence.)

21 Q. If you'll please look at Exhibit No. 13.

22 Is that minutes of the vestry meeting held on
23 January 14, 2013?

24 A. Yes, it is.

25 Q. And are those minutes discussing further changes to the

1 bylaws?

2 A. Yes.

3 Q. And what type of changes were being done for this
4 change?

5 A. We were looking to remove references to the diocese from
6 our bylaws.

7 Q. And did the vestry meet again on January 27, 2013?

8 A. Well -- yes. Yes, they did.

9 Q. And at that time, did they approve the changes to the
10 bylaws?

11 A. Yes.

12 MR. OXNER: Your Honor, we'd like to enter into evidence
13 Exhibits No. 13 and 14.

14 THE COURT: 13 and 14.

15 MR. TISDALE: No objection.

16 MS. KOSTEL: No objection.

17 THE COURT: Very well.

18 (Plaintiff's Exhibits CTK-13 and CTK-14 admitted into
19 evidence.)

20 Q. If you'll look at Exhibit No. 15, which are the actual
21 bylaws that were changed, is that right?

22 A. Yes.

23 Q. And now we see that there is no accession clause in
24 these bylaws at all; is that right?

25 A. That's correct.

1 Q. And that's what the major change was there?

2 A. Yes.

3 MR. OXNER: Your Honor, we'd like to introduce into
4 evidence CTK No. 15.

5 MR. TISDALE: No objection.

6 MS. KOSTEL: No objection.

7 THE COURT: Very well.

8 (Plaintiff's Exhibit CTK-15 admitted into evidence.)

9 Q. If you'll look at Exhibit No. 16, we've got a series of
10 meetings that occurred and they're discussing, once again,
11 some bylaw changes; is that right?

12 A. Yes.

13 Q. And are they more housekeeping changes?

14 A. Yes.

15 MR. OXNER: Your Honor, we'd ask that CTK No. 16 be
16 entered into evidence.

17 THE COURT: Any objection?

18 MR. TISDALE: None, Your Honor.

19 MS. KOSTEL: No objection.

20 THE COURT: Very well.

21 (Plaintiff's Exhibit CTK-16 admitted into evidence.)

22 Q. And if you'll look at No. 17, CTK No. 17, is this where
23 the vestry approved those changes to the bylaws?

24 A. Yes, unanimously.

25 MR. OXNER: Your Honor, we'd enter into evidence Exhibit

1 No. 17.

2 THE COURT: Any objection?

3 MR. TISDALE: None, Your Honor.

4 MS. KOSTEL: No objection.

5 THE COURT: Very well.

6 (Plaintiff's Exhibit CTK-17 admitted into evidence.)

7 Q. If you'll please look at Exhibit No. 18, is that the
8 actual changes that were completed that we just discussed?

9 A. Yes.

10 Q. And they were adopted on January 20, 2014?

11 A. That is correct.

12 Q. Is that the last time that the bylaws have been changed
13 for Christ the King?

14 A. Yes.

15 Q. And have all these changes to the bylaws been done in
16 accordance with your governing documents?

17 A. Yes, they have.

18 Q. Has the procedure for the changes in the bylaws ever
19 been changed themselves, meaning the two-thirds vestry
20 approval and the notice provisions?

21 A. No.

22 Q. Has Christ the King, Waccamaw ever asked TEC or TECSC
23 for permission to change its bylaws?

24 A. No.

25 Q. Did it ever ask permission to incorporate Christ the

1 King, Waccamaw?

2 A. No.

3 Q. Is there any provision in the bylaws or articles that
4 prohibits any particular changes to the articles or bylaws?

5 A. No.

6 Q. Or ask anybody for -- do they need to have permission to
7 change those articles or bylaws?

8 A. No.

9 Q. Does Christ the King, Waccamaw own any property?

10 A. Yes.

11 Q. What type of property does it own?

12 A. We own just under seven acres with a 4,000 square foot
13 building on it on Highway 17 in Pawleys Island.

14 Q. And when did they purchase that property?

15 A. We purchased that in September of 2011.

16 Q. If you'll look at Exhibit No. 2, is that the deed --

17 A. I'm sorry, 2010. Excuse me.

18 Q. -- is that the deed that you all received when buying
19 that piece of property?

20 A. Yes.

21 Q. Does it in any way reference TEC or TECSC in that deed?

22 A. No.

23 Q. Or the diocese, for that matter?

24 A. No.

25 Q. And what name is the titled real estate in?

1 A. Christ the King, Waccamaw.

2 Q. And nowhere in this deed does it even say the word
3 Episcopal?

4 A. No.

5 MR. OXNER: At this time we'd like to enter into
6 evidence CTK No. 2.

7 MR. TISDALE: Without objection, Your Honor.

8 MS. KOSTEL: No objection.

9 THE COURT: Very well.

10 (Plaintiff's Exhibit CTK-2 admitted into evidence.)

11 Q. Does the Christ the King, Waccamaw have a mortgage?

12 A. We do.

13 Q. How much is that mortgage?

14 A. That mortgage currently is, I believe, \$550,000.

15 Q. Has TEC or TECSC ever helped pay the mortgage?

16 A. No.

17 Q. For that matter, has Christ the King, Waccamaw ever
18 received any money from TEC or TECSC for anything?

19 A. No.

20 Q. Did Christ the King, Waccamaw ever request permission
21 from TEC or TECSC to mortgage their property?

22 A. No.

23 Q. Talking about the money to and from TEC and TECSC, has
24 Christ the King, Waccamaw ever given or caused to give any
25 money to TEC or TECSC?

1 A. No.

2 Q. Has Christ the King, Waccamaw ever instructed the
3 Diocese of South Carolina not to give money to TEC or TECSC?

4 A. Yes.

5 Q. When did it do that?

6 A. On an annual basis.

7 Q. Since when?

8 A. Since June 7th of 2010.

9 Q. That was when you incorporated?

10 A. Yes.

11 Q. Has Christ the King, Waccamaw ever given or caused to be
12 given any money to TEC's charities such as the World Relief
13 Fund or United Thank Offering?

14 A. No.

15 Q. If you'll please look at Exhibit No. 3, is that a
16 quitclaim deed in to Christ the King, Waccamaw from the
17 Protestant Episcopal Diocese of South Carolina?

18 A. Yes.

19 Q. Did you all receive that quitclaim deed from the
20 Protestant Diocese of South Carolina?

21 A. We did.

22 Q. Did you record that quitclaim deed?

23 A. We did.

24 Q. What was your understanding as to what you were getting
25 in that quitclaim deed from the Protestant Diocese of South

1 Carolina?

2 A. Well, we felt, obviously, from the titled property, that
3 the diocese did not have any authority over that property,
4 but their rights were given to us, if those existed, in this
5 document.

6 MR. OXNER: Your Honor, at this time we would like to
7 introduce CTK Exhibit No. 3.

8 THE COURT: Any objection?

9 MR. TISDALE: We don't have any objection to that.

10 MS. KOSTEL: No objection.

11 THE COURT: Very well, it's in.

12 (Plaintiff's Exhibit CTK-3 admitted into evidence.)

13 Q. Thank you. If you'll now look at CTK Exhibit No. 19,
14 can you identify that document for us?

15 A. That is minutes from our vestry meeting on January 27th,
16 2013.

17 Q. And did it have a resolution in it?

18 A. It did. It had two resolutions.

19 Q. And what were you resolving in that resolution?

20 A. We were resolving our allegiance and support to the
21 bishop and the diocese, and our clear understanding, we were
22 not aligned with the national Episcopal Church.

23 MR. OXNER: We'd like to enter into evidence CTK No. 19.

24 MR. TISDALE: No objection.

25 MS. KOSTEL: No objection.

1 THE COURT: Very well.

2 (Plaintiff's Exhibit CTK-19 admitted into evidence.)

3 Q. Did Christ the King, Waccamaw ever have a sign saying
4 the Episcopal Church welcomes you?

5 A. No.

6 Q. Have you ever had any relationship with -- you, I mean
7 Christ the King, Waccamaw, ever had any relationship with
8 TECSC?

9 A. No.

10 Q. Did your parish or anyone from your parish go to TECSC's
11 convention?

12 A. No.

13 Q. Have you ever considered your parish to be a member of
14 TECSC?

15 A. No.

16 MS. KOSTEL: Excuse me, could we clarify what's meant by
17 TECSC? Thank you.

18 MR. OXNER: In most of the documents it's been referred
19 to as TECSC, which is the Episcopal Church, South Carolina.

20 MS. KOSTEL: You're not referring to the plaintiff
21 diocese?

22 MR. OXNER: No.

23 MS. KOSTEL: Okay. Thank you.

24 THE COURT: Unincorporated --

25 MR. OXNER: Unincorporated association of the Episcopal

1 Church, South Carolina.

2 THE COURT: Got it.

3 MR. TISDALE: In South Carolina.

4 MR. OXNER: In South Carolina.

5 Q. Has Christ the King, Waccamaw ever given any authority
6 to use its name to TECSC?

7 A. No.

8 Q. Has it ever given any authority to use its name or post
9 any materials on TECSC's website?

10 A. No.

11 Q. Does Christ the King have any relationship with TEC at
12 this moment?

13 A. No.

14 Q. Has it ever had a relationship with TEC since it was
15 formed in 2010?

16 A. No.

17 MR. OXNER: Madam Court Reporter, just for abundance of
18 safety, do you have 19 exhibits recorded?

19 THE REPORTER: There's 4 and 5 we don't have.

20 THE COURT: Have you all seen 4 and 5?

21 MR. TISDALE: What are they?

22 MR. OXNER: Minutes of the meeting and then the approval
23 of one of the bylaws.

24 MS. KOSTEL: No objection.

25 MR. TISDALE: We don't have any objection to 4 and 5.

1 MS. KOSTEL: No objection.

2 THE COURT: Very well.

3 (Plaintiff's Exhibits CTK-4 and CTK-5 admitted into
4 evidence.)

5 THE COURT: The intention is that Exhibits 1 through 19
6 are in evidence; is that correct?

7 MR. OXNER: That's correct.

8 MR. TISDALE: We agree.

9 THE COURT: Very well. All right. Now, I'm going to
10 begin on this side. Any questions from any of the other
11 plaintiffs? Yes.

12 MS. GOLDING: Thank you, Your Honor.

13 DIRECT EXAMINATION BY MS. GOLDING:

14 Q. With respect to your parish, what was your parish's
15 position as to the national church's claim that it had an
16 interest in your parish property or that it has an interest
17 in your parish property?

18 A. We felt like that was not true.

19 Q. And to your knowledge what interest, if any, does the
20 national church have in any of your parish property, whether
21 real or personal?

22 A. None.

23 Q. Is that dispute over the property a major factor with
24 respect to your parish's position?

25 A. Yes.

1 MS. GOLDING: No further questions, Your Honor.

2 THE COURT: All right. Now, cross-examination.

3 Did you have something?

4 MR. RUNYAN: I just have a quick clarification. The
5 relevance of the inquiry into the shield has to do with the
6 defense of the Episcopal Church in South Carolina. That's
7 what I understand the ruling to have been.

8 THE COURT: That's correct.

9 CROSS-EXAMINATION BY MS. KOSTEL:

10 Q. Okay. Good afternoon, Mr. Bruce.

11 A. Good afternoon.

12 Q. A couple of questions to follow up on your testimony.

13 You testified that Christ the King got its own EIN,
14 employer identification number, correct?

15 A. Yes.

16 Q. What did it do to ascertain its tax exempt status, do
17 you know?

18 A. Well, our understanding was that, as a church in South
19 Carolina, we are automatically tax exempt.

20 Q. Right. Did you ever issue a letter, for example, to a
21 parishioner or anyone else reflecting that their donation was
22 tax exempt, as often happens with tax exempt organizations?

23 A. I don't know.

24 Q. I believe that you testified that Christ the King never
25 had a relationship with the Episcopal Church, with the

1 national church, since the parish was formed in 2010; is that
2 correct?

3 A. Right.

4 Q. Okay. Are you aware that Christ the King is listed as a
5 parish in union with the diocese in the 2010 journal of the
6 diocesan convention? In union with the diocese.

7 A. Could you repeat that again to make sure?

8 Q. Sure. Are you aware that Christ the King was listed as
9 a parish in union with the Diocese of South Carolina?

10 A. I wasn't aware of that, no.

11 Q. And were you aware that Christ the King is listed in the
12 2010 Journal of the Diocese of South Carolina as having sent
13 deputies to that meeting of that convention, the diocesan
14 convention?

15 A. I'm not aware of that, but we did.

16 Q. Oh, you did?

17 A. Yes, I mean, we sent --

18 Q. You're aware of the fact, not that it's in the journal?

19 A. That's right.

20 Q. Fair enough. Then will you concede that Christ the King
21 was in union with the Diocese of South Carolina in 2010?

22 A. Yes.

23 Q. And are you aware that in 2010 the constitution of the
24 Diocese of South Carolina required a parish to, before it was
25 admitted into union with the convention, to provide evidence

1 of its willingness to conform to the constitution of the
2 Protestant Episcopal Church in the United States?

3 A. I was not aware of that.

4 Q. Do you know if Christ Church made that evidence?

5 A. I'm sorry?

6 Q. Do you know if Christ Church provided that evidence that
7 it was required to provide?

8 A. I don't know. I was not at that convention.

9 Q. Mr. Bruce, you testified about a vestry resolution in
10 January 2013 to withdraw or to, I guess, nullify its union
11 with the Episcopal Church, correct?

12 A. We didn't have a relationship with the Episcopal Church.

13 Q. Well --

14 A. It was to clarify -- I'm sorry, finish your question.

15 Q. Well, if I represented to you, and I think I can find
16 them, that vestry minutes indicate that -- of January 27,
17 2013 indicate that there was a resolution passed that the
18 parish was, quote, no longer in the Episcopal Church, nor are
19 we in union with the Episcopal Church.

20 A. Okay.

21 Q. And that was, in fact, adopted in January of 2013?

22 A. Yes.

23 Q. Okay. Was the reason that the vestry decided to adopt
24 that resolution because of doctrinal differences with the
25 Episcopal Church?

1 A. It was in support of our bishop and our diocese, and the
2 way that our bishop had been treated was the major basis for
3 that.

4 Q. The way the --

5 A. And our show of support.

6 Q. The way the bishop had been treated by?

7 A. By the national church.

8 MS. KOSTEL: Nothing further. Thank you.

9 THE COURT: All right. Now Mr. Tisdale.

10 MR. TISDALE: Just one second, please, Your Honor.

11 THE COURT: All right.

12 MR. TISDALE: Your Honor, we don't have any questions of
13 this witness.

14 THE COURT: All right. Very well. Redirect.

15 MR. OXNER: None, Your Honor.

16 THE COURT: Any other questions from the plaintiffs?

17 All right. You may come down. All right. Next.

18 (Plaintiff's Exhibits SAMP-1 through SAMP-29 premarked
19 for identification.)

20 LEWIS BLAKE MIDDLETON, JR.,
21 being first duly sworn, testified as follows:

22 THE COURT: Would you state your name again, please, for
23 us for the record.

24 THE WITNESS: Yes, ma'am, Lewis Blake Middleton, Jr.

25 THE COURT: All right. Your witness.

1 MS. JOHNSON: Your Honor, for the benefit of the Court
2 and court reporter, my name is Oana Johnson, and I represent
3 St. Andrew's, Mount Pleasant and St. Andrew's, Mount Pleasant
4 Land Trust, and I am with George Kefalos.

5 DIRECT EXAMINATION BY MS. JOHNSON:

6 Q. Mr. Middleton, you already stated your name for the
7 record, so that's not necessary anymore. Tell me, would you
8 be able to give us a brief history of St. Andrew's, Mount
9 Pleasant?

10 A. Yes.

11 Q. And before we go with that, where do you live?

12 A. I live at 171 Oak Point Landing Drive, Mount Pleasant,
13 South Carolina.

14 Q. How long have you lived there?

15 A. Since 1999.

16 Q. And you work for St. Andrew's, Mount Pleasant, correct?

17 A. That's correct.

18 Q. And you are the church administrator?

19 A. That's correct.

20 Q. How long have you been the church administrator?

21 A. Since 1999.

22 Q. How long have you been a member of St. Andrew's, Mount
23 Pleasant?

24 A. Since 1983.

25 Q. As a member of the church and before you became the

1 administrator have you held any leadership positions?

2 A. Yes.

3 Q. What were those?

4 A. I served on vestry two different terms.

5 Q. Can you tell us a little bit about your duties as the
6 church administrator?

7 A. I don't preach or teach, but everything else I manage to
8 have my hands on.

9 Q. Very well. Tell me how St. Andrew's, Mount Pleasant was
10 started.

11 A. It was -- the congregation was part of the Christ Church
12 Mount Pleasant that met in the old village of Mount Pleasant,
13 and they grew to the size where they wanted to build a
14 building and have their own clergy person.

15 Q. Where's the church located?

16 A. 440 Whilden Street.

17 Q. I'm going to show you a couple of pictures of the
18 church. That, can you see it?

19 A. That's the historic church on our property.

20 Q. Do you know how many -- about how many members the
21 church has?

22 A. Around 3200.

23 Q. You have a book of exhibits, I believe?

24 A. I don't.

25 MS. JOHNSON: May I approach the witness, Your Honor?

1 THE COURT: Of course, certainly.

2 Q. I'm going to ask you to refer your attention to Exhibit
3 No. 1. Can you identify that document?

4 A. That's the original certificate of incorporation from
5 1954.

6 Q. Is that when St. Andrew's, Mount Pleasant was first
7 incorporated?

8 A. Correct.

9 Q. And is that when it separated from Christ Church?

10 A. Correct.

11 MS. JOHNSON: I'm going to move to admit Exhibit 1 into
12 evidence.

13 MR. TISDALE: We have no objection.

14 MS. KOSTEL: No objection.

15 THE COURT: Got it. No objection. 1 is in.

16 (Plaintiff's Exhibit SAMP-1 admitted into evidence.)

17 Q. Can you tell us what the purpose of that document was?

18 A. The purpose of that document was to transact all
19 business and handle all matters connected with the Episcopal
20 Church of the parish of St. Andrew's Church, Mount Pleasant.

21 Q. Has St. Andrew's existed as a corporation since 1954?

22 A. Yes.

23 Q. Has it continued carrying its business since 1954?

24 A. That's correct.

25 Q. Tell me, does this corporation have a board of

1 directors?

2 A. It does.

3 Q. And who is it?

4 A. The vestry of the church.

5 Q. And how is that -- where is that set out?

6 A. That's in the bylaws and the corporate charter.

7 Q. Does the corporation have officers?

8 A. Yes.

9 Q. And where is that set out?

10 A. In the same documents.

11 Q. Who are the corporate officers?

12 A. The chairman, the senior warden, the junior warden,
13 secretary and treasurer.

14 Q. Who has the power to hold property and conduct business
15 on behalf of the corporation?

16 A. The vestry.

17 Q. What gives the vestry that power?

18 A. The same bylaws and corporate charter.

19 Q. To your knowledge, has St. Andrew's, Mount Pleasant
20 always followed its bylaws with regard to conducting its
21 business?

22 A. Yes.

23 Q. Does St. Andrew's Church own any property, any real
24 estate?

25 A. No.

1 Q. Who owns property, the property where the church
2 conducts its business?

3 A. St. Andrew's Church, Mount Pleasant Land Trust.

4 Q. Can you tell me when that trust was created?

5 A. June of 2009.

6 Q. Can you explain how the property was transferred to the
7 trust?

8 A. By deed.

9 Q. Who uses the property?

10 A. The church does.

11 Q. And does the church compensate the trust for the use of
12 the property?

13 A. Yes, it does.

14 Q. Can you direct your attention to Exhibit No. 8.

15 A. That's the trust document for St. Andrew's Church, Mount
16 Pleasant Land Trust.

17 Q. Tell me a little bit about the purpose of creating this
18 trust.

19 A. The purpose was to begin to prepare for campus planning
20 and expansion and our concerns with having -- being adjacent
21 to the historic district in Mount Pleasant, which was across
22 the street, and the historic church was the only piece on our
23 side of the street. And so we were trying to separate the
24 historic church from the rest of the church so we would not
25 necessarily have to deal with all the historic district

1 restrictions and also to put the property in a position that
2 the banks would be satisfied with to be able to lend us money
3 for future construction.

4 MS. JOHNSON: I move to introduce Exhibit 8 into
5 evidence.

6 THE COURT: Exhibit 8?

7 MS. JOHNSON: Yes.

8 THE COURT: Any objection?

9 MR. TISDALE: No, Your Honor.

10 MS. KOSTEL: No objection.

11 THE COURT: Exhibit 8 is in evidence without objection.

12 (Plaintiff's Exhibit SAMP-8 admitted into evidence.)

13 Q. Could you direct your attention to Exhibit 9.

14 A. Okay.

15 Q. Can you identify that document?

16 A. This is a mortgage the church holds from the trust.

17 Q. And that was entered into when?

18 A. June of 2009.

19 Q. It was at the time that the property was transferred to
20 the land trust, correct?

21 A. That's correct.

22 MS. JOHNSON: I move to admit Exhibit No. 9 into
23 evidence, Your Honor.

24 MR. TISDALE: No objection.

25 MS. KOSTEL: No objection.

1 (Plaintiff's Exhibit SAMP-9 admitted into evidence.)

2 THE COURT: Why don't you just stop for just a moment.

3 This might be a good time to take a very short break to just
4 let you show all the documents and then let you all read all
5 of the documents with regards to this witness, and then we'll
6 just put them all in at the same time. Looks like there's
7 not any objection, so maybe we can just do that.

8 MS. JOHNSON: Thank you, Your Honor.

9 THE COURT: Very well. And I tell you what, it's about
10 4:00 and I want to get as much in as we can, so let's see if
11 we can take 15 minutes.

12 (Recess held.)

13 THE COURT: Have you had an opportunity to show the
14 documents?

15 MS. JOHNSON: Yes, ma'am.

16 THE COURT: What numbers are they that you showed to
17 counsel?

18 MS. JOHNSON: I showed them 1 through 29.

19 THE COURT: And were there any objections?

20 MR. TISDALE: Your Honor, I'm happy to report there's no
21 objection.

22 THE COURT: 1 through 29.

23 MS. KOSTEL: No objection, Your Honor.

24 THE COURT: Thank you so much. We will go much faster
25 then. Thank you.

1 MS. JOHNSON: Thank you.

2 THE COURT: Yes, thank you.

3 (Plaintiff's Exhibits SAMP-1 through SAMP-29 admitted
4 into evidence.)

5 Q. Mr. Middleton, did the trust obtain a 501(c)(3) status?

6 A. Yes, it did.

7 Q. And that is identified in Exhibit 11, which is in
8 evidence?

9 A. That's correct.

10 Q. Can you direct your attention to Exhibits 28 and 29.

11 A. 28 and 29?

12 Q. Yes.

13 A. Okay. These are deeds for the property in Goose Creek
14 on our Goose Creek campus.

15 Q. And that is Exhibit 28?

16 A. Yes.

17 Q. And Exhibit 29?

18 A. These are the deeds for our property in Mount Pleasant.

19 Q. And St. Andrew's, Mount Pleasant Land Trust owns all
20 that property?

21 A. Correct.

22 Q. Can you describe the property at St. Andrew's, Mount
23 Pleasant?

24 A. We -- on the corner of Whilden and Venning Street, on
25 one side of Venning Street is our historic church.

1 Q. The one we just showed?

2 A. That's correct. Then behind it is a larger ministry
3 center building with two other buildings attached to it, and
4 then behind that is a day school. Then across the street
5 from Venning is our parking lot.

6 Q. Very well. What about the property in Goose Creek,
7 describe that a little bit.

8 A. There's a church there, there's a converted house that
9 acts as parish hall, and a parking area.

10 Q. Can you tell me, did St. Andrew's at any time request
11 permission from the diocese to buy, sell or mortgage its
12 property?

13 A. St. Andrew's Church?

14 Q. Yes.

15 A. Yes.

16 Q. When was that?

17 A. In March/April of 2009.

18 Q. Okay. And was that the only time that St. Andrew's --

19 A. The only one that I'm aware of.

20 Q. What did St. Andrew's Church request permission from the
21 diocese to do?

22 A. To alienate our property.

23 Q. Can you direct your attention to Exhibit 14, please.

24 A. Okay.

25 Q. Is that the consent from the diocese for St. Andrew's,

1 Mount Pleasant Church to alienate its property?

2 A. That's correct.

3 Q. Did St. Andrew's believe that it needed the diocese's
4 consent to alienate its property?

5 A. No.

6 Q. What was the purpose of the request, where was the
7 property going?

8 A. The property was going into the trust, and we just
9 wanted to cross our T's and dot our I's just to make sure.

10 Q. Can you take a look at Exhibit 27.

11 A. That's the quitclaim deed we received from the diocese.

12 Q. Do you know what the purpose of this deed was?

13 A. I assume that, if they thought they had any interest in
14 our property, they were relinquishing any interest in our
15 property.

16 Q. When did you receive this deed?

17 A. We got this -- this was in December of the year after
18 this was done, which was -- we got it in 2012.

19 Q. Okay. So you received this deed in December of 2012?

20 A. Correct.

21 Q. Did you know that a deed was being sent to you?

22 A. No, we were unaware of it being done.

23 Q. You didn't -- did you ask for it?

24 A. No.

25 Q. What did you do with it once you received it?

1 A. We recorded it.

2 Q. Now, at some point St. Andrew's, Mount Pleasant decided
3 that it was going to disassociate itself from the Diocese of
4 South Carolina; is that correct?

5 A. Correct.

6 Q. Can you tell me a little bit about the reasons for
7 disassociating without going into any religious --

8 A. Well, we were looking at what was going on in the
9 national scene of the church and decided we wanted to part
10 from that.

11 Q. Okay. Were you -- did it have anything to do with your
12 property?

13 A. It did.

14 Q. What was your concern about your property?

15 A. We were concerned that they may try to claim that the
16 property was theirs.

17 Q. And was that one of the main reasons for seeking
18 disassociation from the diocese?

19 A. Yes.

20 Q. Did the vestry decide to take action regarding this?

21 A. It did.

22 Q. And what did it do?

23 A. March 10th, 2010, at a vestry meeting three resolutions
24 were passed.

25 Q. Will you direct your attention to Exhibit 15.

1 A. Which one?

2 Q. 15.

3 A. 15?

4 Q. Yes, sir.

5 A. This is the vestry meeting minutes of the meeting on
6 March 10, 2010.

7 Q. And can you tell me what the resolutions were in that?

8 A. One was to approve a plan of merger with St. Mary's
9 Church in Goose Creek to send the amended and restated
10 corporation bylaws to the congregation to approve and to
11 change the certificate of incorporation, changing the name
12 and changing the purpose.

13 Q. Can you tell me a little bit about why you were looking
14 to change the name?

15 A. Well, the original name was the Vestry and Church
16 Wardens of the Episcopal Church in the Parish of St. Andrew's
17 Church, Mount Pleasant. We just changed it simply St.
18 Andrew's Church, Mount Pleasant.

19 Q. Were you known as St. Andrew's Church, Mount Pleasant?

20 A. Yes.

21 Q. Okay. These minutes, the Exhibit 15 we were just
22 looking at, are not signed. Do you know if they came from
23 your archives?

24 A. Yes.

25 Q. They did. Okay.

1 Was this -- was the vestry meeting on March 10, 2010 the
2 only meeting where the change of the bylaws and the change in
3 the name of the corporation were discussed?

4 A. No, there were other meetings subsequent to that.

5 Q. Would you please take a look at Exhibit 17.

6 A. These are the minutes from the first reading of the
7 proposed changes to the bylaws and the corporate charter
8 changes.

9 Q. And were these voted upon by the vestry?

10 A. No. Our bylaws only state that they would be read at
11 one meeting and discussed and read and voted on at the second
12 meeting.

13 Q. Very well. Can you take a look at Exhibit 18.

14 A. These are the vestry minutes from March 28th, 2010.

15 Q. And, again, those come from your archives?

16 A. Yes.

17 Q. And can you tell me what resolutions were discussed at
18 that meeting?

19 A. Resolutions that were discussed and passed were to
20 withdraw from the Episcopal Church and to affiliate with the
21 Anglican Church of North America and to change our vestry
22 meeting times.

23 Q. Do you know if notice was sent -- first of all, let me
24 ask you this: Did you have a special corporate meeting to
25 vote on the changes to the bylaw and the name change?

1 A. We did.

2 Q. And was notice sent to anyone?

3 A. It was sent to the members of the congregation by mail
4 on March 12th.

5 Q. And were you the person that mailed the notices?

6 A. I physically dropped them in the mailbox.

7 Q. And will you look at Exhibit 16.

8 A. 16? This is a notice that was mailed on March 10th.

9 Q. Okay. And the notice identifies the resolutions that
10 were to be voted on, correct?

11 A. It does.

12 Q. Did the meeting occur?

13 A. Yes, it did.

14 Q. Was it recorded?

15 A. It was.

16 Q. Will you look at Exhibit 19.

17 A. This is a record of the minutes of that meeting that
18 day.

19 Q. Did the congregation vote on the amendments to the
20 bylaw?

21 A. Yes, they did.

22 Q. Did the congregation vote on the name change?

23 A. They did.

24 Q. Will you take a look at Exhibit 22.

25 A. This is a report from our certified public accountants

1 reporting the voting of the congregation at that meeting on
2 March 28th.

3 Q. What was the first resolution that they were voting on?

4 A. First resolution was to accept the proposed amended and
5 restated bylaws.

6 Q. How did the -- can you tell us how the congregation
7 voted?

8 A. They voted 669 in favor and 13 opposed.

9 Q. What was the second resolution?

10 A. The second resolution was to approve the changes to the
11 corporate charter.

12 Q. And how did the congregation vote?

13 A. Same votes, 669 to 13.

14 Q. And what was the third resolution?

15 A. Third resolution, to ratify the vestry's decision to
16 affiliate with the Anglican Church of North America.

17 Q. And how did they --

18 A. They voted 663, opposed 18.

19 Q. Subsequent to that meeting did you make any changes to
20 your corporate documents?

21 A. Well, we -- once we approved the bylaws, we were done
22 with that, we filed those with the Secretary of State.

23 Q. Okay. Let me ask you to look at Exhibit 21.

24 A. 21?

25 Q. Yes.

1 A. This is the Articles of Amendment to our corporate
2 charter.

3 Q. Okay. And how -- what was the purpose of that, of
4 those?

5 A. This is where we officially filed to make the changes in
6 name and purpose.

7 Q. Okay. Can you take a look at Exhibit 23.

8 A. This is a copy of the bylaws that we passed at that
9 March 28th corporate meeting.

10 Q. Can you point me to the changes in those bylaws?

11 A. Section 1 shows the corporate name St. Andrew's Church,
12 Mount Pleasant, definition of membership, an article about
13 the meetings and elections.

14 Q. Now, can you take a look at Exhibit 6.

15 A. This is the amended bylaws that were amended on
16 December 5th, 2004.

17 Q. And will you look at the last page of that exhibit,
18 Article 8.

19 A. Okay.

20 Q. Can you read that?

21 A. No alterations shall take place in these bylaws or any
22 rule adopted unless the same be read and debated at one
23 meeting of the congregation and debated and accepted at
24 another by a majority of the members present at each of such
25 meetings respectively.

1 Q. Is that why you called the congregational meeting, to
2 adopt the changes to the bylaws?

3 A. Yes.

4 Q. I'm going to -- I want you to look at Exhibit No. 2.

5 A. This is a copy of the original bylaws from 1954.

6 Q. Can you tell me if these bylaws contain an accession
7 clause?

8 A. They do not.

9 Q. To the Diocese of South Carolina?

10 A. They do not.

11 Q. To the national church?

12 A. They do not.

13 Q. How about Exhibit 4?

14 A. These are the amended bylaws from 1996.

15 Q. Can you tell me if there's an accession clause in those
16 to the diocese?

17 A. There is not.

18 Q. To the national church?

19 A. There is not.

20 Q. How about in Exhibit No. 6?

21 A. Number?

22 Q. 6.

23 A. There is not.

24 Q. There is no accession clause to the diocese, correct?

25 A. Never have been in any of our documents.

1 Q. Are you aware of any funds received by St. Andrew's from
2 the national church?

3 A. I am not.

4 Q. Has SAMP given to the national church any funds?

5 A. No.

6 Q. Has SAMP ever instructed the diocese not to give their
7 funds to the national church?

8 A. Yes.

9 Q. Do you know about when that occurred?

10 A. That was in October of 1997.

11 Q. Does St. Andrew's, Mount Pleasant have any ongoing
12 relationship with the national church?

13 A. No.

14 Q. Is St. Andrew's, Mount Pleasant a member of the
15 plaintiff Diocese of South Carolina?

16 A. No.

17 Q. Is St. Andrew's, Mount Pleasant a member of the
18 defendant unincorporated --

19 MR. TISDALE: Association.

20 Q. -- association in South Carolina?

21 A. No.

22 Q. Is St. Andrew's, Mount Pleasant a member of the national
23 church?

24 A. No.

25 Q. Does the national church have any power over how

1 St. Andrew's conducts its business?

2 A. No.

3 Q. Has the national -- does the national church have any
4 rights over St. Andrew's, Mount Pleasant or St. Andrew's
5 Mount Pleasant Land?

6 MS. KOSTEL: Objection, Your Honor. These are questions
7 of law.

8 THE COURT: Sustained.

9 MS. JOHNSON: All right. I think that's all the
10 questions I have.

11 THE COURT: All right.

12 MS. JOHNSON: If you'd give me just one minute.

13 THE COURT: Certainly, certainly.

14 MS. JOHNSON: Okay.

15 THE COURT: Anyone else on behalf of the plaintiffs have
16 any questions?

17 All right. Ms. Kostel.

18 CROSS-EXAMINATION BY MS. KOSTEL:

19 Q. Good afternoon, Mr. Middleton.

20 A. Good afternoon.

21 Q. Just a couple of questions about your testimony.

22 I believe that you testified that the parish -- the St.
23 Andrew's, Mount Pleasant never made any kind of accession to
24 the Episcopal Church; is that correct?

25 A. That's correct.

1 Q. The parish came into union with the diocese in 1954,
2 correct?

3 A. I assume so. I have no knowledge of that, how that
4 happened.

5 Q. That's when it became a parish of the diocese. I think
6 you testified to that, right?

7 A. Correct.

8 Q. And are you aware that in 1954 Article 8 of the diocesan
9 constitution required new parishes to give evidence, let's
10 see, of their willingness to conform to the constitution and
11 canons of the general convention?

12 A. I'm not aware of that.

13 Q. I think you've also stated that you are not aware of any
14 assistance that St. Andrew's, Mount Pleasant has ever
15 received from the Episcopal Church; is that correct?

16 A. That's correct.

17 Q. Are you aware of church records indicating that St.
18 Andrew's, Mount Pleasant received a loan from the Episcopal
19 Church building fund in the amount of \$60,000 in the 1960s,
20 late 1960s?

21 A. No, I'm not aware of that.

22 Q. And you wouldn't be aware of the terms of that loan,
23 would you?

24 A. No.

25 Q. Or whether it would be more favorable than a loan that

1 St. Andrew's, Mount Pleasant might receive from a commercial
2 bank?

3 A. I have no idea.

4 Q. Right. Thank you.

5 Now, St. Andrew's, Mount Pleasant, you testified that's
6 the name that the parish uses, correct?

7 A. That's correct.

8 Q. But the word Episcopal appears on some signs at the
9 church; is that right?

10 A. That's -- not to my knowledge.

11 Q. There's not a sign to the right of the front door that
12 has the word Episcopal on it?

13 A. Well, there is -- there is a very old sign, I don't know
14 how long it's been there, that does have the word Episcopal
15 on it, yes.

16 Q. In the front yard of the church is there a sign that has
17 the word Episcopal on it?

18 A. There's another sign as traffic approaches the church
19 that says St. Andrew's Church, Mount Pleasant.

20 Q. But how about in the front yard of the church, is there
21 a sign?

22 A. There's that one sign on the corner that I just talked
23 about.

24 Q. And it has the word Episcopal on it?

25 A. Yes.

1 Q. And so when people from the community are approaching
2 the church, they see the word Episcopal in front of your
3 church?

4 A. You can barely read that sign.

5 Q. But it's there?

6 A. It's there.

7 Q. Does your --

8 A. Historic marker.

9 Q. Does the -- noting and marking that the parish was
10 historically part of the Episcopal Church, correct?

11 A. I'm sorry?

12 Q. You said it was a historical marker, and that history
13 that it's marking is that the parish was part of the
14 Episcopal Church, correct?

15 A. Part of the diocese of South Carolina --

16 Q. Which was part of --

17 A. -- part of the church, part of the diocese, which was
18 part of the Episcopal Church at one time.

19 Q. Correct. Since your departure, since the parish's
20 departure from the Episcopal Church, has it received
21 permission to use any of the names of the Episcopal Church?

22 A. I didn't -- we didn't know that permission was required
23 to use them.

24 Q. So the answer's no?

25 A. No.

1 Q. Okay. I believe you testified that the parish decided
2 in March of 2010 to withdraw from the Episcopal Church,
3 correct?

4 A. That's correct.

5 Q. And I think you gave two reasons about that decision for
6 withdrawal. One, I think you stated that the parish was
7 disturbed about what was going on -- I think I have that, a
8 direct quote -- in the national church, and that the parish
9 was also worried about its property; is that correct?

10 A. Our primary focus was to -- yes, that would be correct,
11 I guess. Restate that question, if you don't mind.

12 Q. I believe you stated two reasons for the parish's
13 decision to withdraw from the Episcopal Church.

14 A. When was this?

15 Q. In 2010.

16 A. In June?

17 Q. Sometime in 2010. You testified to it and I wrote down
18 2010.

19 A. I'm sorry?

20 Q. You testified earlier that the parish made a decision to
21 withdraw from the Episcopal Church in 2010.

22 A. Yes.

23 Q. Right.

24 A. Back in March 2010.

25 Q. Yes.

1 A. Yes.

2 Q. And you testified that the reason for that decision --
3 you gave two reasons. One was that the parish was -- I'm
4 quoting, I believe -- was disturbed about what was going on
5 in the national church; and secondly, that the parish was
6 worried about its property.

7 A. That's correct.

8 Q. Now, let's take those each at a time. What was the
9 parish disturbed about what was going on in the national
10 church?

11 MS. GOLDING: I'm going to object to this line of
12 questioning, Your Honor. I think this is going outside of
13 the parameters of this civil action.

14 MS. KOSTEL: Your Honor.

15 THE COURT: Yes.

16 MS. KOSTEL: As Your Honor knows, we believe it's
17 important to establish whether these decisions were based on
18 doctrinal disputes, and we don't need to get into the
19 doctrinal disputes, nor will we ask the Court to resolve the
20 doctrinal disputes, but we believe we're allowed to have
21 evidence elicited to show whether a doctrinal dispute rests
22 at the heart of the dispute that the Court is entertaining.

23 THE COURT: Very well. I think I've already ruled on
24 that, and I think you've elicited from him that there was
25 concerns about -- that they had concerns about what was

1 happening with the national church. You know, if you want to
2 ask him that in general terms, like are you sure or is that
3 really what's going on, but we're not going to get into what
4 it was.

5 MS. KOSTEL: That's fine. I'm just trying to establish
6 what they're concerned about was a doctrinal issue.

7 THE COURT: Just ask him that in general. I think he's
8 already testified to it, but certainly you can ask him.

9 MS. KOSTEL: Well, if he had, I had missed that.

10 THE WITNESS: That would be correct.

11 Q. That it was a doctrinal issue?

12 A. Yes.

13 Q. And you also testified that another reason was that the
14 parish wanted to withdraw because it was worried about what
15 might happen with its property; is that correct?

16 A. Primarily for the doctrinal dispute but also concern for
17 the property as well.

18 Q. Well, let me ask you about the property concern.

19 Now, was the parish -- did the parish have any reason to
20 believe that if it remained in the Episcopal Church, that its
21 property was at risk in any way?

22 A. Well, there's no -- nothing in our documents that gives
23 the national church or the diocese any interest in our
24 property.

25 Q. I understand, but you testified that one of the reasons

1 that the parish decided to withdraw from the Episcopal
2 Church, admittedly not the primary reason, but one of the
3 reasons that the parish decided to withdraw from the
4 Episcopal Church was that it was concerned about protecting
5 its property. And I'm asking you, did the parish have any
6 reason to believe that if it stayed in the Episcopal Church,
7 that its property would be at risk?

8 A. We didn't speculate on that.

9 Q. But you felt that it was necessary to withdraw from the
10 church to protect your property?

11 A. In an attempt to be sure that down the road, as we were
12 hoping to grow the church and build new facilities, that we
13 would have clear title to our property.

14 Q. You had no reason to believe that you wouldn't have
15 clear title if you remained in the Episcopal Church.

16 A. We didn't know.

17 MS. KOSTEL: Thank you. No further questions.

18 THE COURT: Mr. Tisdale.

19 MR. TISDALE: Bear with me just one second, Your Honor.

20 THE COURT: Sure.

21 MR. TISDALE: No questions.

22 THE COURT: All right. Redirect.

23 MS. JOHNSON: No, Your Honor. Thank you.

24 THE COURT: Thank you. You may come down. All right.

25 Call your next witness.

1 THOMAS J. HENDRICKSON,

2 being first duly sworn, testified as follows:

3 THE COURT: And would you please state your full name
4 for the record, sir.

5 THE WITNESS: Thomas J. Hendrickson.

6 THE COURT: I'm going to ask you to spell your last
7 name.

8 THE WITNESS: H-E-N-D-R-I-C-K-S-O-N.

9 THE COURT: Your witness, Mr. Platte.

10 MR. PLATTE: Thank you, Your Honor.

11 (Plaintiff's Exhibits E-1 through E-9 premarked for
12 identification.)

13 DIRECT EXAMINATION BY MR. PLATTE:

14 Q. Mr. Hendrickson, where do you live?

15 A. Hilton Head Island.

16 Q. How long have you lived in South Carolina?

17 A. Eight years.

18 Q. What do you do for a living?

19 A. I'm a rector.

20 Q. Where are you a rector at?

21 A. At Historic Epiphany Church in Eutawville, South
22 Carolina.

23 Q. How long have you been a rector at Church of the
24 Epiphany?

25 A. Three years.

1 Q. Were you at any other church before?

2 A. Yes. I was a priest at St. Luke's Church on Hilton Head
3 Island.

4 Q. What are your roles as a rector at Church of the
5 Epiphany?

6 A. I lead the worship and I act as president of the board
7 for the vestry.

8 Q. In this role have you come to learn the history of the
9 Historical Church of the Epiphany, St. John's, Berkeley?

10 A. Yes.

11 Q. How large is Church of the Epiphany?

12 A. Our average Sunday attendance last year was 62 people.

13 Q. Do you know when Church of the Epiphany started?

14 A. 1804 is our earliest date that we have.

15 Q. I direct your attention to what's been labeled as
16 Exhibit E-1. Are you familiar with this document?

17 A. Yes, sir.

18 Q. What is the purpose of this document?

19 A. This is a certificate of incorporation to incorporate
20 the church.

21 Q. And when was the certificate of incorporation -- since
22 when has the Church of the Epiphany existed as a corporation?

23 A. This is dated 1911.

24 MR. PLATTE: At this time, Your Honor, I move
25 Exhibit E-1 into evidence.

1 THE COURT: Any objection?

2 MR. TISDALE: No objection.

3 MS. KOSTEL: No objection.

4 MR. TISDALE: Can't read it, but other than that.

5 THE COURT: E-1 in evidence without objection.

6 (Plaintiff's Exhibit E-1 admitted into evidence.)

7 Q. Since 1911 has Church of the Epiphany carried on its
8 religious purposes?

9 A. Yes.

10 Q. And as you mentioned before, does this corporation have
11 a board of directors?

12 A. Yes, sir.

13 Q. And what is that board of directors called?

14 A. It's called the vestry.

15 Q. Does the corporation have officers?

16 A. Yes, sir.

17 Q. And what are those officers?

18 A. That would be the president of the board or the rector,
19 the priest in charge, it would be the senior warden, the
20 junior warden and treasurer.

21 Q. Does Church of the Epiphany own any real estate?

22 A. Yes, sir.

23 Q. Can you describe the property that Church of the
24 Epiphany owns?

25 A. Yes, sir. We have approximately nine acres, six acres

1 on the north side of Highway 45 and three acres on the south
2 side.

3 Q. I direct your attention to what's been premarked as
4 Exhibit E-9. Is that an accurate representation of the real
5 property that Church of the Epiphany owns?

6 A. Yes, sir.

7 MR. PLATTE: At this time I move Exhibit E-9 into
8 evidence.

9 THE COURT: Any objection?

10 MR. TISDALE: So long as he testifies to it, it says a
11 summary of real estate, we don't have any objection to it.

12 MR. PLATTE: I represent that in the summary of real
13 estate there's a number of deeds and other public records of
14 ownership of property by Church of the Epiphany.

15 THE COURT: As backup information with regards to the
16 summary?

17 MR. PLATTE: Yes.

18 THE COURT: All right. Very well.

19 MR. TISDALE: Thank you.

20 THE COURT: It's admitted.

21 (Plaintiff's Exhibit E-9 admitted into evidence.)

22 Q. And this exhibit, E-9, it is a summary but also includes
23 real property deeds that accurately describe the real
24 property the Church of the Epiphany owns?

25 A. Yes, sir.

1 Q. I'm going to ask you to turn to Exhibit E-2. Are you
2 familiar with this document?

3 A. Yes, sir.

4 Q. Can you describe what this document is?

5 A. This is a quitclaim deed.

6 Q. And what is the purpose of the quitclaim deed?

7 A. To affirm our understanding that the Diocese of South
8 Carolina did not have interest in our property and that the
9 wardens and vestry of Church of the Epiphany hold the
10 property in trust for the church.

11 Q. Did you ask for it?

12 A. No, sir.

13 MR. PLATTE: At this time I move Exhibit E-2 into
14 evidence.

15 THE COURT: Any objection?

16 MR. TISDALE: Just one second, Your Honor.

17 THE COURT: All right.

18 MR. TISDALE: No objection, Your Honor.

19 MS. KOSTEL: No objection.

20 THE COURT: Very well. E-2 is in evidence without
21 objection. You may proceed.

22 (Plaintiff's Exhibit E-2 admitted into evidence.)

23 Q. Does Church of the Epiphany have bylaws?

24 A. Yes, sir.

25 Q. What is required to amend those bylaws?

1 A. A two-thirds vote of the vestry, and they have to be
2 read at a prior meeting.

3 Q. When did Epiphany change its bylaws in 2012?

4 A. It was in -- I believe we changed them twice, once in
5 March and once in June.

6 Q. Let's talk about the March meeting. What's your normal
7 course of business in terms of announcing vestry meetings?

8 A. Our vestry meeting is normally the second Thursday of
9 the month, and it's published in our calendar on our website
10 and in the handout materials that we -- our bulletin, our
11 Sunday morning bulletin, and I make announcements from the
12 front of the church before the church service begins.

13 Q. At the March 8th, 2012 meeting, were you present at that
14 vestry meeting?

15 A. Yes, sir.

16 Q. Was a quorum present?

17 A. Yes, sir.

18 Q. What happened at the March 8, 2012 meeting regarding the
19 bylaws?

20 A. We amended our bylaws.

21 Q. And there was a vote to amend those?

22 A. Yes, sir.

23 Q. And what was the result of that vote?

24 A. Unanimous.

25 Q. At that time did the bylaws have any provision that

1 required an approval of the bishop of the Diocese of South
2 Carolina?

3 A. Yes, sir.

4 Q. Was that provision removed at the March 8th meeting?
5 And I direct your attention to what has been premarked as
6 Exhibit E-4B.

7 MR. TISDALE: E what?

8 MR. PLATTE: 4B.

9 MR. TISDALE: E-4B.

10 Q. Specifically Article 7.

11 A. Article 7?

12 Q. It would have been the last page in --

13 A. I see Article 12.

14 Q. Oh, Article 12, yes. That would be an X not a V.

15 A. Yes, sir, there does -- any amendments, yes, we changed
16 that. We removed it then.

17 Q. So during the March 8 meeting part of the bylaw changes
18 was to remove the need for approval?

19 A. Yes, sir.

20 Q. And in making this vote did you request approval from
21 the bishop of the Diocese of South Carolina pursuant to the
22 prior bylaws that were in effect at the time?

23 A. Spoke to Canon Jim Lewis in the bishop's office and
24 discussed it with him.

25 Q. I'd ask that you take another look at Exhibit 4B and ask

1 if you recognize that document?

2 A. 4B, yes, sir.

3 Q. Is this an accurate representation of the bylaws that
4 were amended at that meeting?

5 A. Yes, sir.

6 Q. And were the bylaws passed by the required two-thirds
7 majority vote at the March 8th meeting?

8 A. Yes, sir.

9 Q. And obviously you did seek permission from the bishop of
10 the diocese to amend those bylaws, correct?

11 A. As I said, through the canon.

12 MR. PLATTE: At this time I move to admit Exhibit 4B
13 into evidence.

14 THE COURT: Any objection?

15 MR. TISDALE: No objection.

16 MS. KOSTEL: No objection, Your Honor.

17 THE COURT: Very well. 4B is in evidence without
18 objection.

19 (Plaintiff's Exhibit 4B admitted into evidence.)

20 Q. The next meeting where bylaws were changed were in June,
21 June 14th; is that correct?

22 A. Yes, sir.

23 Q. Did you announce the June vestry meeting and give proper
24 notice?

25 A. Yes, sir.

1 Q. And was there a quorum present at the June 14th meeting?

2 A. Yes, sir.

3 Q. What happened at the June 14th meeting, 2012 meeting?

4 A. The June meeting, we approved our -- the changes to the
5 bylaws.

6 Q. I direct your attention to Exhibit E-4A and ask if you
7 recognize this document.

8 A. Yes, sir.

9 Q. Is this an accurate representation of what happened at
10 the June 14th, 2012 meeting?

11 A. Yes, sir.

12 Q. And did these bylaws pass by the required two-thirds
13 majority vote?

14 A. Yes, sir.

15 Q. And did you have to seek approval of the bishop of the
16 diocese for the amendments for June 14 of 2012?

17 A. Not at this point, no, sir.

18 MR. PLATTE: At this time I move Exhibit E-4A into
19 evidence.

20 THE COURT: E-4, what, A?

21 MR. PLATTE: E-4A, yes, Your Honor.

22 THE COURT: Any objection?

23 MR. TISDALE: Your Honor, while he's pausing a minute,
24 the last page of Article 12 in this document is unreadable.
25 It's been, looks like, redacted but not really, and we'd like

1 a clean copy at his convenience, please.

2 THE COURT: All right.

3 MR. TISDALE: Do you agree to that, Mr. Platte?

4 MR. PLATTE: I will see what we can do.

5 THE COURT: Meanwhile back at the ranch, what's your
6 feeling about E-4A, objection or not?

7 MR. TISDALE: We don't object to it as long as we can
8 get a clean copy of the last page.

9 THE COURT: Okay.

10 MS. KOSTEL: Same conditional non-objection, Your Honor.

11 THE COURT: All right. Yours is obliterated also?

12 MS. KOSTEL: Yes.

13 THE COURT: Let's just pause a minute and have you get
14 another last page, Mr. Platte, if you can pass it along and
15 let them see it. Let's grab the copy.

16 MR. TISDALE: While we're at it, there's another one,
17 Andrew.

18 THE COURT: Mr. Platte, right now just show it to them,
19 the one you have, and then we'll get it for you. But just in
20 terms of whether it's admissible or not, we'll let you look
21 at it and we'll copy it in a few moments. But right now, I
22 want you to see it and see if you have an objection to it.

23 (Attorneys confer.)

24 THE COURT: Did you all have an opportunity at least to
25 look at the last page?

1 MR. TISDALE: No, Your Honor. So what we've agreed to,
2 if you agree, is to let him go ahead. We'll admit it
3 conditionally upon his giving us a clean copy in the
4 morning --

5 THE COURT: That'll be fine.

6 MR. TISDALE: -- and if we have any questions about it,
7 we'll deal with it at that point.

8 THE COURT: It will be conditionally admitted.

9 MR. TISDALE: And we'll deal with it if we somehow need
10 to ask questions about it.

11 THE COURT: Very well. If I don't hear from you all, it
12 will stay admitted. Okay. Great. You may proceed.

13 (Plaintiff's Exhibit E-4A admitted into evidence.)

14 MR. PLATTE: Thank you, Your Honor.

15 Q. Father Hendrickson, I would ask you to turn your
16 attention to what's been premarked as Exhibit E-3. Do you
17 recognize that document?

18 A. Yes, sir.

19 Q. Is this an accurate -- can you describe what that
20 document is?

21 A. The vestry minutes from June 14, 2012.

22 Q. Is that an accurate representation of what happened at
23 that meeting?

24 A. Yes, sir.

25 Q. And at that meeting the bylaws in Exhibit E-4A were

1 passed?

2 A. Yes, sir.

3 MR. PLATTE: At this time I move Exhibit E-3 into
4 evidence.

5 THE COURT: Any objection to E-3?

6 MR. TISDALE: No objection, Your Honor.

7 MS. KOSTEL: No objection.

8 THE COURT: Very well. E-3 is in without objection.

9 (Plaintiff's Exhibit E-3 admitted into evidence.)

10 Q. Did there come a time when you knew that Epiphany and
11 the Diocese of South Carolina had a dispute with the national
12 church?

13 A. Yes, sir.

14 Q. Do you know what that was regarding?

15 A. Property.

16 Q. Did the leadership of the Church of the Epiphany discuss
17 these issues?

18 A. Yes, sir.

19 Q. Did the vestry decide to take any action regarding this
20 matter?

21 A. Decided to reaffirm our affiliation with the Diocese of
22 South Carolina.

23 Q. Was that through a resolution?

24 A. Yes, sir.

25 Q. Do you recall when that resolution was passed?

1 A. It was December of 2012, I believe.

2 Q. Was that at a regularly scheduled vestry meeting?

3 A. Yes.

4 Q. And did you give notice of that regularly scheduled
5 vestry meeting as you do in your normal course?

6 A. Yes, sir.

7 Q. I ask you to turn to what's been premarked as
8 Exhibit E-5. Do you recognize this document?

9 A. Yes, sir.

10 Q. Is this an accurate representation of what happened at
11 the December 13, 2012 vestry meeting?

12 A. Yes, sir.

13 Q. And how did the resolution pass at this vestry meeting?

14 A. Unanimously.

15 Q. And is a copy of the resolution attached to Exhibit E-5?

16 A. Yes, sir.

17 MR. PLATTE: And at this time I move to admit
18 Exhibit E-5 into evidence.

19 THE COURT: Any objection?

20 MR. TISDALE: Your Honor, only conditioned on what we
21 said before because two pages -- let's see. One page in this
22 document, the last four numbers at the bottom of it, 7342, is
23 obliterated, so we'll put it in the same category as the
24 other ones.

25 THE COURT: Very well. Conditionally admitted --

1 MR. TISDALE: Yes.

2 THE COURT: -- with you all having an opportunity to see
3 a clean sheet, and then you'll let me know if there's a
4 concern.

5 MR. TISDALE: And ask questions about it if we need to.

6 THE COURT: Absolutely. Same is true for the national
7 church?

8 MS. KOSTEL: Yes, Your Honor.

9 THE COURT: Very well. E-5 is conditionally admitted.
10 One page with 7342 counsel will take a look at and get you
11 all of the document.

12 (Plaintiff's Exhibit E-5 admitted into evidence.)

13 Q. During that December 2012 meeting did the vestry vote on
14 that resolution?

15 A. Yes, sir.

16 Q. And what was that vote?

17 A. That vote was unanimous.

18 Q. Was there a parish meeting -- when was the next parish
19 meeting scheduled in relation to that December 13th vestry
20 meeting?

21 A. That would have been the following -- it was the
22 following Sunday.

23 Q. And was that a regularly scheduled parish meeting?

24 A. Yes, sir.

25 Q. Did you give notice of that parish meeting in your

1 normal course of business?

2 A. Yes, sir, we published it on our calendar and put it on
3 our bulletin, and I announced it from the front of the
4 building.

5 Q. At the parish meeting were there any resolutions
6 considered?

7 A. This resolution of support for bishop, yes, sir.

8 Q. And I direct your attention to Exhibit E-6. Is this an
9 accurate copy of the resolution that was considered?

10 A. Yes, sir.

11 Q. And were you present at the parish meeting that
12 considered this resolution?

13 A. Yes, sir.

14 Q. And did this resolution pass?

15 A. Yes, sir.

16 Q. And how did it -- what was the vote?

17 A. Unanimous by acclamation.

18 MR. PLATTE: And at this time I move Exhibit E-6 into
19 evidence.

20 MR. TISDALE: Another conditional agreement, Your Honor.
21 There's a last paragraph of this document that's unreadable.

22 THE COURT: Thank you. All right. Conditionally
23 admitted with counsel replacing the last page with one that's
24 clear.

25 MR. TISDALE: And get a chance to ask about it only if

1 necessary.

2 THE COURT: Very well. Same is true for the national
3 church as well?

4 MR. BEERS: Yes, Your Honor.

5 (Plaintiff's Exhibit E-6 admitted into evidence.)

6 MR. PLATTE: I'd be happy to provide him my copy which
7 is legible and they can read it if they would like to use it
8 on cross-examination.

9 THE COURT: That would be great, because they may or may
10 not get there today. Very well.

11 Q. Did Church of the Epiphany take any other actions
12 regarding its -- reaffirming its affiliation with the Diocese
13 of South Carolina after that December parish meeting?

14 A. Nothing, no, sir.

15 Q. Was there a January 2013 vestry meeting to consider
16 changes to the Articles of Incorporation?

17 A. Yes, sir.

18 Q. I direct your attention to Exhibit E-7.

19 A. Yes, sir.

20 Q. Do you recognize this document?

21 A. Yes, sir.

22 Q. Can you describe the document for me, please?

23 A. It's our vestry minutes.

24 Q. And from -- what's the date on those?

25 A. It says January 9th, but that's the wrong date.

1 Q. What is the right date?

2 A. January 10th. It was a Thursday night.

3 Q. Do you normally hold your vestry meetings on Thursday
4 nights?

5 A. Yes, sir.

6 Q. Did you give notice in your normal course of business
7 for the January 10, 2013 vestry meeting?

8 A. Yes, sir.

9 Q. And that was through bulletins and by announcing it at
10 the front of the church?

11 A. Yes, and also, I -- for vestry meetings I email the
12 agenda to the vestry members.

13 Q. Is Exhibit E-7 an accurate representation of what
14 happened at the January 10, 2013 vestry meeting?

15 A. Yes, sir.

16 MR. PLATTE: At this time I move Exhibit E-7 into
17 evidence.

18 THE COURT: Any objection?

19 MR. TISDALE: No objection, Your Honor.

20 MS. KOSTEL: No objection.

21 THE COURT: Very well. E-7 in evidence without
22 objection.

23 (Plaintiff's Exhibit E-7 admitted into evidence.)

24 Q. I direct your attention to what has been premarked as
25 Exhibit E-8. Do you recognize this document?

1 A. Yes, sir.

2 Q. What is this document?

3 A. This is a nonprofit corporation Articles of Amendment.

4 Q. And what does this Articles of Amendment, what did it
5 revise?

6 A. We changed our name to the historic Church of the
7 Epiphany, and we then stated that we were -- the purpose for
8 which we exist was to operate a Christian church.

9 Q. And just turning your attention back to Exhibit E-7, a
10 discussion of E-8 took place at that January 10, 2013 vestry
11 meeting?

12 A. Yes, sir.

13 Q. And was there a vote taken on whether to make this
14 amendment or not?

15 A. Yes, sir.

16 Q. And how did the -- did the vote pass?

17 A. Yes, sir, it approved unanimously.

18 MR. PLATTE: At this time I move Exhibit E-8 into
19 evidence.

20 THE COURT: Any objection?

21 MR. TISDALE: No objection, Your Honor.

22 MS. KOSTEL: No objection.

23 THE COURT: Very well.

24 (Plaintiff's Exhibit E-8 admitted into evidence.)

25 Q. Are you aware of any funds received by Church of the

1 Epiphany from the Episcopal Church?

2 A. No, sir.

3 Q. Any funds received from the Episcopal Church in South
4 Carolina?

5 A. No, sir.

6 Q. Are you aware of any funds that were given by Epiphany
7 to the Episcopal Church?

8 A. No, sir.

9 Q. Any funds given to any related organization of the
10 Episcopal Church as in the United Thank Offering?

11 A. Yes, sir. The United Thank Offering, I recall we
12 supported that.

13 Q. Do you still support the United Thank Offering?

14 A. No, sir.

15 Q. When did you cease your support?

16 A. I think it was 2011, but I'm not sure.

17 Q. Are you aware of any funds given by Church of the
18 Epiphany to the Episcopal Church in South Carolina?

19 A. No, sir.

20 Q. Does the Church of the Epiphany have any ongoing
21 relationships with either the Episcopal Church or the
22 Episcopal Church in South Carolina?

23 A. No, sir.

24 Q. Has Church of the Epiphany sought any approval from the
25 Episcopal Church or the Episcopal Church in South Carolina to

1 amend bylaws?

2 A. No, sir.

3 Q. Do you know if the Church of the Epiphany participated
4 in any fashion with -- in any convention with the Episcopal
5 Church in South Carolina?

6 A. We did not.

7 Q. Has the Church of the Epiphany used the Church of the
8 Epiphany and the Historical Church of the Epiphany, St.
9 John's, Berkeley since its inception?

10 A. Yes, those are the names we use.

11 Q. Has Church of the Epiphany given any permission to
12 either the Episcopal Church or the Episcopal Church in South
13 Carolina to use those names?

14 A. No, sir.

15 Q. Has Church of the Epiphany authorized the Episcopal
16 Church in South Carolina to list it as the parish on the
17 Episcopal Church in South Carolina's website?

18 A. No, sir.

19 Q. Is the Church of the Epiphany a parish in the Episcopal
20 Church in South Carolina?

21 A. No, sir.

22 Q. Has the Church of the Epiphany ever participated in any
23 meeting called by the Episcopal Church in South Carolina?

24 A. No, sir.

25 Q. Has the Church of the Epiphany ever sent delegates to a

1 meeting of the Episcopal Church in South Carolina?

2 A. No, sir.

3 MR. PLATTE: I don't have any more questions. Please
4 answer the questions of other counsel.

5 THE COURT: All right. Counsel, are you able to begin
6 your cross-examination without benefit of the documents that
7 are conditionally admitted? And I guess, Ms. Kostel, I'm
8 looking to you.

9 MS. KOSTEL: I think so, Your Honor.

10 CROSS-EXAMINATION BY MS. KOSTEL:

11 Q. Father Hendrickson, I believe you testified that
12 Epiphany was incorporated in 1911; is that correct?

13 A. Yes, ma'am.

14 Q. But Epiphany was part -- was a parish of the Diocese of
15 South Carolina before that, was it not?

16 A. I'm not sure if it was a parish. It might have been
17 just a mission.

18 Q. Well, if I represent to you that in the diocesan journal
19 it's reflected as a parish since 1864, would you accept that?

20 A. Yes, ma'am.

21 Q. And if I also represented to you that in 1864 Article 12
22 of the Constitution of the Diocese of South Carolina required
23 a parish to prove their willingness, and I'm quoting now,
24 their "willingness to conform to the constitution and canons
25 of the general council" would you have any reason to dispute

1 that?

2 A. No, ma'am.

3 Q. Now, you stated in your testimony a moment ago that the
4 reason that Epiphany decided to withdraw from the Episcopal
5 Church was concern about property?

6 A. Yes, ma'am.

7 Q. What was that concern?

8 A. That someone might bring us into an action like this and
9 we might be involved in a litigation about property.

10 Q. And did you have any reason to believe that if Epiphany
11 had not left the Episcopal Church that there would be such an
12 action?

13 A. I believe so, yes, ma'am.

14 Q. Based on what?

15 A. Action that -- public record of news items from other
16 dioceses.

17 Q. Can you point to any instance where the Episcopal Church
18 has been in litigation over property with a parish that has
19 not left the Episcopal Church?

20 A. No, ma'am, I can't.

21 Q. So you're not aware of anything like that?

22 A. Well, I'm aware of lawsuits in places like Pittsburgh
23 and San Joaquin Diocese and Fort Worth and Quincy, but after
24 that, no, ma'am.

25 Q. Those lawsuits all involved instances where parishes

1 were withdrawing from the Episcopal Church, correct?

2 A. I believe so.

3 Q. So can you think of any other reason why Epiphany might
4 have desired to withdraw from the Episcopal Church?

5 A. The theological concerns that we had.

6 Q. Theological concerns with the Episcopal Church?

7 A. Yes, ma'am.

8 Q. Father Hendrickson, you also spoke about the bylaws of
9 the parish and you stated that -- you talked about
10 amendments, I believe in 2012, to the bylaws. Were you
11 familiar with the bylaws before they were amended?

12 A. Yes, ma'am.

13 Q. And so you were aware that, before they were amended,
14 they stated that the purpose of the parish corporation was to
15 maintain a church -- now I'm quoting -- in the Protestant
16 Episcopal Diocese of South Carolina for the public worship of
17 almighty God in accordance with the doctrine and practices of
18 the Protestant Episcopal Church in the United States of
19 America and the Diocese of South Carolina, unquote, correct?

20 A. That's what they say, yes.

21 Q. And you're aware that those were adopted in 2002,
22 correct?

23 A. Yes, ma'am.

24 Q. Now, I believe you also testified that you were not --
25 you're not aware of any financial assistance that Epiphany

1 ever received from the Episcopal Church; is that correct?

2 A. That's correct.

3 Q. And so you're not aware that in 1866 and in 1868 the
4 parish received assistance to its clergy during -- to help
5 the clergy during difficult times from the national church,
6 are you?

7 A. No, I am not.

8 Q. But you have no reason to believe that's not true, do
9 you?

10 A. You tell me. I have no way of checking that, no, ma'am.

11 Q. And Epiphany has held itself out as an Episcopal Church
12 to the local community since as recently as 2005, hasn't it?

13 A. Yes, ma'am.

14 Q. And it used the Episcopal Church shield on its sign and
15 print materials as recently as 2005, did it not?

16 A. Yes, ma'am.

17 Q. Has that completely ceased since 2012?

18 A. Yes, ma'am.

19 MS. KOSTEL: I have no further questions.

20 THE WITNESS: Thank you.

21 THE COURT: All right. Mr. Tisdale.

22 CROSS-EXAMINATION BY MR. TISDALE:

23 Q. Father Hendrickson, just a few questions.

24 Does the Church of the Epiphany have any signs on its
25 property now that identify -- that use the word Episcopal?

1 A. Not that I'm aware of, sir, no, sir.

2 Q. Not that you're aware of.

3 And are you a priest in the Episcopal Church currently?

4 A. I'm a priest in the Diocese of South Carolina.

5 Q. But not in the Episcopal Church.

6 A. That's correct.

7 Q. Were you a priest in the Episcopal Church?

8 A. I was a -- prior to being in South Carolina I was a
9 priest in the Diocese of Pittsburgh.

10 Q. Is that the Episcopal Church?

11 A. I'm not sure legally if it was or not. I'd have to --
12 yes, sir.

13 Q. Well, aside from Pittsburgh, have you been a priest in
14 an Episcopal Church?

15 A. No, sir.

16 Q. You have not.

17 So you became a priest in the Diocese of Pittsburgh
18 when?

19 A. 2005.

20 Q. And can you tell me whether that diocese, Pittsburgh,
21 was in union with the Episcopal Church?

22 A. In 2005 it was.

23 Q. When did it cease, if it did?

24 A. I'm not sure.

25 Q. Now, when did you become something other than a priest

1 in the Episcopal Church? When did you depart the Episcopal
2 Church?

3 A. When I retired in 2012.

4 Q. And you left the Episcopal Church voluntarily on your
5 own free will, did you not?

6 A. Yes, sir. Yes.

7 Q. Nothing to stop you from doing that if you wanted to,
8 right?

9 A. I understand that, yes, sir.

10 Q. And you did that?

11 A. Yes, sir.

12 Q. Now, Father Hendrickson, would the same be true of lay
13 people who are members in the Episcopal Church or parishes in
14 the Episcopal Church, can they leave and stop being
15 Episcopalians any time they wish to, individually?

16 A. I believe so.

17 Q. Have you ever heard otherwise?

18 A. No, sir.

19 Q. Are you currently receiving pension payments from the
20 church pension fund of the Episcopal Church?

21 A. Yes, sir.

22 Q. And when did you begin receiving those pension payments?

23 A. January of 2013.

24 Q. And you receive them now today?

25 A. Yes, sir.

1 MR. TISDALE: No further questions, Your Honor.

2 THE COURT: All right. Redirect or other plaintiff
3 examination?

4 MR. PLATTE: Beg your indulgence, Your Honor.

5 THE COURT: Sure.

6 MR. RUNYAN: Father Hendrickson, just a couple of
7 questions.

8 EXAMINATION BY MR. RUNYAN:

9 Q. Ms. Kostel asked you a question about the general
10 council in 1864 and the joining of the parish at that time.
11 Do you recall those questions?

12 A. Yes, sir.

13 Q. Do you know if the Diocese of South Carolina was even in
14 union with the Episcopal Church of the United States of
15 America in 1864?

16 A. No, sir, I don't.

17 MR. RUNYAN: Thank you, sir.

18 THE COURT: Anything further? Any redirect, anything
19 further?

20 MR. PLATTE: No, Your Honor.

21 THE COURT: All right. Recross.

22 MR. TISDALE: None, Your Honor.

23 MS. KOSTEL: Nothing. Thank you.

24 THE COURT: Very well. You may come down.

25 It's four minutes till 5:00. That's going to conclude

1 the work that we're going to do for today. And, Mr. Platte,
2 if you would just please get with counsel just to be
3 absolutely clear about the documents that they are looking
4 for.

5 MR. PLATTE: I've handed them my copy.

6 THE COURT: Okay. Very well. Now, we will begin in the
7 morning at 9:30. Anything from the plaintiffs before we
8 conclude for this evening?

9 MS. GOLDING: Your Honor, just as a matter of making
10 things flow a little smoother, the next parish that will be
11 testifying, the first one tomorrow morning, will be
12 St. Luke's Hilton Head, and I will be providing the
13 defendants copies of the exhibits that we plan to introduce,
14 which they've already had, so they can review them tonight or
15 tomorrow morning. And I would ask if there's any other
16 parish attorneys that want to provide the exhibits, I think
17 that would be the best, if we could, Your Honor.

18 THE COURT: It would be best.

19 MS. DURANT: Your Honor, Church of the Holy Comforter
20 has a set similar to what Ms. Golding has we'd be happy to
21 give copies of.

22 THE COURT: And tell me your name.

23 MS. DURANT: Bess Durant with Sowell Gray, Your Honor.

24 THE COURT: Of course. And have you given a copy of
25 documents?

1 MS. DURANT: I will do that right after we adjourn,
2 Your Honor.

3 MR. TISDALE: Hold off until in the morning, because we
4 can't possibly review them until in the morning.

5 MS. KOSTEL: I would like them this evening if they have
6 documents now.

7 THE COURT: Ms. Kostel says she's good to go, bring it
8 on. Mr. Tisdale, on the other hand --

9 MR. HOLMES: If Mr. Gaillard could be kept from making a
10 sixth edition of his documents.

11 MR. PHILLIPS: I'm Mark Phillips from Nelson Mullins on
12 behalf of St. Philip's Church. My chancellor, as Mr. Holmes
13 knows, is his former law partner, Foster Gaillard, who's
14 really wearing me out. But our parish witness is
15 Myron Harrington who was deposed Monday like many of the
16 other representatives were. He has gone out of town, with
17 our blessing, today to attend a wedding. I talked to
18 Mr. Tisdale, and in the event that the entire plaintiff's
19 case in chief is concluded before the end of business Friday,
20 they've agreed graciously to allow Mr. Harrington to testify
21 out of turn first thing Monday. I didn't ask Allan, but I
22 know he'll --

23 THE COURT: If he promises not to give Mr. Holmes any
24 other renditions of documents. He's complaining that he's
25 only had six.

1 MR. PHILLIPS: I'm going to bring them my documents way
2 before the weekend.

3 THE COURT: Very well. So if you have documents,
4 Ms. Kostel says she would like them this evening. Please
5 give them to her. And the reason for that is obviously it
6 speeds things along. If she's willing to do that, that's
7 terrific. And she may even, I don't know, whisper to
8 Mr. Tisdale her opinion and it might carry a little weight.

9 MR. TISDALE: That's what we expect.

10 MR. BEERS: Your Honor, of equal importance, I wonder if
11 we might have the -- don't have to be in order, but the names
12 of the next six that are coming up.

13 MR. TISDALE: That would be helpful.

14 THE COURT: Suits me.

15 MS. GOLDING: I do know that St. Luke's Hilton Head is
16 first tomorrow morning.

17 THE COURT: Here's what we're going to do, I'll get the
18 lineup. St. Luke's is going to be first.

19 MR. PLATTE: Your Honor, I'll provide the defendants
20 with a list of --

21 THE COURT: You'll give them that list?

22 MR. PLATTE: -- the parishes that will go in the morning
23 and then also hopefully by the afternoon.

24 THE COURT: That would be awesome. Before you all leave
25 this evening Mr. Platte will give you a list. Is that okay?

1 MR. BEERS: Yes.

2 THE COURT: And, Ms. Kostel, they will give you the
3 documents and give you that opportunity.

4 MS. KOSTEL: Thank you.

5 --- END OF TRANSCRIPT OF RECORD ---

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1 CERTIFICATE OF REPORTER

2 STATE OF SOUTH CAROLINA

3 COUNTY OF DORCHESTER

4

5 I, the undersigned Ruth L. Mott, Official Court Reporter
6 for the State of South Carolina, do hereby certify that the
7 foregoing is a true, accurate and complete transcript of
8 record of all the proceedings had and evidence introduced in
9 the matter of the above-captioned case, relative to appeal,
10 in the First Judicial Circuit Court for Dorchester County,
11 South Carolina, on the 9th of July, 2014.

12 I further certify that I am neither related to nor
13 counsel for any party to the cause pending or interested in
14 the events thereof.

15 August 5, 2014

16

17

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Ruth L. Mott, RPR, CRR
Official Court Reporter

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VOLUME III

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

COURT OF COMMON PLEAS
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.,)

PLAINTIFFS,)

vs.)

TRANSCRIPT OF RECORD

THE EPISCOPAL CHURCH, (A/K/A)
THE PROTESTANT EPISCOPAL)
CHURCH IN THE UNITED STATES)
OF AMERICA); THE EPISCOPAL)
CHURCH IN SOUTH CAROLINA,)

DEFENDANTS.)

JULY 10, 2014
ST. GEORGE, SC

B E F O R E:

HONORABLE DIANE S. GOODSTEIN

Ruth L. Mott, RPR, CRR
Official Court Reporter

I N D E X

	WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
4	BEVERLY CARLSON CONNER				
	MS. GOLDING	447		464	
5	MR. TISDALE		453		465
	MS. KOSTEL		460		479
6	ALONSO MENDIETA GALVAN				
7	MR. MARVEL	481		515	
	MS. KOSTEL		499		
8	MR. TISDALE		505		
9	JOHN ACKEN				
	MS. DURANT	517			
10	MS. KOSTEL		557		
	MR. TISDALE		573		
11	JUDY CASPER MCMEEKIN				
12	MR. BRYAN	582			
	MS. KOSTEL		611, 623		
13	MR. TISDALE		613		
14	JULIUS P. THOMPSON, III				
	MR. HORGER	625		654	
15	MS. KOSTEL		643		
	MR. TISDALE		650		
16	ALLIE PATTERSON WALKER				
17	MR. ORR	656			
	MR. BEERS		673		
18	MR. TISDALE		677		
19	CERTIFICATE OF REPORTER	682			

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1 E X H I B I T S

2	NO.	DESCRIPTION	ID	EVD
	SL-1	CERTIFICATE OF INCORPORATION	446	447
3	SL-2	DEED DATED SEPTEMBER 9, 1970	446	447
	SL-3	LIMITED WARRANTY DEED DATED	446	447
4		JUNE 11, 1993		
	SL-4	DEED DATED JUNE 6, 1996	446	447
5	SL-5	ST. LUKE'S BYLAWS AMENDED	446	447
		DECEMBER 7, 1973		
6	SL-6	ST. LUKE'S BYLAWS REVISED	446	447
		NOVEMBER 2000 AND RETYPED FROM		
7		THE ORIGINAL DECEMBER 20, 2000		
	SL-7	ST. LUKE'S BYLAWS REVISED	446	447
8		JANUARY, 2009		
	SL-8	MINUTES OF SPECIAL VESTRY	446	447
9		MEETING HELD ON NOVEMBER 17,		
		2009		
10	SL-9	RESOLUTIONS PASSED ON NOVEMBER	446	447
		17, 2009		
11	SL-10	RESTATED AND AMENDED BYLAWS	446	447
	SL-11	MINUTES OF DECEMBER 1, 2009	446	447
12		SPECIAL MEETING		
	SL-12	ARTICLES OF AMENDMENT	446	447
13	SL-13	NOTICE OF NAME CHANGE RECORDED	446	447
		WITH THE BEAUFORT COUNTY		
14		REGISTER OF DEEDS OFFICE ON		
		FEBRUARY 16, 2010		
15	SL-14	NOTICE OF CONVEYANCE DATED	446	447
		NOVEMBER 14, 2012 AND RECORDED		
16		IN THE REGISTER OF DEEDS OFFICE		
		FOR BEAUFORT COUNTY ON NOVEMBER		
17		19, 2012 IN DEED BOOK 03191,		
		PAGES 3232-324		
18	SL-15	DEED DATED DECEMBER 19, 2002	446	447
		AND RECORDED IN THE REGISTER OF		
19		DEEDS OFFICE FOR BEAUFORT		
		COUNTY ON DECEMBER 27, 2002 IN		
20		DEED BOOK 01687,		
		PAGES 0175-0177		
21	SLP-1	1814 ACT INCORPORATING ST.	480	480
		PAUL'S, RADCLIFFEBOROUGH		
22	SLP-2	1858 ACT INCORPORATING	480	480
		ST. LUKE'S, CHARLESTON		
23	SLP-3	MERGER OF ST. LUKE'S INTO ST.	480	480
		PAUL'S		
24	SLP-4	CERTIFICATE OF INCORPORATION OF	480	480
		THE CHURCH OF ST. LUKE &		
25		ST. PAUL, RADCLIFFEBOROUGH		
	SLP-5	DEED FROM LUCRETIA RADCLIFFE	480	480

1	NO.	DESCRIPTION	ID	EVD
	SLP-6	DEED FROM WILLIAM WIGHTMAN	480	480
2	SLP-7	DEED FROM UNINCORPORATED ASSOCIATION TO CORPORATION	480	480
3	SLP-8	DEED FOR 131 & 133 COMING ST.	480	480
	SLP-9	QUIT CLAIM FROM DIOCESE	480	480
4	SLP-10	QUIT CLAIM FROM BISHOP AND STANDING COMMITTEE	480	480
5	SLP-11	CORPORATE BY-LAWS AMENDED MARCH 2011	480	480
6	SLP-12	CORPORATE BY-LAWS AMENDED SEPTEMBER 2012	480	480
7	SLP-13	MINUTES OF 2012 ANNUAL MEETING JANUARY 29, 2012	480	480
8	SLP-14	MINUTES OF 2012 SPECIAL MEETING SEPTEMBER 9, 2012	480	480
9	SLP-15	RESOLUTION FOR COMMITMENT TO CONTINUED DIOCESAN RELATIONSHIP	480	480
10	SLP-16	LEASE	480	480
	SLP-17	BYLAWS 2/2/14	480	480
11	HC-1	LEGISLATIVE CHARTER FOR CHURCH OF THE HOLY COMFORTER	517	517
12	HC-2	DECEMBER 28, 1998 LIMITED WARRANTY DEED	517	517
13	HC-3	MAY 1, 1903 DEED	517	517
	HC-3A	JUNE 14, 1954 DEED	517	517
14	HC-3B	JULY 1, 1896 DEED	517	517
	HC-3C	JUNE 30, 1896 DEED	517	517
15	HC-4	OCTOBER 17, 2002 TITLE TO REAL ESTATE AND PLAT - PARKING LOT	517	517
16	HC-5	JULY 22, 1996 TITLE TO REAL ESTATE - RECTORY/16 SWAN LAKE	517	517
17	HC-5A	APRIL 20, 2010 CORRECTIVE TITLE TO REAL ESTATE - RECTORY/16 SWAN LAKE	517	517
18	HC-6	FEBRUARY 11, 1993 DEED OF DISTRIBUTION - WHITE OAK	517	517
19	HC-6A	JUNE 17, 1997 DEED - WHITE OAK	517	517
20	HC-7	MINUTES OF JANUARY 13, 2010 VESTRY MEETING	517	517
21	HC-8	RESOLUTION ADOPTED JANUARY 31, 2010	517	517
22	HC-9	NOTICE, DATED JANUARY 14, 2010, OF JANUARY 31, 2010 PARISH MEETING	517	517
23	HC-10	MINUTES OF JANUARY 31, 2010 PARISH MEETING	517	517
24	HC-11	RESOLUTION 3 ADOPTED AT NOVEMBER 21, 2010 PARISH MEETING	517	517
25				

	NO.	DESCRIPTION	ID	EVD
1	HC-12	MINUTES OF OCTOBER 26, 2010	517	517
2		VESTRY MEETING		
3	HC-13	RESOLUTION 4 ADOPTED AT	517	517
		NOVEMBER 21, 2010 PARISH		
		MEETING		
4	HC-14	NOTICE, DATED NOVEMBER 3, 2010,	517	517
		OF NOVEMBER 21, 2010 PARISH		
		MEETING		
5	HC-15	MINUTES OF NOVEMBER 21, 2010	517	517
6		PARISH MEETING		
7	HC-16	RESOLUTION PASSED BY VESTRY ON	517	517
		OCTOBER 23, 2012		
8	HC-17	MINUTES OF OCTOBER 23, 2012	517	517
		VESTRY MEETING		
9	HC-18	RESOLUTION CONSIDERED AND	517	517
		ADOPTED AT NOVEMBER 4, 2012		
		PARISH MEETING		
10	HC-19	NOTICE OF NOVEMBER 4, 2012	517	517
		SPECIAL PARISH MEETING		
11	HC-20	MINUTES OF NOVEMBER 4, 2012	517	517
		SPECIAL MEETING		
12	HC-21	MINUTES OF DECEMBER 18, 2012	517	517
		VESTRY MEETING		
13	HC-22	NOTICE, DATED JANUARY 10, 2013,	517	517
		OF JANUARY 27, 2013 PARISH		
		MEETING		
14	HC-23	MINUTES OF JANUARY 27, 2013	517	517
15		PARISH MEETING		
16	HC-24	CURRENT CONSTITUTION OF	517	517
		HOLY COMFORTER, AS AMENDED		
17	HC-25	QUITCLAIM DEED, RECORDED	517	517
		NOVEMBER 16, 2011		
18	HC-26	1989 CONSTITUTION OF	517	517
		HOLY COMFORTER, AS AMENDED		
19	HC-27	2010 CONSTITUTION OF	517	517
		HOLY COMFORTER, AS AMENDED		
20	RS-1	CERTIFICATE OF INCORPORATION	582	582
	RS-6	DEED FROM GAUL TO RESURRECTION	582	582
	RS-7	DEED FROM RAMSEY TO	582	582
21		RESURRECTION		
22	RS-8	MINUTES OF REGULAR VESTRY	582	582
		MEETING ON NOVEMBER 21, 2011		
23	RS-9	MINUTES OF PARISH MEETING ON	582	582
		DECEMBER 18, 2011		
24	RS-10	ARTICLES OF AMENDMENT FILED	582	582
		JANUARY 11, 2012		
25	RS-11	BY-LAWS DATED JANUARY 20, 1983	582	582
	RS-13	MINUTES OF ANNUAL PARISH	582	582
		MEETING OF JANUARY 22, 2012		

	NO.	DESCRIPTION	ID	EVD
1	RS-14	MINUTES OF PARISH MEETING OF	582	582
2		FEBRUARY 19, 2012		
3	RS-15	ARTICLES OF AMENDMENT FILED	582	582
4		FEBRUARY 27, 2012		
5	RS-16	MINUTES OF SPECIAL VESTRY	582	582
6		MEETING OF JANUARY 3, 2013 WITH		
7		COPIES OF RESOLUTIONS		
8	RS-17	MINUTES OF ANNUAL PARISH	582	582
9		MEETING OF JANUARY 13, 2013		
10	RS-18	BY-LAWS ADOPTED JANUARY 13,	582	582
11		2013		
12	RS-19	QUITCLAIM DEED FROM THE	582	582
13		PROTESTANT EPISCOPAL CHURCH IN		
14		THE DIOCESE OF SC TO		
15		RESURRECTION		
16	RS-20	QUITCLAIM DEED FROM THE RIGHT	582	582
17		REV. MARK J. LAWRENCE, ET AL TO		
18		RESURRECTION		
19	R-1	CERTIFICATE OF INCORPORATION	624	625
20	R-2	DEED - JAMES N. FOWLES TO	624	625
21		WARDENS, ET AL.		
22	R-3	CHURCH OF REDEEMER TO CHURCH OF	624	625
23		REDEEMER		
24	R-4	DEED - ELVIRA I. LOWMAN	624	625
25	R-5	DEED - THELMA R. SMITH	624	625
26	R-6	QUITCLAIM DEED - RIGHT REV.	624	625
27		MARK J. LAWRENCE		
28	R-7	VARIOUS DEEDS - APPROXIMATELY	624	625
29		50 ACRES		
30	R-8	NOTICE OF JANUARY 23, 2011	624	625
31		ANNUAL PARISH MEETING		
32	R-9	MINUTES JANUARY 23, 2011 ANNUAL	624	625
33		PARISH MEETING		
34	R-10	MINUTES OF VESTRY MEETING	624	625
35		DECEMBER 18, 2011		
36	R-11	NOTICE OF JANUARY 22, 2012	624	625
37		ANNUAL PARISH MEETING		
38	R-12	MINUTES OF ANNUAL PARISH	624	625
39		MEETING JANUARY 22, 2012		
40	R-13	RESTATED ARTICLES OF	624	625
41		INCORPORATION		
42	R-14	MINUTES OF SPECIAL CALLED	624	625
43		VESTRY MEETING DECEMBER 23, 2012		
44	R-15	COMMITMENT TO CONTINUED	624	625
45		DIOCESAN RELATIONSHIP		
46	R-16	NOTICES OF JANUARY 20, 2013 AND	624	625
47		FEBRUARY 17, 2013 PARISH		
48		MEETINGS		

	NO.	DESCRIPTION	ID	EVD
1	R-17	MINUTES OF VESTRY MEETING	624	625
2		JANUARY 13, 2013		
	R-18	MINUTES OF ANNUAL PARISH	624	625
3		MEETING JANUARY 20, 2013		
	R-19	MINUTES OF SPECIAL MEETING	624	625
4		FEBRUARY 17, 2013		
	R-20	ARTICLES OF AMENDMENT	624	625
5	R-21	NOTICE OF SPECIAL CALLED PARISH	624	625
		MEETING OCTOBER 27, 2013		
6	R-22	MINUTES OF VESTRY MEETING	624	625
		OCTOBER 20, 2013		
7	R-23	MINUTES OF SPECIAL CALLED	624	625
		PARISH MEETING OCTOBER 27, 2013		
8	R-24	BYLAWS OF JANUARY 2000	624	625
	R-25	CONSTITUTION AND BYLAWS OF	624	625
9		JANUARY 2012 MARKED AND CLEAN		
		COPIES		
10	R-26	CONSTITUTION AND BYLAWS OF	624	625
		JANUARY 2013		
11	SJF-1	12/3/1875 CHARTER	655	656
	SJF-2	11/26/1915 CERTIFICATE OF	655	656
12		INCORPORATION		
	SJF-3	10/23/1884 DEED	655	656
13	SJF-4	11/16/1889 DEED	655	656
	SJF-5	12/14/1889 DEED	655	656
14	SJF-6	2/21/1919 DEED	655	656
	SJF-7	10/30/1947 DEED	655	656
15	SJF-8	5/18/1965 DEED	655	656
	SJF-9	5/3/1968 DEED	655	656
16	SJF-10	10/8/1991DEED	655	656
	SJF-11	10/30/1991DEED	655	656
17	SJF-12	12/13/1991DEED	655	656
	SJF-13	3/17/1994 DEED	655	656
18	SJF-14	1/21/1997 DEED	655	656
	SJF-15	2/10/2006 DEED	655	656
19	SJF-16	11/11/2010 QUITCLAIM DEED	655	656
	SJF-17	10/21/2010 QUITCLAIM DEED	655	656
20	SJF-18	1/09/2011 MINUTES	655	656
	SJF-19	AMENDED BY-LAWS PASSED AT THE	655	656
21		1/09/2011 ANNUAL CONGREGATIONAL		
		MEETING		
22	SJF-20	1/15/2012 MINUTES	655	656
	SJF-21	12/17/2012 MINUTES	655	656
23	SJF-22	2/12/1891DEED	655	656

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1 THE COURT: All right. Are the plaintiffs ready to
2 proceed?

3 MR. RUNYAN: We are, Your Honor.

4 THE COURT: And then the defendants, everybody ready?
5 Everybody ready? Great.

6 MS. GOLDING: May I present one matter to the Court,
7 Your Honor? About ten minutes ago Mr. Tisdale informed me
8 that he had served one of St. Luke's members with a subpoena
9 yesterday for documents relating to a search committee. I
10 have not seen the subpoena. And as has been, unfortunately,
11 the course of action by this defendant, they have not abided
12 by the South Carolina Rules of Civil Procedure, which
13 requires anytime a subpoena leaves an attorney's office, the
14 other attorneys are to receive that subpoena. Apparently,
15 from what Mr. Tisdale has told me, it was at least prepared
16 by Tuesday, if not earlier, and so Tuesday I should have
17 received the subpoena and have not. I'm going to, of course,
18 object to the subpoena, but I just wanted the Court to be
19 aware that the defendant association continues to be very
20 cavalier about the South Carolina Rules of Civil Procedure
21 and these court orders.

22 Thank you, Your Honor.

23 MR. TISDALE: Your Honor, the subpoena was issued
24 yesterday and it's to be provided to Ms. Golding today -- I
25 mean, this morning.

1 THE COURT: Okay. She still objects.

2 MR. TISDALE: It was yesterday.

3 THE COURT: Okay. I'll deal with it if need be.

4 MS. GOLDING: Thank you, Your Honor.

5 MR. TISDALE: Thank you.

6 THE COURT: As I understand it I'm just at this point
7 notified; there's no motion to quash at this point.

8 MS. GOLDING: I have not even seen the subpoena yet.
9 They still haven't given it to me, even though it, obviously,
10 was sent out at least by Tuesday.

11 THE COURT: Okay.

12 MR. TISDALE: Sent it out yesterday.

13 THE COURT: Okay. All right. Now are we ready to
14 proceed?

15 MR. PLATTE: Your Honor, one small housekeeping matter.
16 We had some issues with documents yesterday. I've gotten
17 clean copies. I've provided them to the defendants, at least
18 for Exhibits 4A -- E-4A, E-5, and E-6, and I'd like to go
19 ahead and swap out clean copies with the Court's.

20 MR. TISDALE: We agree and he has done that.

21 THE COURT: Very well. Once that's done, then the
22 admission of the exhibits conditionally will be removed and
23 they simply will come in as exhibits.

24 MR. TISDALE: We also will be getting a readable copy of
25 the charter?

1 MR. PLATTE: Correct, and also with E-1, the document
2 that was provided was small, we're going to work to get a
3 readable copy and swap that out as well.

4 THE COURT: Very well. Thank you so much.

5 And as I recall, the next parish is?

6 MS. GOLDING: Parish of St. Luke's, Your Honor.

7 THE COURT: Thank you very much.

8 MS. GOLDING: And we will call Ms. Conner to the stand.

9 THE COURT: Very well.

10 MS. GOLDING: And this is St. Luke's in Hilton Head,
11 Your Honor.

12 THE COURT: Yes.

13 (Plaintiff's Exhibits SL-1 through SL-15 premarked for
14 identification.)

15 BEVERLY CARLSON CONNER,
16 being first duly sworn, testified as follows:

17 THE COURT: Your witness.

18 MS. GOLDING: Thank you, Your Honor.

19 Your Honor, it's my understanding that St. Luke's,
20 Hilton Head's exhibits marked 1 through 15 have no objection
21 -- none of the defendants object to these, so we would like
22 to move to introduce St. Luke's Exhibits 1 through 15.

23 THE COURT: Very well. Is that correct?

24 MR. TISDALE: That is correct.

25 MS. KOSTEL: Yes, Your Honor.

1 (Plaintiff's Exhibits SL-1 through SL-15 admitted into
2 evidence.)

3 DIRECT EXAMINATION BY MS. GOLDING:

4 Q. For the record, please state your full name.

5 A. Beverly Carlson Conner.

6 Q. And, Ms. Conner, where do you live?

7 A. In Hilton Head.

8 Q. Okay. And how long have you lived in Hilton Head?

9 A. Hilton Head, about two years.

10 Q. Okay. And how long have you lived in the state of South
11 Carolina?

12 A. 12 years.

13 Q. With respect to St. Luke's, Hilton Head, can you tell us
14 your association with that church?

15 A. I've been a member since September of 2002, and I have
16 been secretary to the finance committee, secretary to the
17 vestry and corporate secretary.

18 Q. And just for our purposes, with respect to St. Luke's
19 Church in Hilton Head, how many members does it currently
20 have?

21 A. At the last meeting I'd say 600-and-some people.

22 Q. And to your knowledge, when was St. Luke's incorporated?

23 A. In 1969.

24 Q. And at that time, did it become a South Carolina
25 nonprofit corporation?

1 A. Yes, it did.

2 Q. Did it exist prior to 1969?

3 A. Yes.

4 Q. Okay. And with respect to the property owned by
5 St. Luke's, can you tell us the property -- describe it just
6 in general, the property, the four pieces of property that's
7 owned by St. Luke's, Hilton Head?

8 A. Three pieces were given to us in '77, I can't remember
9 the date.

10 Q. September 9, 1970?

11 A. Yes, September 9, 1970; June 11, 1993; and June 6th of
12 1996.

13 Q. And look at Exhibit 15, is that also a fourth piece of
14 property?

15 A. Yes, it is.

16 Q. And Exhibits, then, 2, 3, 4, and 15 represent the real
17 property owned by St. Luke's, Hilton Head?

18 A. Yes.

19 Q. Thank you. Now, with respect to St. Luke's bylaws,
20 Exhibit No. 5, are those the bylaws that were existing as of
21 September 7 -- excuse me -- December 7, 1973?

22 A. Yes.

23 Q. Okay. And were those bylaws, then, amended in the
24 calendar year 2000?

25 A. Yes, they were.

1 Q. And the amended are Exhibit No. 6; is that correct?

2 A. Yes.

3 Q. Okay. And then there was another amendment shown on
4 Exhibit 7, and what year was that amendment?

5 A. That was January 2009.

6 Q. Now, at some point in time did St. Luke's, Hilton Head
7 make a decision to further amend its bylaws?

8 A. Yes, it did.

9 Q. Okay. And when did that occur?

10 A. That was in 2009, the end of the year, December.

11 Q. Okay. And did the vestry meet in November of 2009 with
12 respect to amending its bylaws?

13 A. Yes, it did.

14 Q. And can you tell us what the vestry did in November of
15 2009 with respect to amending its bylaws?

16 A. There were resolutions brought up before the vestry and
17 voted on unanimously.

18 Q. Okay. And was there notice of the vestry meeting in
19 November of 2009 with respect to that meeting and the
20 amending of bylaws?

21 A. Yes, there was.

22 Q. And the minutes of the vestry meeting in November 7 --
23 17, reflect the proceedings that occurred with respect to the
24 vestry?

25 A. That's correct.

1 Q. And those minutes are set forth as St. Luke's, Hilton
2 Head Exhibit No. 8; is that correct?

3 A. Yes.

4 Q. Okay. As a result of the vestry unanimously voting to
5 amend its bylaws and amend its articles of incorporation, was
6 there a special congregational meeting held?

7 A. Yes, there was.

8 Q. And when was that special meeting?

9 A. On December 1st, 2009.

10 Q. And tell the Court how the congregants or members of
11 St. Luke's, Hilton Head were notified of that meeting.

12 A. There was a mailing -- and I believe that was part of
13 discovery -- there was a mailing and also our rector talked
14 about it from the pulpit.

15 Q. Okay. And do you recall the date of the mailing that
16 was sent to all the parishioners?

17 A. November 19.

18 Q. And that's 2009?

19 A. Correct.

20 Q. With respect to the special meeting that occurred on
21 December 1, 2009, did you attend that meeting?

22 A. I did.

23 Q. And are the minutes set forth of that meeting, is that
24 Exhibit 11?

25 A. Yes.

1 Q. And can you tell us, what was the vote with respect to
2 the resolutions to amend the bylaws and the -- amend the
3 articles of incorporation?

4 A. On Resolution 1, there were 310 that voted yes and 22
5 no; and Resolution 2, 309 yes and 22 no.

6 Q. And the resolutions, are they set forth as St. Luke's,
7 Hilton Head Exhibit No. 9?

8 A. Yes.

9 Q. As a result of the vote and the resolutions that were
10 passed on December 1, 2009, did St. Luke's, Hilton Head amend
11 its articles of incorporation?

12 A. Yes, it did.

13 Q. Okay. And can you look to Exhibit No. 12, please?

14 A. Yes.

15 Q. Does Exhibit No. 12 reflect the amendments that were
16 made to the articles of incorporation?

17 A. Yes, it does.

18 Q. Okay. And look at the third page of Exhibit 12.
19 Amendment 1, what was the first amendment to the articles of
20 incorporation?

21 A. The name of the corporation has been changed to
22 St. Luke's Church, Hilton Head.

23 Q. And Amendment 2, what was the amendment to the fourth
24 articles of incorporation?

25 A. The fourth article of the certificate of incorporation

1 is deleted in its entirety, and the following new article
2 fourth is inserted in its stead. The purpose of the
3 corporation is to operate as a religious nonprofit
4 corporation or church.

5 Q. And this amendment occurred when?

6 A. In 2010, I believe, beginning of the year.

7 Q. And the second page of Exhibit 12 has the date of what?

8 A. January 7, 2010.

9 Q. And did you sign as the corporate secretary?

10 A. I did.

11 Q. And for what reason did St. Luke's, Hilton Head take
12 these steps to amend its bylaw and its articles of
13 incorporation?

14 A. It was purely a real estate decision. We wanted to
15 protect our property from any outside entity taking claim to
16 any of our real estate.

17 MS. GOLDING: No further questions, Your Honor.

18 THE COURT: All right. Any other questions from
19 plaintiffs? No?

20 Then Ms. Kostel, are you going to begin or Mr. Tisdale.

21 MR. TISDALE: May I go?

22 MS. KOSTEL: Mr. Tisdale's going to go first today, Your
23 Honor.

24 MR. TISDALE: First on this one.

25 THE COURT: That's fine.

1 MR. TISDALE: Thank you, Your Honor.

2 THE COURT: Just keep me apprised.

3 MR. TISDALE: Thank you.

4 CROSS-EXAMINATION BY MR. TISDALE:

5 Q. Ms. Conner, I have a few questions to ask you about the
6 St. Luke's Church of Hilton Head. When did you say it was
7 founded? You talked about incorporation, charter, but when
8 did it actually begin becoming an Episcopal church?

9 A. As far as I know, 1969. I think there was something
10 earlier than that.

11 Q. Have you --

12 A. I'd have to say 1969.

13 Q. Have you studied the history of the parish?

14 A. No, I have not.

15 Q. You have not?

16 A. No.

17 Q. Do you have records within the parish on the history of
18 it and vestry minutes going back to the founding?

19 A. No.

20 Q. You don't have any records?

21 A. I do not, no.

22 Q. You do not know.

23 A. No.

24 Q. And what did you say your position was at the parish, if
25 any?

1 A. Secretary to the finance committee and secretary to the
2 vestry and corporate secretary.

3 Q. All right. So as secretary to the vestry and the other
4 one, and the corporate secretary, you don't have any records
5 available about the founding and the history of the parish?

6 MS. GOLDING: Your Honor, he's asked that. This is the
7 third time she said she does not know.

8 THE COURT: Sustained.

9 MR. TISDALE: Thank you.

10 Q. Who would be privy to those records?

11 MS. GOLDING: Your Honor, she doesn't know if there are
12 records, so I think that's an improper question.

13 MR. TISDALE: I will rephrase it.

14 THE COURT: All right.

15 Q. Whatever records exist regarding the founding and
16 history and operation of the parish since 1969, do you know
17 of anyone who would have the most knowledge about it?

18 A. The parish secretary.

19 Q. And who is that?

20 A. Denise Gildner.

21 Q. Excuse me, would you spell that?

22 A. G-I-L-D-N-E-R.

23 Q. G-I-L-T-N-E-R?

24 A. D, Gildner.

25 Q. What was the first name?

1 A. Denise.

2 Q. Okay. How long has she been at the parish on staff?

3 A. I'm not absolutely sure. I'd say seven, eight, nine
4 years.

5 Q. All right. Now, Ms. Conner, do you know, based upon
6 your knowledge of everything that has happened at the parish
7 in your capacity, whether or not the -- well, first of all,
8 what is the name that the parish goes by?

9 A. St. Luke's Church.

10 Q. Has St. Luke's Church ever received permission from the
11 Episcopal Church to use the name Episcopal?

12 A. No.

13 Q. All right. Does the parish presently have any signage
14 or other evidence of an association to the Episcopal Church
15 at this time?

16 A. No.

17 Q. Has in the last year the parish exhibited a flag of the
18 Episcopal Church in the church?

19 A. No.

20 Q. Has not?

21 A. No.

22 Q. Okay. I think you've testified that the parish is
23 governed by bylaws?

24 A. Yes, it is.

25 Q. Do you know if it has any other governing documents

1 other than the corporate charter?

2 A. No.

3 Q. All right. Ms. Conner, have you personally served as a
4 delegate from the parish to the convention of the diocese of
5 the Episcopal Church in South Carolina -- excuse me, let
6 me -- I was mixing the names up.

7 Since you have been associated with the parish, which I
8 think you said in 2002 --

9 A. Mm-hmm, yes.

10 Q. -- have you served as a delegate to any conventions of
11 any diocese?

12 A. No, I have not.

13 Q. All right. Do you have with you today or access to the
14 names of people who have served in that capacity?

15 A. No, I do not.

16 Q. Okay. Do you know whether any person at St. Luke's
17 Church has served as a deputy to the general convention of
18 the Episcopal Church?

19 A. No, I do not.

20 Q. Have you ever known a woman named Frankie Hoverstat?

21 A. No.

22 Q. Never heard of her?

23 A. No.

24 Q. I think you testified, and I wanted to ask you a few
25 questions about it, you said the reason as I understand it

1 for the amendment in these bylaws was to -- you said it was a
2 real estate decision?

3 A. Yes, it was.

4 Q. You're going to have to talk a little bit louder.

5 A. Yes, it was.

6 Q. And explain how it was a real estate decision to change
7 the bylaws.

8 A. One of the changes in the bylaws was the removal of the
9 name of any outside entity that could lay claim to our real
10 estate.

11 Q. Have you been notified that there might be some outside
12 entity that might lay claim to the real estate?

13 A. On the basis of court cases around the country, there
14 was always that possibility.

15 Q. Well, my question was have you ever had any notice from
16 anyone that they had a claim to your property.

17 A. No.

18 Q. No. So was there any other reason for, other than a
19 real estate decision, for amending the bylaws?

20 A. No.

21 Q. None whatsoever?

22 A. No.

23 Q. Okay. Did St. Luke's, Hilton Head decide to
24 disaffiliate from the Episcopal Church because you were
25 concerned about your real estate?

1 A. Yes.

2 Q. Is there any other reason?

3 A. No.

4 Q. Okay. Is there a person on the staff at St. Luke's
5 Church Hilton Head by the name of Ms. Ruffalo?

6 A. No.

7 Q. Ferebee Ruffalo?

8 A. She is a member of the church.

9 Q. But nobody on the staff by that name?

10 A. No.

11 Q. Does she have any administrative responsibility for the
12 parish in any way?

13 A. No.

14 Q. Do you know whether or not St. Luke's, Hilton Head or
15 anyone on the staff has possession of records, papers, notes,
16 and memoranda that originated as a result of the search
17 committee after Bishop Salmon retired to get a new bishop for
18 this diocese?

19 A. Repeat that, please.

20 Q. I will. Do you know of any documents, records,
21 memoranda or anything that exists at St. Luke's Church,
22 Hilton Head, in possession of anyone that you know of, but of
23 course in the parish, that came from the work of the search
24 committee to find someone to replace Bishop Salmon for the
25 diocese when he retired?

1 A. I know that our rector was part of the search. Whether
2 he still retains those records, I do not know.

3 Q. Have you ever seen any such records?

4 A. No, I have not.

5 Q. Have not.

6 By the way, how many communicants does St. Luke's have
7 right now?

8 A. Over 600; 663 last count.

9 Q. Okay. So far as you know, Ms. Conner, is there anything
10 to prevent any member of St. Luke's Church from leaving the
11 Episcopal Church if they wished to at any time?

12 A. Any member --

13 Q. Yes.

14 A. -- of our church?

15 Q. Yes.

16 A. No.

17 Q. So you have members leaving from time to time, do you
18 not?

19 A. Certainly.

20 Q. Have members joining from time to time?

21 A. Absolutely.

22 Q. And there are no restrictions on any of that?

23 A. No.

24 Q. Okay.

25 MR. TISDALE: Excuse me just one minute, please, Your

1 Honor.

2 THE COURT: Certainly.

3 MR. TISDALE: Your Honor, I don't have any further
4 questions at this time.

5 THE COURT: Ms. Kostel?

6 MS. KOSTEL: Yes. Good morning, Your Honor.

7 CROSS-EXAMINATION BY MS. KOSTEL:

8 Q. Good morning, Ms. Conner.

9 A. Good morning.

10 Q. I'm Mary Kostel and I represent the Episcopal Church,
11 the national church. You -- and I believe Ms. Golding took
12 you through some bylaws and amendments to the bylaws?

13 A. Mm-hmm, yes.

14 Q. Now, I'd like to draw your attention to the 1973 bylaws,
15 which are Exhibit 5. Do you see Article 2?

16 A. I do.

17 Q. Okay. And could you read the first sentence of Article
18 2 of the bylaws that were adopted by St. Luke's Episcopal
19 Church in 1973?

20 A. This church accedes to and adopts the constitution,
21 canons, doctrine, discipline, and worship of the Protestant
22 Episcopal Church in the State of South Carolina and the
23 Protestant Episcopal Church in the United States of America
24 and acknowledges their authority accordingly (as read).

25 Q. Thank you. Now, in that Exhibit 6, which follows that,

1 I believe is the bylaws as they had been amended in 2000; is
2 that correct?

3 A. Yes.

4 Q. Okay. And the first sentence of Article 2, does that
5 say the same thing that it said in 1973?

6 A. Yes, it is.

7 Q. Okay. And do you know, when were they next revised?

8 A. In January of 2009.

9 Q. So that Article 2 language that you read was in effect
10 from 1973 until January of 2009; is that right?

11 A. That's correct.

12 Q. Okay. Thank you.

13 So let's take a look now at some of the deeds that you
14 discussed. Let's look at, first, at Exhibit 2, which is a
15 deed. That's a deed conveying property to St. Luke's
16 Episcopal Church Hilton Head Island, right?

17 A. That's correct.

18 Q. And that conveyance was made in 1970, wasn't it?

19 A. Yes.

20 Q. Then the second deed, which is Exhibit 3, the type is
21 very small, but midway in that first big paragraph you can
22 see that that was conveying property of St. Luke's Episcopal
23 Church, grantee, correct?

24 A. Yes.

25 Q. And that conveyance happened in 1993; is that right?

1 A. That's correct.

2 Q. Okay. Now, Exhibit 4 is a deed, and on the first page
3 of that deed it shows property's being conveyed to St. Luke's
4 Episcopal Church, correct?

5 A. That's correct.

6 Q. And that conveyance happened in 1996, correct?

7 A. Yes, it did.

8 Q. Okay. And finally, Exhibit 15 is the final of the four
9 deeds that you spoke about --

10 A. Yes.

11 Q. -- with Ms. Golding, and that deed conveys property to
12 St. Luke's Episcopal Church, correct?

13 A. Yes.

14 Q. And that deed conveyed property in 2002, correct?

15 A. Yes, it did.

16 Q. Okay. Now, you testified with Ms. Golding and then
17 Mr. Tisdale asked you about the purpose of changing the
18 corporate articles.

19 A. Yes.

20 Q. And you talked about court cases that concerned the
21 parish about the security of their property, correct?

22 A. That is correct.

23 Q. What court cases were you concerned about?

24 A. Various ones we heard where the national church was
25 successful in taking over church property.

1 Q. And do you know who told you about them?

2 A. It was in the news.

3 Q. And --

4 A. Newspapers.

5 Q. And do you know, in those cases, were you aware of
6 whether the Episcopal Church was involved in litigation with
7 parishes that had remained part of the church?

8 A. No, I am not.

9 Q. You don't know whether they were parishes that left or
10 parishes that stayed?

11 A. No, I do not.

12 Q. And so you thought that if the parish stayed, there was
13 a risk the Episcopal Church would take its property?

14 A. Yes.

15 Q. And did anyone give you reason to believe that?

16 A. No.

17 Q. Did you look into the cases that you read about or heard
18 about?

19 A. No, I did not.

20 Q. And so when you read something in the paper about a
21 lawsuit, you assume that there might be some risk arising
22 from a lawsuit when you don't look into it any further?

23 A. I assumed.

24 Q. You assumed?

25 A. Yes.

1 Q. Now, if it were true that St. Luke's is currently using
2 a flag or a shield or a name that is clearly owned by and
3 under the control of the Episcopal Church currently, do you
4 have any knowledge that St. Luke's has gotten permission from
5 the Episcopal Church to do that?

6 A. No.

7 MS. KOSTEL: Thank you.

8 THE COURT: All right. Yes, redirect.

9 MS. GOLDING: Just a little bit of redirect. Thank you.

10 THE COURT: Sure.

11 REDIRECT EXAMINATION BY MS. GOLDING:

12 Q. Ms. Conner, to your knowledge has the national church
13 made any contribution to St. Luke's for the property that's
14 set forth in the deeds that are exhibits?

15 A. No.

16 Q. Has the defendant, the association defendant, did
17 they -- did it make any contribution to the properties owned
18 by St. Philip's -- excuse me -- St. Luke's?

19 A. No.

20 Q. Well, were you familiar with the All Saints controversy
21 that was brewing in the early 2000s?

22 A. I was.

23 Q. And were you familiar that there was a notice of claim
24 that was filed with respect to All Saints that asserted that
25 the national church had an interest in property?

1 A. I was.

2 Q. And were you -- and when did you become familiar with
3 that?

4 A. Back in 2009.

5 MS. GOLDING: No further questions.

6 THE COURT: Any other questions, redirect from any of
7 the other plaintiffs? All right. Yes, sir, Mr. Tisdale,
8 recross?

9 MR. TISDALE: Very, very brief, Your Honor.

10 THE COURT: Sure.

11 RECROSS-EXAMINATION BY MR. TISDALE:

12 Q. Ms. Conner, so far as you know, did St. Luke's,
13 Hilton Head send delegates to the convention of the
14 diocese -- first, let me retract that.

15 Does St. Luke's send delegates to the convention of the
16 diocese each year?

17 A. It does.

18 Q. All right. And do you know of any year that it has not
19 sent delegates?

20 A. No, I do not.

21 Q. Okay. Are you aware that the Diocese of South Carolina
22 in 1987 adopted a canon that said the Episcopal Church and
23 the diocese has a trust interest in the property of
24 St. Luke's, Hilton Head and every other parish if it's not an
25 Episcopal church?

1 A. No, I'm not.

2 Q. You've never heard of that?

3 A. No.

4 Q. Never heard of it?

5 A. No.

6 Q. Are you familiar with the fact that in 1979 with the
7 general convention of the Episcopal Church, of which
8 St. Luke's was a part of then, was it not?

9 MR. RUNYAN: Your Honor, I object to that. Mr. Tisdale
10 knows parishes are not members in the Episcopal Church.

11 Can you please correct that, Mr. Tisdale?

12 MR. TISDALE: I will.

13 MR. RUNYAN: Thank you.

14 Q. Ms. Conner, are you familiar with the fact that the
15 Diocese of South Carolina sends deputies to the general
16 convention of the Episcopal Church when it meets every three
17 years?

18 A. I did not know that.

19 Q. You did not know that?

20 A. No.

21 Q. Did St. Luke's -- did I understand you to say St. Luke's
22 acquired its property in 1973?

23 A. One of the parcels, yes.

24 Q. Was that the first parcel?

25 A. Yes.

1 Q. And is that the parcel upon which the church sits?

2 A. I believe, yes.

3 Q. And who -- was it a gift or was it a purchase?

4 A. I'm sorry, let me correct that. 1970 was the first
5 parcel property.

6 Q. And is that the parcel upon which the church sits?

7 A. Yes.

8 Q. All right. Was that a purchase by the organizing parish
9 or was it a gift from someone?

10 A. It was from the trustees of the Protestant Episcopal
11 Church in South Carolina and for \$5.

12 Q. \$5?

13 A. Mm-hmm.

14 Q. And let me get a copy of that so you and I can talk
15 about it just a second.

16 MS. GOLDING: Your Honor, I want to make an objection.
17 I was letting Mr. Tisdale go, but on recross he's only
18 limited to the redirect that I asked questions. He cannot go
19 beyond that and he has clearly gone beyond that area.

20 MR. TISDALE: She's talked about the property throughout
21 her testimony.

22 THE COURT: I will allow it. There was certainly some
23 redirect about contributions to the purchase of the property
24 by the defendants, each defendant.

25 Keep going.

1 MR. TISDALE: All right. Thank you.

2 Q. Ms. Conner, is that Exhibit 2, which is the deed dated
3 September 9, 1970?

4 A. Yes.

5 Q. Okay. And are you saying that -- can you tell or do you
6 know what is the size of this parcel of land? We know it's
7 in the deed, but I just want to know.

8 A. It's in feet, I wish it were in acres, it is not.

9 Q. Okay. Can you -- and it talks about in the first
10 indented paragraph of that deed how big it is, doesn't it?

11 A. Mm-hmm, yes.

12 Q. I don't think we need to go into it, but it says like
13 running 35 degrees, 40 degrees -- minutes for 245 feet and so
14 forth, right?

15 A. Yes.

16 Q. All right. Are you saying that St. Luke's Church paid
17 \$5 for this property, at least that was the consideration in
18 the deed?

19 A. According to this, yes.

20 Q. And it was conveyed by the trustees of the Protestant
21 Episcopal Church in South Carolina, right?

22 A. Yes, it was.

23 Q. And if you look at the last page of that deed, it was
24 signed by -- can you tell what the names are?

25 Well, why don't I just help you, and you tell me if you

1 think it's correct. Was it signed by Gray Temple as
2 president of the trustees?

3 A. Yes.

4 Q. And by a B. Allston Moore, secretary or treasurer of the
5 trustees?

6 A. Correct.

7 Q. Okay. Now, what other land does St. Luke's Church,
8 Hilton Head have other than this parcel where the church is
9 located?

10 A. There's another parcel that was conveyed by limited
11 warranty deed in 1993.

12 Q. What exhibit is it?

13 A. 3.

14 Q. All right. And what parcel is it?

15 A. I believe it is right next to the first one.

16 Q. Okay. And did the parish pay for that or was it a gift?

17 A. It is from NationsBank of South Carolina.

18 Q. A consideration --

19 A. Looks like, yes, looks like it was \$10.

20 Q. \$10?

21 A. Mm-hmm, yes.

22 Q. All right. So far you've paid \$15 for your property?

23 A. Yes.

24 Q. Okay. Is there any other property that you have other
25 than these two -- what's on that parcel, by the way, the one

1 from NationsBank?

2 A. It would most likely be the parking lot.

3 Q. All right. What other parcels do you have?

4 A. There's a third deed in June 6, 1996.

5 Q. All right. Is that Exhibit 4?

6 A. That's correct.

7 Q. And when did you acquire this property?

8 A. June 6, 1996.

9 Q. Excuse me, you said that.

10 And who did it come from?

11 A. It came from Thomas E. White.

12 Q. The parish paid how much for this parcel?

13 A. \$395,000.

14 Q. Okay. Does the church own any other property?

15 A. A rectory that was purchased in 2002.

16 Q. All right. And is it on the premises of the church
17 property or elsewhere?

18 A. It is elsewhere.

19 Q. Okay. Was it -- when did the parish acquire it?

20 A. In 2002.

21 Q. I guess that's the next exhibit. Is that Exhibit 5?

22 No?

23 A. I believe it's 15.

24 Q. 15. Did the parish buy that property?

25 A. Yes, it did.

1 Q. And it says from a name I can't pronounce, so we won't
2 go into it.

3 A. Thank you.

4 Q. Right, can you?

5 A. No.

6 Q. Okay. Ms. Conner, has the parish acquired any other
7 property than what you've testified this morning?

8 A. No.

9 Q. You don't recall that it purchased a piece of property
10 in the last, I would say, two years that was adjoining the
11 property that you already had?

12 A. Not under the corporation, the current corporation, no.

13 Q. Well, who would have acquired it if it wasn't the
14 corporation?

15 A. It was a different corporation.

16 Q. So is there a different corporation that owns property
17 at St. Luke's, Hilton Head?

18 A. Yes.

19 Q. What is the name of it?

20 A. It's very close to the same name. It's, I believe,
21 St. Luke's Church Hilton Head, Inc., something like that.

22 Q. Are you associated with that corporation in any way?

23 A. Me, no.

24 Q. All right. Do you know if that corporation owns
25 property?

1 A. Yes.

2 Q. What does it own?

3 A. It owns what was previously a law office right next to
4 our current office building.

5 Q. Is that -- when was that acquired?

6 A. March of 2013.

7 Q. And was it acquired from a Mr. William Bowen?

8 A. Yes, it was.

9 Q. Okay. How much did you pay for that, do you know?

10 A. I believe \$285,000.

11 Q. Does that corporation hold other property?

12 A. No, it does not.

13 Q. So that's it?

14 A. Yes.

15 Q. Okay. Did St. Luke's at some point in time receive a
16 quitclaim deed?

17 A. Yes.

18 Q. From the Protestant Episcopal -- well, I don't know who
19 it came from, but did you receive one?

20 A. Yes, we did.

21 Q. Do you have a copy of that in your documents?

22 MS. GOLDING: Look at No. 14.

23 MR. TISDALE: Thank you.

24 Q. Exhibit 14, Ms. Conner.

25 A. Yes, mm-hmm.

1 Q. Do you recall this quitclaim deed being received?

2 A. Yes, I do.

3 Q. And when did the parish receive this quitclaim deed?

4 A. November 19, 2012 -- November 14 and recorded on the
5 19th, I correct that.

6 Q. So this deed was received in November 2012?

7 A. Yes, that's correct.

8 Q. And why did the parish, do you know, receive this
9 quitclaim deed?

10 A. I don't know.

11 Q. Well, I'd be curious to know if you know why if the
12 deed -- I see the deed is dated November 14th, 2012, and who
13 is it signed by?

14 A. It's signed by a total of four people.

15 Q. Four people signed this conveyance?

16 A. Yes, well, more than four, quite a few. Some of the
17 names I cannot read.

18 Q. Those are witnesses on the left, aren't they?

19 A. Yes.

20 Q. And the people who signed the deed are names on the
21 right, correct?

22 A. Correct.

23 Q. Now, who signed the deed?

24 A. Mark J. Lawrence, Jeffrey S. Miller, Paul C. Fuener and
25 our rector, Greg Kronz.

1 Q. Okay. And are those the people that conveyed the
2 quitclaim deed to the parish?

3 MS. GOLDING: Your Honor, again, I'm going to renew my
4 motion. He has gone completely off where -- anything to do,
5 but he's also confusing the witness because the document
6 she's referring to is notice of conveyance. That's not the
7 deed. And the individuals that signed this document just
8 signed the notice of conveyance, not the deed.

9 MR. TISDALE: Do we have the deed?

10 MS. GOLDING: Mr. Tisdale, it's in the exhibit I gave
11 you yesterday.

12 MR. TISDALE: Okay.

13 Q. Ms. Conner, turn past this document and there's an
14 Exhibit A to this document that says title to real estate.

15 A. Exhibit A, did you say?

16 MS. GOLDING: It is Exhibit B to the document.
17 Exhibit A is the description, but Exhibit B to Exhibit 14 is
18 the deed.

19 Q. Do you see that, Ms. Conner?

20 A. Exhibit B, yes, I do.

21 MR. TISDALE: Exhibit B is the deed she said. Excuse
22 me, if I may ask Ms. Golding a question just to save a minute
23 here, what is Exhibit A to this exhibit?

24 MS. GOLDING: Property description.

25 MR. TISDALE: Well, it says title to real estate in my

1 book. See Exhibit A? And then I've got Exhibit B. It looks
2 like the same thing. Are they the same thing?

3 MS. GOLDING: I know my -- the Exhibit B that's
4 introduced into evidence in the Court is the deed.

5 MR. TISDALE: I just wanted to be sure there weren't two
6 but we can get that straight.

7 THE COURT: Sure.

8 Q. Are you looking at Exhibit B, Ms. Conner?

9 A. Yes, I am.

10 Q. What's the date of this deed, title to real estate?

11 A. July 11, 2011.

12 Q. July 11, 2011?

13 A. According to the next page, yes.

14 Q. Yes, that's the page that has the numbers in the bottom
15 right-hand corner, 74, at the end?

16 A. That's correct.

17 Q. Okay. And who signed this deed?

18 A. Paul C. Fuener.

19 Q. Okay. And what is the title that he -- what is the name
20 of the entity above his name?

21 A. The Protestant Episcopal Church in the Diocese of South
22 Carolina.

23 Q. And does it have what office he held below his
24 signature?

25 A. Yes, president, but there's something before that and I

1 don't know what that is.

2 Q. I think it's the word its, I-T-S.

3 A. Okay, all right.

4 Q. All right. And why is it, do you think, or did you
5 inquire, Ms. Conner, that if this deed is dated 11 -- no,
6 what date did you say it's dated? Something in 2011.

7 A. Right above his signature --

8 Q. Yes.

9 A. -- is the 11th day of July 2011.

10 Q. All right. And you say you didn't receive this deed
11 until 2014? Or when did you receive it?

12 A. I am not sure of the exact date.

13 Q. Excuse me, I think you said -- I think you said November
14 2012, but I could be wrong.

15 A. That's what the exhibit says.

16 Q. Do you know why there was a big gap --

17 A. No, I do not.

18 Q. -- between the date of the deed and when you received
19 it?

20 A. No.

21 Q. Okay. Now let's quickly look at Exhibit A that also
22 says title to real estate.

23 A. Exhibit 8?

24 Q. A, the same one we were looking at except A instead of

25 B.

1 A. All right.

2 Q. Is this a quitclaim deed? It says it is in the first
3 paragraph.

4 A. Yes.

5 Q. Okay. And is this a deed, quitclaim deed from someone
6 or some organization to St. Luke's Church?

7 A. Yes, it is.

8 Q. All right. And did you give the date of this deed or
9 did I ask what is the date of this deed?

10 A. On the next page?

11 Q. Yes.

12 A. The 16th day of February 2010.

13 Q. Okay. When did the parish receive this deed?

14 A. I do not know the date.

15 Q. Who signed this deed conveying property to the parish?

16 A. On Exhibit A? You're referring to Exhibit A?

17 Q. Yes.

18 A. Mark Lawrence and Jeffrey Miller.

19 Q. Okay. And do they have their offices or positions they
20 held below their names, or above in Father Miller's case?

21 A. And you're asking about Jeff Miller?

22 Q. Yes. This -- under Mark J. Lawrence's signature --

23 A. Right.

24 Q. -- does it say in what capacity he signed?

25 A. Yes, it does, the Right Reverend, Mark J. Lawrence,

1 Bishop of the Episcopal Diocese of South Carolina.

2 Q. All right. How about Father Miller?

3 A. After his name it says President, and below that I
4 believe it says -- because his signature is partly in the
5 way -- it's authorized committee member.

6 Q. Okay. Did St. Luke's, Hilton Head have to pay any money
7 for these quitclaim deeds?

8 A. No, it did not.

9 Q. All right. Why do you understand they were issued to
10 St. Luke's Church?

11 A. I do not know.

12 Q. And --

13 A. I would not presume to know.

14 Q. And why were there two separate deeds instead of one
15 from people representing someone at the Diocese of South
16 Carolina?

17 A. I do not know.

18 Q. Do not know.

19 Do you know whether or not Father Fuener owned any
20 property that was being conveyed?

21 A. No, I do not know.

22 Q. Do you know whether the standing committee owned any
23 property that was being conveyed?

24 A. No, I do not know.

25 Q. Do you know whether Bishop Lawrence owned any property

1 that was being conveyed?

2 A. I do not know.

3 MR. TISDALE: Thank you very much, Your Honor.

4 THE COURT: Okay. Yes, ma'am.

5 MS. KOSTEL: Just a couple questions.

6 THE COURT: All right.

7 RECROSS-EXAMINATION BY MS. KOSTEL:

8 Q. Ms. Conner, just a couple follow-up questions.

9 I believe Ms. Golding asked you if the parish had ever
10 received financial assistance from the church, from the
11 national church, and I think you said no?

12 A. That's correct.

13 MS. GOLDING: Your Honor, I object. My question was it
14 was not the parish receiving financial, I asked did the
15 national church ever make a contribution to the real
16 property.

17 THE COURT: To the property, yes.

18 MS. KOSTEL: Okay. So let me just follow up on that
19 question.

20 Q. Are you aware of a loan that, reflected in documents
21 that we produced to counsel for St. Luke's, Hilton Head,
22 reflecting that the Episcopal Church foundation made in the
23 amount of \$25,000 to St. Luke's, Hilton Head in 1964?

24 A. No, I am not.

25 Q. Okay. And so you wouldn't be aware of whether that loan

1 would have been made on terms more favorable than St. Luke's
2 might have received from a regular commercial bank?

3 A. I have no knowledge of that.

4 MS. KOSTEL: Okay. Nothing further. Thank you.

5 THE COURT: All right. You may come down.

6 Call your next witness, please.

7 MR. MARVEL: Your Honor, David Marvel for The Church of
8 St. Luke and St. Paul Radcliffeborough, we call
9 Alonso Galvan.

10 (Plaintiff's Exhibits SLP-1 through SLP-17 premarked for
11 identification.)

12 ALONSO MENDIETA GALVAN,
13 being first duly sworn, testified as follows:

14 THE COURT: Your witness, Mr. Marvel.

15 MR. MARVEL: Your Honor, we have exhibits that are
16 marked SLP-1 through 17 that I believe are admissible by
17 agreement, with the exception that we are going to replace
18 SLP-2 at some point following today with a more legible copy.

19 THE COURT: All right. Is that correct?

20 MR. TISDALE: That is correct.

21 MS. KOSTEL: Yes.

22 (Plaintiff's Exhibits SLP-1 through SLP-17 admitted into
23 evidence.)

24 MR. MARVEL: May I approach the witness, Your Honor?

25 THE COURT: Yes.

1 DIRECT EXAMINATION BY MR. MARVEL:

2 Q. Mr. Galvan, where do you live?

3 A. I live in Charleston, South Carolina.

4 Q. How long have you lived in Charleston, South Carolina?

5 A. About ten years.

6 Q. And how did you come to live in Charleston,
7 South Carolina?

8 A. My wife and I, we were not married at the time, I moved
9 here, and after being married in 2005, she moved here, been
10 here ever since.

11 Q. Okay. And what is your educational background?

12 A. I graduated from Wheaton College, studied economics and
13 then got a master's in business administration from Yale and
14 took a first job in New York and then from there moved here.

15 Q. Okay. Where do you go to church?

16 A. Go to The Cathedral Church of St. Luke and St. Paul,
17 technically The Church of St. Luke and St. Paul
18 Radcliffeborough.

19 Q. Okay. What is your understanding of what it means to be
20 The Cathedral of St. Luke and St. Paul?

21 A. We were designated The Cathedral as far as I understand
22 it, in 1963 by virtue of the fact that the diocese bestowed
23 that upon us and also made it the seat of the bishop.

24 MR. MARVEL: And we've got some photographs for the
25 Court's edification if --

1 THE COURT: All right.

2 MR. MARVEL: -- it should come up.

3 Q. And if you could describe what we're looking at in this
4 photograph.

5 A. The tall building with the truncated steeple that was
6 never completed is the main worship center for The Cathedral.

7 Q. Okay. And the next photograph, please?

8 A. That is the front of The Cathedral, the portico visible
9 from Coming Street.

10 Q. Okay. And this is the corner of Coming and Vanderhorst,
11 correct?

12 A. Correct.

13 Q. And next photo, please.

14 A. It's the inside of the worship hall of The Cathedral
15 itself.

16 Q. Okay. The next photograph?

17 A. That is the view from the front of the worship hall to
18 the back. The large brown structure is the organ.

19 Q. Okay. And the last photograph, please?

20 A. That's the view from the entrance on Coming Street down
21 the main center aisle.

22 Q. Now, in the course of being a member of the church of --
23 The Cathedral Church of St. Luke and St. Paul have you held
24 any leadership positions?

25 A. Yes, I have.

1 Q. Could you tell the Court about those, please?

2 A. In 2007 I was elected to the vestry and served three
3 years, 2007, 2008, and 2009; and then I was the treasurer
4 subsequently in 2011. In 2012 and terminating February 2nd
5 of this year I was the senior warden.

6 Q. Okay. And in the course of your service on the vestry
7 and generally to St. Luke and St. Paul have you come to have
8 a general knowledge of the history of the parish?

9 A. Somewhat, yes.

10 Q. Okay. And have you come to be familiar with the
11 corporate structure of The Church of St. Luke and St. Paul,
12 Radcliffeborough?

13 A. Yes, I have.

14 Q. Okay. So what -- and, again, you said this, but what is
15 the official corporate name of the church?

16 A. The Church of St. Luke and St. Paul, Radcliffeborough.

17 Q. And it goes by in common parlance?

18 A. The Cathedral Church of St. Luke and St. Paul.

19 Q. Okay. And in the course of that, has the word Episcopal
20 ever been used in the name of The Church of St. Luke and
21 St. Paul?

22 A. Not as it currently exists. In the origination back in
23 the 1800s of St. Paul's, they did use the Protestant
24 Episcopal Church of St. Paul, Radcliffeborough.

25 Q. Okay. Give us a general overview of how the parish got

1 started.

2 A. In 1809 some families, as I understand it, from
3 St. Philip's and potentially from St. Michael's got together
4 and formed what would become later the parish of St. Paul's.
5 Some land was donated on the corner of Vanderhorst and
6 Coming, and in 1814 the corporation the Protestant Episcopal
7 Church of St. Paul was recognized by the State of South
8 Carolina.

9 St. Luke's was a separate church and it started, I
10 believe, in the 1850s as St. Luke's Episcopal Church. We
11 have it in here, the official name. Those two entities --
12 that entity did not survive. It ceased being a parish and
13 then was resurrected in the early 1900s. And in 1849 the two
14 congregations got together and decided to merge, that was
15 culminated in 1951.

16 Q. You said 1849?

17 A. Sorry, 1949. And that was culminated in a certificate
18 of incorporation in 1951. And since then it has been known
19 as The Church of St. Luke and St. Paul, Radcliffeborough.

20 Q. Okay. If you could look at what's been marked as SLP-1,
21 plaintiffs' exhibit.

22 A. Yes.

23 Q. And if you could tell us what that document is, please.

24 A. This is the registry of corporation, as I understand it,
25 from South Carolina at the time in 1814. And on my last page

1 of that it declares that the Protestant Episcopal Church of
2 St. Paul in Radcliffeborough to be recognized as a body
3 politic, presumably a corporation.

4 Q. Okay. And if you could turn to SLP-2 and tell me what
5 that document is.

6 A. This is a similar registry of corporations that are
7 recognized by the state in which St. Luke's is recognized. I
8 believe on the second page in the middle it says, St. Luke's
9 Church in the City of Charleston, again, recognized by the
10 state as a corporation in 1858.

11 Q. Okay. If you could turn to SLP-3 and describe for us
12 what that document is.

13 A. SLP-3 and then a subsequent document, this is the --
14 essentially the articles of incorporation of the documents, a
15 merger agreement between the two signed April 7, 1951, at
16 which point the two become St. Luke and St. Paul -- or The
17 Church of St. Luke and St. Paul, Radcliffeborough.

18 Q. Okay. This is the petition for merger that was filed
19 with the Secretary of State?

20 A. Yes.

21 Q. And what is your understanding of the current
22 significance of that document?

23 A. This begins, really, the joint life and the entity as we
24 know it now, the corporate entity, it serves as its founding
25 document.

1 Q. Okay. And if you could turn to page 2 of SLP-3.

2 A. Yes.

3 Q. And if you could review that and tell me if you find the
4 word Episcopal anywhere in that document.

5 A. No, I do not.

6 Q. And I believe you stated that you referred to it as a
7 subsequent document, but Plaintiffs' Exhibit SLP-4, can you
8 tell the Court what that document is?

9 A. SLP-4 is the certificate of incorporation provided by
10 the Secretary of State of South Carolina recognizing The
11 Church of St. Luke and St. Paul, Radcliffeborough as a
12 corporation.

13 Q. Okay. And what is the purpose of the organization as
14 stated in that document?

15 A. In the fourth clause it says it's formed by a merger
16 agreement between St. Luke's Church Charleston and the
17 Protestant Episcopal Church of St. Paul in Radcliffeborough.
18 The purpose is to merge those two entities.

19 Q. Okay. It refers you back to the merger agreement that's
20 marked as Exhibit 3, correct?

21 A. Yes, see original merger agreement file 3685, which is
22 Exhibit SLP-3.

23 Q. Okay. If you could turn to SLP-5 and explain to the
24 Court what that document is.

25 A. SLP-5 is the original deed we termed the Radcliffe deed

1 that provided the first parcel of land on which the -- I
2 believe The Cathedral church now stands. This was in 18 -- I
3 believe it was between 1809 and 1814 offered to the group
4 that would become the corporation in 1814.

5 Q. If you could tell the Court what SLP-6 is, please.

6 A. SLP-6 is the Whiteman deed. This gave the land adjacent
7 to The Cathedral, which is where the graveyard now is, also
8 offered around in similar time, I believe. And, again,
9 that -- those two parcels of land together is what we
10 understand -- or what we occupy now between Vanderhorst and
11 Warren Street.

12 Q. And SLP-7 is another public document, if you could tell
13 the Court what that document represents.

14 A. Make sure I'm looking at the right one. Just a second.
15 These, I believe, are the original bylaws of the church.

16 Q. Are you looking at SLP-7?

17 A. I'm sorry. I'm sorry, this is the deed transferring the
18 land. Those two previous deeds, this transfers it to the
19 corporation which is the Protestant Episcopal Church of St.
20 Paul in Radcliffeborough. It happened immediately prior to
21 that land being then transferred because of the merger into
22 The Church of St. Luke and St. Paul, Radcliffeborough.

23 Q. Okay. But this deed conveys the property to the
24 Protestant Episcopal Church of St. Paul in Radcliffeborough,
25 correct?

1 A. Yes.

2 Q. If you could tell the Court what SLP-8 is.

3 A. SLP-8 is the acquisition in August of 1972 of what is
4 now the parking -- excuse me -- the parking lot from J C Long
5 that was acquired for the sum of \$22,500.

6 Q. And, again, that deed reflects that the property is
7 titled in the name of The Church of St. Luke and St. Paul,
8 Radcliffeborough, correct?

9 A. Correct.

10 Q. All right. To your knowledge did the national church,
11 which is how we've been referring to the Episcopal Church in
12 the United States of America throughout this litigation, to
13 your knowledge did the national church contribute any funds
14 to the acquisition of any of these parcels of property?

15 A. Not to my knowledge.

16 Q. If you could review SLP-9 and SLP-10 and explain to the
17 Court what those documents represent, please.

18 A. SLP-9 is a quitclaim deed that we received in July of
19 2011 and we recorded in November of 2011. This was offered
20 by the Protestant Episcopal Church in the Diocese of South
21 Carolina to The Cathedral Church of St. Luke and St. Paul,
22 effectively our d/b/a, our doing business as name. It was
23 provided by Paul C. Fuener and recognized that on the parcel
24 of lands described the diocese had no claim whatsoever to
25 that property.

1 Q. Okay. How about SLP-10?

2 A. SLP-10 is a quitclaim deed substantially the same form
3 but signed instead by Bishop Mark Lawrence certifying the
4 same, that the diocese had no claim to the property. This
5 was received, again, in 2010.

6 Q. Do you know how it came about that The Church of
7 St. Luke and St. Paul, Radcliffeborough came into possession
8 of those deeds?

9 MR. TISDALE: Excuse me, Dave, could you say that again?

10 Q. Do you know how it came about that The Church of
11 St. Luke and St. Paul came into possession of those deeds?

12 A. My understanding is these deeds were offered to us by
13 the diocese. The first deed, again, my understanding is that
14 we were in communication with them and it was produced by
15 them to our benefit.

16 The second one was produced and offered to us, not
17 unilaterally, but they offered it to us for no consideration.

18 Q. Now, the deeds that we have marked as exhibits, which
19 are the public record of the ownership of the property owned
20 by The Church of St. Luke and St. Paul, Radcliffeborough,
21 reflect The Church of St. Luke and St. Paul, Radcliffeborough
22 as the titled owner of the property, correct?

23 A. Correct.

24 Q. All right. Did The Church of St. Luke and St. Paul,
25 Radcliffeborough believe the diocese had any property

1 interest in that property?

2 A. No, not at all.

3 Q. Okay. Other than -- the diocese to some extent occupies
4 some portion of the property, correct?

5 A. Yes, it does.

6 Q. And how is it that the diocese occupies a portion of the
7 property owned by The Church of St. Luke and St. Paul?

8 A. By virtue of a lease agreement that we signed, which I
9 believe is an exhibit as well, the diocese negotiated and we
10 granted them permission to build a structure on the land and
11 occupy it and we would maintain the rest of the land and work
12 very closely to use the other elements that are particular to
13 The Church of St. Luke and St. Paul, Radcliffeborough, such
14 as the parish hall and The Cathedral building, the worship
15 hall itself, and parking lot, etc.

16 But it was a lease that was executed and, I think,
17 expires in 99 years from its execution.

18 Q. Okay. And might be jumping around a little bit, but
19 that is -- is that document what is marked as SLP-16?

20 A. It is.

21 Q. And to your knowledge are the terms of that, the lease
22 as stated in SLP-16, is that what is currently transpiring
23 between the church and --

24 A. The practice has changed. The diocese pays us \$1,000 a
25 month now, and that's not reflected in the lease, and we have

1 a very tight relationship on how to resolve any mutual needs
2 that might come up.

3 Q. Okay. Turn to what has been marked as SLP-11, please.

4 A. The bylaws of The Cathedral Church of St. Luke and
5 St. Paul amended March 6, 2011.

6 Q. Is that a copy of the bylaws as they existed March 6th,
7 2011?

8 A. Yes, it is.

9 Q. Okay. At the time these bylaws were enacted what is
10 your understanding of the relationship between St. Luke and
11 St. Paul, Radcliffeborough and the national church?

12 A. My understanding is that we had no direct relationship
13 ever with the national church. Only by a function of being
14 part of the diocese and the diocese being affiliated with the
15 national church did we have any relationship whatsoever.

16 Q. Okay. Did The Church of St. Luke and St. Paul,
17 Radcliffeborough have any direct input into the constitution
18 and canons of the Protestant Episcopal Church in the United
19 States?

20 A. Not that I know of.

21 Q. Please turn to SLP-12 and explain for the Court what
22 that document is.

23 A. SLP-12 are the bylaws of the church as amended on
24 September 9th, 2012.

25 Q. Okay. How did it come to be that these particular

1 bylaws were amended to the document that is here exhibited as
2 SLP-12?

3 A. We had at our annual meeting -- I'm sorry, yes, at our
4 annual meeting in January of 2012 we had an initial reading
5 of proposed amendments to the bylaws; that reading culminated
6 in a special annual meeting that occurred in September of
7 2012 to vote on and ratify the proposed changes; that was
8 attended by a quorum of the members of the corporation which
9 was sufficient to duly enact the bylaws. And in that session
10 we approved, by a large majority, the amendments.

11 Q. How is notice of an annual meeting published generally
12 by The Cathedral?

13 A. It's published in a number of ways now. Certainly
14 described or notified in services well in advance, at least
15 one month, if not more, as well as in parish newsletters and
16 e-mails that go out. And in the past I know there were
17 physical letters that went out notifying of those meetings.

18 Q. Okay. And to your recollection were those procedures
19 generally followed as to the January meeting in 2012?

20 A. All of those except for physical letters. At this point
21 we began to use all e-mail and notices on websites and
22 notices from the pulpit.

23 Q. Okay. And the annual meeting occurs after what service
24 on Sunday?

25 A. It occurs after -- anytime after a specific feast day, I

1 think the Feast of St. Paul in January, so there's some
2 flexibility. But there is typically a joint service,
3 normally we have three services, but we'll have one service,
4 and after that we'll have the annual meeting with the members
5 that are present and stay.

6 Q. Okay. So there's some endeavor that goes into bringing
7 these three services into one service?

8 A. Yes, it's not a small meeting.

9 Q. And then any -- is that the case with any congregational
10 meeting?

11 A. Yes. They're not necessarily always held after one
12 joint service, but they're always publicized. And I think
13 many in the last few years have been combined into one
14 service and then a meeting directly following.

15 Q. Okay. Now, explain to me what the amendments were that
16 appear in what's been marked as SLP-12 as of September 9th,
17 2012.

18 A. The substance of these amendments was to remove
19 references to the Episcopal Church, national, from the bylaws
20 and clarify that we were part of the Protestant Episcopal
21 Church in the Diocese of South Carolina. In our discussion
22 in the vestry, as well as discussion in the meeting with the
23 congregation, we wanted to make very clear that this is an
24 understanding we have always had, and these changes simply
25 clarified that for the record. We're a member of the diocese

1 and we don't have any direct relationship, never did, with
2 the national church apart from our membership through the
3 diocese.

4 Q. Can you turn to SLP-13, please --

5 A. Yes.

6 Q. -- and explain to the Court what this document is.

7 A. SLP-13, this is the minutes from that annual meeting in
8 January of 2012, part of which, amongst other things, the
9 general business of the church to elect folks on the vestry
10 and the general convention -- or national -- I'm sorry, the
11 diocesan convention, and many other things.

12 Part of that was the first reading of the bylaw changes
13 that culminated in the September 9, 2012, meeting. But these
14 are the minutes from that meeting.

15 Q. And if you could tell the Court what SLP-14 is.

16 A. These are the minutes from the special annual meeting of
17 the church held on September 9, 2012, where we effected the
18 changes to the bylaws.

19 Q. And this meeting was held for what specific purpose?

20 A. This was specifically for the purpose of voting on and
21 approving the changes to the bylaws.

22 Q. Were these the same changes that had been discussed in
23 January of 2012?

24 A. Correct. We tried to follow -- we're not bound to them,
25 but we try to follow some rules of order where we have

1 multiple readings, especially to changes to the bylaws, to
2 give ample notice when anything might be changed, for
3 discussion, for any questions that come from parishioners,
4 for revisions to those, and then a final approval sometime
5 after.

6 Q. The document that's been marked as SLP-15 is stated as
7 to the commitment to continued diocesan relationship.

8 A. Yes.

9 Q. Can you tell the Court what this document is.

10 A. This document was produced by the vestry around November
11 of 2012. It was in response to the national church taking
12 action against our bishop, Mark Lawrence. We produced this
13 resolution, again, voted on and approved by the vestry,
14 asserting that we would -- or declaring that we were
15 committed to remaining within the diocese and expressing
16 clearly our support for Mark Lawrence during the accusations
17 that were coming against him and the movement that the
18 presiding bishop took to restrict his ministry.

19 Q. Okay. And how did this come to be a resolution of the
20 vestry?

21 A. The resolution with respect to the deliberation within
22 the vestry or...

23 Q. How exactly was it enacted and ratified?

24 A. Oh, we had a special conference call that was called to
25 order, and we couldn't all be together, but we had an

1 official meeting of the vestry. We voted unanimously to
2 approve this resolution, and then subsequently we presented
3 it to the congregation for their affirmation and also to
4 explain the actions of the vestry and to allow them a chance
5 to ask questions and understand better what was going on.

6 Q. What response did you get from the congregation in that?

7 A. We took a voice vote and there was unanimous voice
8 acclamation at the time in support of the resolution.

9 Q. If you could turn to what has been marked as SLP-17 and
10 explain to the Court what that document is.

11 A. SLP-17 are the bylaws as amended February 2nd, 2014.
12 These are the most current bylaws that we have at
13 The Cathedral.

14 Q. Okay. And, generally, what was the purpose of the
15 amendment that was in place as of February 2nd, 2014?

16 A. There were two amendments -- there were two substantial
17 changes. One reduced the vestry from 12 to 9 members. It
18 had originated with the merger with 25 members, unwieldy
19 group, that got reduced down to 15. In 2011 we reduced from
20 15 to 12, and then this reduced it from 12 to 9. That was
21 one part.

22 The second substantial change were administrative
23 changes to the endowment, how it was run, how people were
24 elected to it, and how, effectively, money managers were
25 selected. It was all fairly administrative stuff.

1 Q. But these are the current bylaws as they exist for The
2 Church of St. Luke and St. Paul, Radcliffeborough?

3 A. Correct.

4 Q. And in your recollection, was there any way in which the
5 word Episcopal was displayed in advertisements for The
6 Cathedral Church of St. Luke and St. Paul?

7 A. At what time?

8 Q. In your recent memory.

9 A. In my recent memory, we had a sign in the front of the
10 building that said The Cathedral Church of St. Luke and
11 St. Paul, and underneath it had in parenthesis, Episcopal,
12 which our understanding is that simply meant we had a bishop
13 and happened to be his seat in our cathedral. When I
14 originally got to the church around 2005, I believe we had an
15 Episcopal flag in the building, but that is no longer there.
16 And other than that, I don't believe we used the seal of the
17 Episcopal Church national in other literature, not that I
18 recall.

19 Q. Okay. Has that flag been in use since 2012?

20 A. No.

21 Q. Is the word Episcopal currently displayed on the outside
22 of The Cathedral anywhere?

23 A. No.

24 Q. Okay. To your recollection was there ever a sign that
25 said, The Episcopal Church welcomes you or anything along

1 those lines pointing to The Cathedral?

2 A. No.

3 MR. MARVEL: Thank you very much. Those are all the
4 questions I have.

5 THE COURT: All right. Yes, ma'am.

6 MR. HOLMES: Your Honor, may I leave the courtroom for a
7 moment for a logistical matter?

8 THE COURT: Sure.

9 MR. HOLMES: Thank you.

10 MS. KOSTEL: Your Honor?

11 THE COURT: Yes.

12 MS. KOSTEL: There are documents that I would like to
13 show the witness and, potentially, they're in our exhibits.
14 I only have them electronically today. Mr. Holmes is trying
15 to go get copies of them now. I'd like to go over to that
16 podium and show them to him, but if -- I'd like your guidance
17 on whether I can move them in if I don't have a hard copy.
18 I'm willing to wait to move them in. We'll provide everyone
19 with either a hard copy or an electronic --

20 THE COURT: Have these documents been provided in
21 discovery, I would ask.

22 MS. KOSTEL: Yes, they were provided by the plaintiffs,
23 actually, to us.

24 THE COURT: Oh, okay, okay.

25 MS. KOSTEL: Yes.

1 THE COURT: And I have no problem with you showing them
2 electronically --

3 MS. KOSTEL: Okay.

4 THE COURT: -- particularly if plaintiffs have a copy of
5 it.

6 MS. KOSTEL: Well, they produced it.

7 THE COURT: And we'll just put them in when you get a
8 hard copy of them.

9 MR. TISDALE: Your Honor, and Ms. Kostel, I think we
10 have hard copies of those and we'll pull them out and give to
11 her as we find them to save time.

12 THE COURT: All right, all right. Sure.

13 Mr. Marvel, here's what we can do: I can see it. It's
14 on the monitor. It isn't in the courtroom and ought not be
15 in the courtroom until you've had an opportunity to review
16 the documents if you're having a concern about it, so go take
17 a look. I apologize that I can't put it up on that
18 particular monitor, but...

19 (Attorneys confer.)

20 THE COURT: Any objection?

21 MR. MARVEL: No, Your Honor.

22 THE COURT: All right, very well. When we have a
23 hard copy we'll have that marked but you certainly may
24 publish it now to the courtroom.

25 CROSS-EXAMINATION BY MS. KOSTEL:

1 Q. Okay. Mr. Galvan, Mary Kostel, representing the
2 national church, the Episcopal Church.

3 Okay. You testified several times today that The Church
4 of St. Luke and St. Paul, Radcliffeborough, also known as The
5 Cathedral, has no relationship with the Episcopal Church, is
6 that right, or had none in the past?

7 A. I said no direct relationship. By virtue of our
8 membership with the diocese, we -- when the diocese was
9 affiliated with the church, we would have considered
10 ourselves affiliated only through the diocese.

11 Q. Okay. So let's take a look -- and you testified that
12 St. Luke and St. Paul merged in the 1950s, correct?

13 A. Correct. It began in 1949.

14 Q. Yes, correct.

15 And so have you seen the constitution, the first
16 constitution that was adopted by that merged body?

17 A. Haven't reviewed this recently, no.

18 Q. Could you read that Article 1 of that constitution?

19 A. The Church of St. Luke and St. Paul, Radcliffeborough
20 accedes to the constitution and canons of the Protestant
21 Episcopal Church in the United States of America and of the
22 church in the Diocese of South Carolina and acknowledges
23 their authority accordingly (as read).

24 Q. Thank you. Let's take a look at the second document on
25 that same topic. This document was also produced by counsel

1 for St. Luke and St. Paul, The Cathedral Church of St. Luke
2 and St. Paul. And I'll show you the first page, which you
3 will see they're the bylaws of The Cathedral Church of
4 St. Luke and St. Paul. And I'll scroll down -- and, again, I
5 apologize for not having a hard copy that you can leaf
6 through, but I'll scroll down, show you the last page, which
7 indicates it was adopted in January of 1995. Do you see
8 that?

9 A. Correct.

10 Q. So let's take a look at Article 1 of those bylaws,
11 Article 1, Section 1. Could you read that into the record,
12 please?

13 A. Section 1, This parish is organized for the purpose of
14 operating an Episcopal Church pursuant to the constitution
15 and canons of the Protestant Episcopal Church in the Diocese
16 of South Carolina and of the Protestant Episcopal Church in
17 the United States now in force or as hereafter may be adopted
18 (as read).

19 Q. Okay. That's now in force or as hereafter may be
20 adopted, right?

21 A. Correct.

22 Q. Let's see what Article 4, Section 6 says. So Article 4
23 governs the vestry. Do you see that?

24 A. Yes.

25 Q. Let's scroll down to Section 6 and it's split between

1 two pages there.

2 A. I see it.

3 Q. Could you read what Section 6 says?

4 A. The duties of wardens and vestry persons shall be
5 prescribed and directed by these bylaws and the constitution
6 and canons of the Protestant Episcopal Church in South
7 Carolina and of the Protestant Episcopal Church in the United
8 States of America as they now exist and may hereafter altered
9 or amended (as read). Presumably they're missing a --

10 Q. Be?

11 A. -- be.

12 Q. Okay. Let's see, now Section 7 is long. I'll give you
13 a second to read that to yourself, unless you're already
14 completely familiar with it, but please take your time.

15 A. Okay.

16 Q. Could you read me the last two lines of Section 7?

17 A. No alienation of property shall be made without
18 compliance with the canons of the church as they now or
19 hereafter provide (as read).

20 Q. Okay. And that's in the section telling the vestry --
21 setting out the vestry's duties and responsibilities, right?

22 A. Correct.

23 Q. Okay. We're at the end of Article 10. What did Article
24 10 say?

25 A. Would you like me to read Section 1, 2, and 3?

1 Q. Oh, I'm sorry, just Section 1.

2 A. Section 1, Any article or part of any article or these
3 bylaws which may be in conflict with the constitution or
4 canons of the Diocese of South Carolina or the Protestant
5 Episcopal Church in the United States are void (as read).

6 Q. Do you know when the bylaws were next amended?

7 A. I don't know when the next amendment to this was, other
8 than the amendments I reviewed and matches now up in March of
9 2011.

10 Q. All right. And so you're familiar with these?

11 A. Yes -- this is not -- these are not the bylaws that we
12 submitted. Just -- if you'll let me review these documents.

13 Q. Sure, please take your time.

14 A. Yes, this should be consistent with SLP-11.

15 Q. Okay. And what does Article 1, Section 1 say there?

16 A. This parish is organized for the purpose of operating an
17 Episcopal Church pursuant to the constitution and canons of
18 the Protestant Episcopal Church in the United States now in
19 force or as hereafter may be adopted (as read).

20 Q. Okay. Here we go with the vestry again. I'll just ask
21 you to take a look at it and ask you if Section 6 seems to be
22 the same substantive Section 6 as the 1995 Section 6 of the
23 vestry article?

24 A. Seems to be.

25 Q. Okay. So that's the same and so that's unchanged, those

1 duties of the vestry laid out in Section 6 of Article 4 are
2 unchanged. And then how about in Section 7? Would it be
3 easier for you if I put up -- since you have the hard copy of
4 the 2011 document, would it be easier for you if I put up the
5 '95 document on the screen?

6 A. Yes, that might be helpful.

7 Q. Okay.

8 A. Seems to be the same.

9 Q. Okay. So you were on the vestry from 2007 to 2009?

10 A. Correct.

11 Q. And treasurer in 2011?

12 A. Yes.

13 Q. And senior warden from 2012 to January of 2014, correct?

14 A. Correct.

15 Q. And these documents were governing for at least most of
16 those periods, most of that time, isn't that right?

17 A. Yes, we amended them, as I think is our privilege as the
18 vestry to do so in conjunction with the members of the
19 church, so they evolved over time, but then I didn't finish
20 my time with these in existence.

21 Q. But when you said that the parish never had any direct
22 relationship with the Episcopal Church, in fact it had made
23 promises to follow rules of the Episcopal Church, had it not?

24 A. The way I understand this is we had voluntarily deemed
25 that we were going to follow those rules, but we could, at

1 our discretion, choose to clarify that, and we did so saying
2 that we would follow the rules of the diocese exclusively.

3 Q. But that's a promise that was made, wasn't it?

4 A. If you're implying by promise that it would be in
5 perpetuity, I disagree. I think we made a commitment that we
6 had the power to change.

7 Q. But you made a commitment, didn't you?

8 A. One that we had the power to change, yes.

9 Q. But you made a commitment, didn't you?

10 A. Yes.

11 MS. KOSTEL: Thank you. Nothing further.

12 THE COURT: You're finished?

13 MS. KOSTEL: Yes, Your Honor.

14 THE COURT: All right. Mr. Tisdale.

15 CROSS-EXAMINATION BY MR. TISDALE:

16 Q. Mr. Galvan, I understood you to say that there was a
17 sign in front of the church that is still there?

18 A. No, it's not still there.

19 Q. The sign is gone?

20 A. Correct.

21 Q. Okay. When it was there, did you say it had the word
22 Episcopal in parentheses under the name of The Cathedral?

23 A. Yes.

24 Q. And when was that sign taken down?

25 A. Sometime in the past 18 to 24 months, I believe.

1 Q. Is there no sign there now?

2 A. I believe there's a new sign, but it does not have the
3 word Episcopal in it.

4 Q. And is it my understanding of your testimony that the
5 reason the word Episcopal appeared in parentheses there was
6 to communicate that you had a bishop?

7 A. Correct.

8 Q. You still have a bishop, don't you?

9 A. Correct.

10 Q. So why was that name removed?

11 A. In the current environment we thought it created
12 confusion because the Episcopal Church is commonly understood
13 as the national church. While Episcopal, being a term
14 referring to a bishop, indeed refers to our bishop, we didn't
15 want to create any confusion whatsoever.

16 Q. So you wanted to avoid confusion between your parish, or
17 Cathedral, and the Episcopal Church?

18 A. Yes.

19 Q. Okay. Has that been successful?

20 A. I wouldn't necessarily be the judge of that, but I think
21 it's on its way.

22 Q. Okay. Does your parish or Cathedral send delegates to
23 the annual convention of the diocese generally throughout
24 history of which you are aware?

25 A. I believe so, yes.

1 Q. And do you know of any conventions that St. Luke and
2 St. Paul has not sent delegates to?

3 A. There was a period in the late 1800s, I think, where we
4 were precluded from sending delegates; but other than that,
5 no.

6 Q. Okay. Have people including clergy from the Cathedral
7 served as deputies to the general convention of the Episcopal
8 Church?

9 A. Not that I know of.

10 Q. Well, did you know or have you studied about in your
11 history, which you seem to be quite conversant with, the Very
12 Reverend Lynwood Magee?

13 A. I'm familiar with his name and I have certainly seen it
14 around the parish, but I don't know his attendance record at
15 conventions.

16 Q. At general conventions?

17 A. At general conventions.

18 Q. And you know of no one else from the parish, I'll call
19 it, who has served in that capacity?

20 A. Not to my knowledge.

21 Q. Have you yourself served as a delegate to the diocesan
22 convention?

23 A. Yes, multiple times.

24 Q. Both before the disaffiliation from the Episcopal Church
25 and after?

1 A. Yes, I believe so.

2 Q. With respect to the property, briefly, did the parish
3 buy all of its property, that is, pay money for it; or was
4 some of it bestowed by a gift from a person or an
5 organization?

6 A. We acquired the parking lot, again, for \$22,500 from
7 J C Long, and I believe that was in 1972.

8 Q. Right.

9 A. I haven't read, they're difficult to read, the deeds
10 transferring the two parcels of land on which the church, the
11 parish hall and the graveyard occupy now, but I believe those
12 were gifts.

13 Q. Do you know who the gifts were from?

14 A. I believe Whitman and Radcliffe are the names, but I do
15 not know specifically otherwise.

16 Q. Were they individuals, as far as you know?

17 A. As far as I know, yes.

18 Q. Okay. Are you familiar with the constitution and canons
19 of the Diocese of South Carolina which you-all have
20 acknowledged authority of?

21 A. By no means am I an expert on them, but I'm familiar
22 with their existence.

23 Q. Just their existence?

24 A. Yes.

25 Q. Are you familiar with the constitution and canons of the

1 Episcopal Church?

2 A. No.

3 Q. Mr. Galvan, when did the parish disaffiliate from the
4 Episcopal Church?

5 A. Again, to clarify, we understand that the diocese
6 disaffiliated from the national church, and by virtue of us
7 affirming that we were in the diocese, by extension we were
8 disaffiliated, but we didn't act to disaffiliate specifically
9 beyond that.

10 Q. When did that occur?

11 A. That occurred by virtue of the resolution we passed in
12 November of 2012 ratified -- or affirmed by the congregation.

13 Q. And could you, for the benefit of the Court, please tell
14 us why The Cathedral of St. Luke and St. Paul, what were the
15 reasons that it disaffiliated from whatever it disaffiliated
16 from?

17 A. We passed that resolution, and it states in the whereas
18 and then the resolved clauses that we supported the duly
19 elected bishop. We did not agree with the process that the
20 national church used to restrict his ministry, and we
21 supported the standing committee's resolution to disaffiliate
22 with the national church. Those were simply statements that
23 we recognized those as valid, and then we expressly resolved
24 to stay within the Diocese of South Carolina under Bishop
25 Mark Lawrence.

1 Q. My question really was a little different from that.
2 What I was trying to get you to tell us, if you can, is why.
3 What were the reasons for the disaffiliation?

4 A. Quite specifically --

5 MR. MARVEL: Objection, asked and answered, Your Honor,
6 relevance.

7 THE COURT: Sustained. He already told you.

8 MR. TISDALE: Okay. Thank you, Your Honor.

9 THE COURT: All right.

10 Q. What is the average Sunday attendance at The Cathedral?

11 A. Most recent records I saw is about 188.

12 Q. 180?

13 A. 180.

14 Q. Are you familiar with the quitclaim deeds that
15 The Cathedral received from various grantors?

16 A. Yes, I am.

17 Q. And you have those in the documents before you, I think,
18 do you not?

19 A. I do.

20 Q. If you'll look at what has been marked as Exhibit SL-9.

21 A. Yes.

22 Q. When did The Cathedral receive SL-9?

23 A. We received SL-9, I believe, in July of 2011 and
24 recorded it in November of 2011.

25 Q. All right. Was there any reason for the gap between the

1 receipt and the recordation?

2 A. I do not know specifically the reason for the gap. I
3 know our chancellor had the claim -- or the deed and recorded
4 it later.

5 Q. Who conveyed whatever was conveyed by this? Who is the
6 grantor in this deed?

7 A. The grantor is the Protestant Episcopal Church in the
8 Diocese of South Carolina.

9 Q. And what did they convey to The Cathedral, if you know?

10 A. They conveyed -- I think the substance of the quitclaim
11 is the acknowledgment that they had no interest in the
12 parcels of land described later in the deed, which are
13 substantively the property between Vanderhorst and Warren on
14 Coming Street.

15 Q. Did they have any claim to the property, to your
16 knowledge, before that?

17 A. No, other than part of the lease. They can occupy it
18 for the term of the lease. There's a -- of that part of the
19 land.

20 Q. So did they forego any interest in their lease?

21 A. No, not necessarily.

22 Q. Although they released any claims that they might have?

23 A. Theoretically, yes, but in practice, we still honor
24 that.

25 Q. But theoretically?

1 A. Correct.

2 Q. Okay. Who signed this deed on behalf of whoever granted
3 it?

4 A. This was signed by Paul Fuener, the president of the
5 Protestant Episcopal Church in the Diocese of South Carolina.

6 Q. Do you understand that to be a corporation?

7 A. I do.

8 Q. Okay. Now let's look at the other quitclaim deed for a
9 minute, if we may. This is SLP-10. What date did
10 The Cathedral -- or first, what is the date of the deed?

11 A. The date of the deed, I referred to when it was
12 witnessed, is the 16th of February 2010.

13 Q. Okay. And who were the conveying parties of this
14 property?

15 A. This was conveyed by the Right Reverend Mark J. Lawrence
16 and Bishop of the Episcopal Diocese of South Carolina and the
17 standing committee of the Episcopal Diocese of South
18 Carolina.

19 Q. All right. And what did this deed convey?

20 A. It is effectively the same language referring to their
21 and our understanding that they had no claim to the parcels
22 of land between Vanderhorst and Warren on Coming Street.

23 Q. Do you know if Mark J. Lawrence, Bishop of the Episcopal
24 Church, Diocese of South Carolina, had any claim or interest
25 in what was being conveyed to The Cathedral?

1 A. Personally?

2 Q. Well, just --

3 A. Him personally.

4 Q. As bishop.

5 A. I think as representative of the diocese this states
6 that he did not have any claim, and I don't believe that he
7 had any prior claim.

8 Q. Do you know of any that he had personally or as bishop
9 at the time this deed was granted?

10 A. No.

11 Q. All right. I ask you the same question for the other
12 signatory here, which is the standing committee of the
13 Episcopal Diocese of South Carolina.

14 A. I don't believe they had any claim prior or subsequent
15 to the issuing of the deed.

16 Q. And as far as you know did the standing committee have
17 anything to convey to The Cathedral?

18 A. No.

19 Q. At all?

20 A. Not that I know of.

21 Q. Would the same thing go for Bishop Lawrence?

22 A. Correct.

23 Q. And on the other deed signed by Paul C. Fuener, did
24 Father Fuener own any interest or have any claim against
25 The Cathedral at the time this was conveyed?

1 A. I didn't know he was a father and I don't --

2 Q. Well, he's a priest.

3 A. Okay. I'm not familiar with him, but I don't believe he
4 had any claim.

5 Q. All right. And why were there two deeds instead of one
6 to convey the same nothingness?

7 A. That's a good question. My understanding is that this
8 originated -- the earlier dated deed signed by the bishop and
9 the standing committee originated when the bishop initially
10 was brought up on charges of abandoning communion, and those
11 were not certified. This, I think, was partially done as a
12 response to that. Later this deed was issued, I'm not sure
13 entirely why, but it changed the entity, presumably, to
14 clarify which entity was granting that quitclaim deed. But
15 other than that, I don't know.

16 Q. That was to satisfy ambiguity?

17 A. I agree with that statement, yes.

18 Q. Okay. Mr. Galvan, has anything under the constitution
19 and canons of the Episcopal Church or of the Diocese of South
20 Carolina, Protestant Episcopal Church of the Diocese of South
21 Carolina, Diocese of South Carolina previously, that would
22 prevent any person from disassociating from the Episcopal
23 Church anytime they wanted to?

24 A. Any person?

25 Q. Any communicant.

1 A. Not that I know of.

2 Q. So there's nothing to bind an individual to the parish,
3 is there?

4 A. No.

5 MR. TISDALE: Your Honor, bear with me just 30 seconds,
6 please.

7 THE COURT: All right.

8 MR. TISDALE: Your Honor, I don't have anything further.

9 THE COURT: All right. Redirect?

10 MR. MARVEL: Once quick question.

11 REDIRECT EXAMINATION BY MR. MARVEL:

12 Q. Alonso, if you could turn to what has been marked as
13 SLP-10 again, please.

14 A. Yes.

15 Q. And this is the previous quitclaim deed, correct?

16 A. Correct.

17 Q. Okay. You seemed a little uncertain in answering your
18 question. Do you have any personal knowledge as to the
19 reason behind that, the issuance of that quitclaim deed?

20 A. The rationale the diocese used to provide it; is that
21 what you're asking?

22 Q. Yes.

23 A. So my understanding is that at the time the bishop was
24 offering these claims, they wanted to clarify that they had
25 no interest whatsoever in the property. They didn't claim to

1 have had any interest before, but they wanted to be quite
2 certain on our behalf, I think also coming out of the All
3 Saints case, that they had no interest whatsoever in the
4 property.

5 Q. Okay. Do you have any recollection of that actually
6 being tied to any charges being brought directly towards the
7 bishop?

8 A. No, not directly, no.

9 MR. MARVEL: Thank you. Your Honor, that's all I have.

10 THE COURT: All right. Any other plaintiffs? All
11 right. Very well.

12 Recross as to that issue? None? Very well.

13 You may come down. We're going to take our break.
14 We're going to reconvene about five minutes after 12:00.

15 (Recess held.)

16 THE COURT: All right. On behalf of the plaintiffs,
17 call your next witness.

18 MS. DURANT: May it please the Court, Your Honor,
19 Bess Durant with Sowell Gray, and I am with Thornwell F.
20 Sowell, also known as Biff Sowell, the titular head, the
21 spiritual head, the leader head of the law firm of Sowell
22 Gray. And our witness is John Acken, Your Honor.

23 JOHN ACKEN,
24 being first duly sworn, testified as follows:

25 THE COURT: Your witness.

1 MS. DURANT: Thank you, Your Honor, and just as a
2 housekeeping matter, both Ms. St. Amand and Ms. Kostel have
3 agreed -- have stipulated to all of our exhibits being
4 admitted.

5 THE COURT: And they're exhibits numbered?

6 MS. DURANT: They are Exhibits No. 1, 2, 3, 3A, 3B, 3C,
7 4, 5, 5A, 6, 6A, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18,
8 19, 20, 24, 25, 26, and 27.

9 (Plaintiff's Exhibits HC-1 through HC-27 premarked for
10 identification.)

11 THE COURT: Is that correct?

12 MS. ST. AMAND: That's correct.

13 MR. TISDALE: As far as we know. We don't have any
14 dispute on it.

15 THE COURT: Thank you kindly.

16 MS. KOSTEL: That's fine, Your Honor.

17 THE COURT: Thank you. Exhibits are admitted without
18 objection. You may proceed.

19 (Plaintiff's Exhibits HC-1 through HC-27 admitted into
20 evidence.)

21 MS. DURANT: Thank you, Your Honor.

22 DIRECT EXAMINATION BY MS. DURANT:

23 Q. Mr. Acken, can you give me a brief description of your
24 educational background?

25 A. Yes, I have an undergraduate degree at Hampden-Sydney

1 College in Virginia and a graduate degree at

2 Vanderbilt University.

3 Q. Any other graduate work?

4 A. I'm sorry?

5 Q. Any other graduate work?

6 A. University of Virginia, they decided I couldn't read and

7 write, so they sent me back for a math course.

8 Q. I know that feeling all too well.

9 Are you presently employed, Mr. Acken?

10 A. No, I'm not.

11 Q. So you're retired?

12 A. Yes, I am.

13 Q. What was your previous life in the working world?

14 A. I was general manager of transload services for

15 CSX Corporation in Jacksonville, Florida. We managed

16 rail-to-truck barge transfer facilities, eastern United

17 States, southern Canada.

18 Q. Are you a member of any church?

19 A. Yes, I am.

20 Q. What church is that?

21 A. Holy Comforter.

22 Q. How long have you been a member of Church of the

23 Holy Comforter?

24 A. Since I retired in '97, that's 17 years.

25 Q. Where is the Church of the Holy Comforter located?

1 A. In Sumter, South Carolina.

2 Q. Have you held any leadership positions in the
3 Holy Comforter?

4 A. Yes, I have.

5 Q. Tell me about those, please.

6 A. I was on the vestry and I was also senior warden.

7 Q. Let's talk about the vestry first. How long have you
8 served in the vestry?

9 A. I was on the vestry in 2008 through '10 and then again
10 in 2012 and then 2013 through the present time.

11 Q. Did you serve in the vestry anytime prior to 2008?

12 A. Yes, in the early 2000s.

13 Q. So you're presently in the vestry today?

14 A. Yes, I am.

15 Q. What role does the vestry play of Holy Comforter?

16 A. It functions as the board of directors.

17 Q. And I believe your earlier testimony was that you served
18 as the senior warden; is that correct?

19 A. Yes, I did.

20 Q. When did you serve as the senior warden?

21 A. 2009, 2010.

22 Q. What role does the senior warden serve?

23 A. Basically chairman of the board. I think John Barr
24 would say the temporal chairman of the board.

25 Q. Who is John Barr?

1 A. He's our rector.

2 Q. Does Holy Comforter have any officers?

3 A. Yes.

4 Q. Who are they?

5 A. They would be the wardens, the clerk, and the treasurer.

6 Q. Are their roles described in the constitution or the
7 bylaws that we call the constitution of Holy Comforter?

8 A. They are.

9 Q. Let's talk about the history of Holy Comforter, if you
10 don't mind, sir.

11 A. All right.

12 Q. When did Holy Comforter first start holding its
13 services?

14 A. We know they were holding services in 1854, but maybe
15 even before that.

16 Q. Does 1844 sound correct?

17 A. '44, that's correct.

18 Q. When was Holy Comforter incorporated?

19 A. In 1857.

20 Q. How was Holy Comforter incorporated?

21 A. By a legislative charter.

22 Q. Mr. Acken, I'm going to direct you to Holy Comforter's
23 Exhibit 1.

24 MS. DURANT: And for the record, Your Honor, our prefix
25 is HC.

1 THE COURT: Thank you.

2 Q. Mr. Acken, do you have a copy of HC-1?

3 A. Yes, I do.

4 Q. What is that?

5 A. It's the legislative charter for the church
6 incorporating the corporate entity of the Church of the
7 Holy Comforter.

8 Q. So the state of South Carolina incorporated
9 Holy Comforter?

10 A. Yes.

11 Q. What powers does the legislative charter give
12 Holy Comforter?

13 A. The power to incorporate, have wardens, officers,
14 vestry, bylaws, buy and sell property, real and personal,
15 have a common seal, hold property.

16 Q. Sounds like a good description to me.

17 What kind of corporation is Holy Comforter; profit or
18 nonprofit?

19 A. Nonprofit.

20 Q. What services does the corporation of Holy Comforter
21 provide?

22 A. Religious.

23 Q. Has Holy Comforter always and continually provided
24 religious services since it was legislatively chartered?

25 A. It has.

1 Q. And it was legislatively chartered in 1857, correct?

2 A. That's correct.

3 Q. Is there any reference to the national church in the
4 charter?

5 A. No. In fact, in the charter it was chartered as a
6 nondenominational church.

7 Q. Is there any reference to the Diocese of South Carolina
8 in the charter?

9 A. No.

10 Q. Is there any reference to the Episcopal Church of South
11 Carolina in the charter?

12 A. No.

13 Q. Has the charter ever been amended?

14 A. Yes, it has -- oh, not the charter, I'm sorry, no.

15 Q. Let me ask that question again, if you don't mind.

16 Has the charter ever been amended?

17 A. The charter has not been amended.

18 Q. Has it ever been repealed?

19 A. I'm sorry?

20 Q. Has it ever been repealed?

21 A. No.

22 Q. Are you familiar with what property is owned by
23 Holy Comforter?

24 A. Yes, I am.

25 Q. How are you familiar with what property is owned?

1 A. As a member of the vestry.

2 Q. How many tracts of land does Holy Comforter own?

3 A. Five.

4 Q. Can you give us a brief description of those five
5 tracts?

6 A. Yes, we have a -- we have an administrative building we
7 call the parish hall, we have a church, we have a parking
8 lot, we have a rectory, and we have a group of lots referred
9 to as the White Oak Properties.

10 Q. Does Church of the Holy Comforter have deeds for all of
11 these properties?

12 A. Yes, it does.

13 Q. Mr. Acken, I'm going to ask you to refer to several of
14 the exhibits that you have in front of you. Those exhibits
15 are Exhibits 2, 3, 3A, 3B, 3C, 4, 5, 5A, 6, and 6A.

16 A. Yes.

17 Q. Do you have those in front of you, Mr. Acken?

18 A. Yes, I do.

19 Q. Do these deeds, which are certified copies of deeds, are
20 these the deeds that reflect Holy Comforter's ownership of
21 all its real property?

22 A. Yes.

23 Q. Actually, let me clean something up, Mr. Acken. Do you
24 mind specifically referring to Exhibit 6?

25 A. 6, okay.

1 Q. What is this property?

2 A. It is White Oak lot, the lot is No. 16.

3 Q. Actually, Mr. Acken, I'm asking you to look at
4 Exhibit 6, please.

5 A. Exhibit 6, all right. Okay.

6 Q. And what is the property that's contained in the deed
7 that's labeled Holy Comforter's Exhibit 6?

8 A. This is titled Properties, White Oak lots 13, 14, 15,
9 16, 17, and 18.

10 Q. Has Holy Comforter sold part of this land?

11 A. Yes, we have.

12 Q. Do you mind referring to Exhibit 6A, please, Mr. Acken?

13 A. All right.

14 Q. What does this deed show?

15 A. 6A?

16 Q. Yes, sir.

17 A. 6A is Lot No. 16.

18 Q. Is this conveying out a parcel from Holy Comforter?

19 A. Yes, it conveys a property to David and
20 Cynthia Caldwell.

21 Q. So does Holy Comforter claim any interest in the
22 property represented by Exhibit 6A?

23 A. No, it does not.

24 Q. So the deeds that we have discussed today with the
25 exception of C -- let me rephrase that question.

1 Do the deeds that we have discussed today with the
2 exception of 6A represent all the property owned by
3 Holy Comforter?

4 A. Yes.

5 Q. All the real property owned by Holy Comforter?

6 A. Yes.

7 Q. Does Holy Comforter have fee simple title to all of this
8 property?

9 A. Yes, it does.

10 Q. Mr. Acken, does the Diocese of South Carolina claim any
11 interest, legal or equitable, in Holy Comforter's property?

12 A. No, it does not.

13 Q. Mr. Acken, please refer to Holy Comforter's Exhibit 25.

14 A. 25, yes.

15 Q. What is this document?

16 A. It's a quitclaim deed.

17 Q. Okay. It's a quitclaim deed from whom?

18 A. From the Diocese of South Carolina to Church of the
19 Holy Comforter.

20 Q. What does this deed state?

21 A. Says that they have no title to any of our property, no
22 right to any of our property.

23 Q. Did they ever have any title to our property?

24 A. No, they did not.

25 Q. Did the Diocese of South Carolina ever have any interest

1 in our property?

2 A. No, it does not.

3 Q. Mr. Acken, we've talked about the deeds to our property,
4 I'd like to now show you some photos of our property.

5 Do you see what's in front of you, Mr. Acken?

6 A. Yes, I can.

7 Q. Can you briefly explain for Her Honor the people in the
8 buildings that comprise Church of the Holy Comforter?

9 A. These are the parishioners in a service in the
10 Holy Comforter and looks like just about to start services.
11 I sees Charles Walton sitting there on the right.

12 This, the top photograph is the original Church of the
13 Holy Comforter, the bottom is the present Church of the
14 Holy Comforter, and I think they were Easter services.

15 Q. Now, will you please explain for Judge Goodstein, when
16 you say the original Holy Comforter versus the present
17 Holy Comforter --

18 A. Yes, the original Holy Comforter was built in 1858-59,
19 and then it was replaced in 1909 with the current church.

20 Q. Is it located in the same property?

21 A. No, they were located in different properties.

22 Q. Close to each other?

23 A. I'm sorry?

24 Q. Close to each other?

25 A. Yes, one was at South Main Street in Sumter, one's at

1 North Main Street in Sumter.

2 Q. Is this the present church building?

3 A. Yes, and as you see on the right there is the original
4 church building without the steeple. History has it that the
5 steeple is one of the tallest steeples in Sumter. An
6 interesting little story with this, when they were getting
7 ready to build the new church, they had to wheel the old
8 church down Main Street and took a long period of time to do
9 it. And so Sunday rolled around and here the church was
10 perched on this paraphernalia with wheels under it, and this
11 was in May of, I believe, 1908. And so if you can imagine
12 the gentlemen in their Sunday-go-to-meeting clothes and the
13 ladies in their parasoles and long dresses clamerring up over
14 the wheels into the original church in the middle of Main
15 Street, Sumter, South Carolina, makes an interesting image.

16 Q. Can only imagine.

17 Next picture please, sir. What is this, Mr. Acken?

18 A. That's the current campus of the Church of the
19 Holy Comforter.

20 Q. Okay.

21 A. That's the 1909 church and with the colonnade going over
22 to the parish hall. Interestingly, when the 1909 church was
23 built, much to the chagrin of the parishioners, the rector at
24 that time insisted that all the money for the construction of
25 the church come out of their pockets, and no one else in

1 Sumter could give money for the building of the church. Glad
2 that John Barr never had that idea when I was around there.

3 Q. Next picture, please, sir.

4 A. Another view of the church as it exists today. And
5 still, another view. You can see the organ over on the
6 right-hand side there, another view.

7 On the lower left, that's a baptismal font that was
8 given by St. Philip's, I believe, in 1859. The top picture,
9 top left picture, was a painting by Elizabeth White, who's a
10 local Sumter artist, of our boys with the colors in 1918.
11 And the plaque on the upper right, which I've always found
12 interesting, was from Elizabeth Beaufort who gave money for
13 the original church and she was born while the
14 Revolutionary War was still underway, and she died at age 87
15 in 1867. On the right is the chapel of the church.

16 Q. And that baptismal font you said from St. Philip's, is
17 that St. Philip's in Charleston?

18 A. That's correct.

19 Q. Next picture, please, sir. We talked about the building
20 in the photos, let's talk about the people in the church.

21 A. Okay. The top center photograph you can see Laura Barr
22 there. There's -- the picture on the second row right would
23 be John White and his son Allen, much younger. John's much
24 less gray than he is now.

25 Down in the lower middle is Mike Hubb, former Air Force

1 colonel, that became a priest while he was with us, the choir
2 on the bottom. And I think -- I believe that picture on the
3 left is the church as it was first constructed in 1909.

4 Q. Next picture, please, sir.

5 A. More pictures.

6 Q. If you could just give us a brief description,
7 Mr. Acken.

8 A. Sure. One is, of course, communion service on the
9 center left; down at the bottom right, it's interesting,
10 that's Grainger McKoy and Floride, and they're parishioners,
11 and Grainger was a local sculptor, and his wife Floride.
12 When I retired and Bessey said, my family came to Sumter's
13 history at the time of King George, II, and that's where
14 we're going to retire, John. Yes, ma'am. And so we went and
15 had supper with Floride and Grainger, and when we left she
16 said, one thing you've got to know is everybody in Sumter's
17 kin to everybody else. Floride's my second cousin. I was
18 delighted that I had said nothing bad about Floride or her
19 family.

20 Q. A good heads-up.

21 A. That's John Barr in the center, upper center; our
22 rector, waiting on the left; that's Bunt Wilson on the right.
23 Some of you may know Bunt and Lucy Gray at her wedding.
24 There's Mike Hubb again and his son, glad to see -- I told
25 Mike this, he was a retired Air Force colonel, glad to see

1 his son was part of the naval service, sort of moving up in
2 the world.

3 That is the choir from the 19 -- or children's choir
4 from the 1950s.

5 Q. Next picture please.

6 A. And getting ready to process in for service.

7 Q. I think that's all the pictures we have, Mr. Acken.
8 Thank you for taking us through that exercise.

9 Back to the matter at hand, Mr. Acken. Earlier we had
10 talked about the legislative charter that incorporated
11 Holy Comforter, correct, Mr. Acken?

12 A. Yes.

13 Q. And the legislature bestowed certain powers upon
14 Holy Comforter, correct?

15 A. That's correct.

16 Q. One of those powers was to make bylaws?

17 A. That's correct.

18 Q. Does Holy Comforter have bylaws?

19 A. Yes, it does.

20 Q. What does the Church of the Holy Comforter call its
21 bylaws?

22 A. The constitution.

23 Q. Has Holy Comforter ever amended its constitution?

24 A. Yes, it has.

25 Q. Will you please explain the process to amend the

1 constitution.

2 A. Well, we have two ways of amending the constitution.

3 One is to have two meetings, one to discuss the constitution
4 and consider it, and the second meeting would be to actually
5 have a vote and commit to the constitution.

6 The second method is for the rector to announce the
7 proposed constitutional meeting on two Sundays prior to that
8 and to -- for us to send out letters two weeks prior to the
9 meeting to all of the parishioners.

10 Q. And what do those letters need to include?

11 A. The letters need to include the changes to the
12 constitution.

13 Q. The proposed amendments?

14 A. Proposed, yes.

15 Q. And what kind of vote do you need from the parish to
16 amend the constitution?

17 A. Originally it had to be a quorum of 20 percent.

18 Q. Right, I'm not asking about a quorum. I'll ask you more
19 directly. Do you need a two-thirds vote to pass the
20 constitution?

21 A. Yes, yes.

22 Q. Has the constitution been amended over the past five
23 years?

24 A. Yes, it has.

25 Q. Please explain how it was amended.

1 A. On two occasions. First it was amended to delete any
2 reference to the Episcopal -- to the national church; to
3 change the quorum from 20 to 25 percent; to take out any
4 canons, any reference to canons that were not accepted by the
5 Diocese of South Carolina; to free us from any requirement to
6 be part of the Episcopal Church; to exempt us from being in
7 any way required to be part of -- accede to the doctrine,
8 discipline and worship of the Episcopal Church.

9 Q. Do you know when the parish of the Church of the
10 Holy Comforter made that amendment?

11 A. That amendment was made in 2010.

12 Q. Would that be November of 2010?

13 A. November of 2010, yes.

14 Q. Has the constitution been amended since November of
15 2010?

16 A. Yes, it has.

17 Q. When?

18 A. In 2013 we had a second amendment, which was
19 indemnification for the officers, vestry, employees --

20 Q. Was that the --

21 A. -- clergy of the church.

22 Q. I'm sorry, was that the sole amendment to the
23 constitution in 2013?

24 A. Yes.

25 Q. What role did you have within Holy Comforter at the time

1 the constitution was amended in 2010?

2 A. I was senior warden.

3 Q. What version of the constitution were you amending in
4 2010?

5 A. 1989.

6 Q. Are you familiar with the contents of the 1989
7 constitution, Mr. Acken?

8 A. Yes.

9 Q. Will you please refer to Holy Comforter's Exhibit 26.
10 Do you recognize this document, Mr. Acken?

11 A. Yes, I do.

12 Q. Is this the constitution that Holy Comforter was
13 amending in 2010?

14 A. Yes.

15 Q. When did the process of amending the constitution to
16 include these amendments begin?

17 A. It began with the vestry meeting in January of 2010.

18 Q. At the January 2010 vestry meeting did the vestry
19 discuss a proposed amendment to the constitution?

20 A. Yes, we did.

21 Q. Mr. Acken, will you please refer to Holy Comforter's
22 Exhibit 7.

23 A. Yes.

24 Q. What is this?

25 A. It's a special session of the vestry dated January 13,

1 2010.

2 Q. Is it an accurate representation of what occurred at the
3 meeting?

4 A. Yes, it is.

5 Q. Were you present for this vestry meeting?

6 A. Yes, I was.

7 Q. Was a quorum present?

8 A. Yes, it was.

9 Q. Did the vestry authorize the proposed amendment to the
10 constitution and its submission to the parish for adoption?

11 A. Yes.

12 Q. Did the vestry agree to send the amendment to the
13 congregation?

14 A. Yes, it did.

15 Q. Did the vestry --

16 A. It was a unanimous recommendation, if I remember right.

17 Q. Did the vestry adopt a resolution at this meeting?

18 A. Yes, it did.

19 Q. What did the resolution state?

20 A. The resolution was to define the doctrine, discipline,
21 and worship of the Episcopal Church.

22 Q. Did you end up sending the proposed amendment to the
23 members of Holy Comforter?

24 A. Yes, we did.

25 Q. Why did you send the proposed amendment to the members

1 of Holy Comforter?

2 A. So that they could review the proposed amendments and
3 resolution prior to the vestry meeting -- or the parish
4 meeting.

5 Q. Do you remember when the -- was this an annual parish
6 meeting?

7 A. Yes, it was the annual parish meeting, January 31st, I
8 believe.

9 Q. Mr. Acken, will you please refer to Holy Comforter's
10 Exhibit 9.

11 A. Yes.

12 Q. Do you recognize Exhibit 9?

13 A. Yes, I do.

14 Q. Is this your letter?

15 A. Yes, it is.

16 Q. Who did you send this letter to?

17 A. This letter went to the parish, members of the parish.

18 Q. What did you inform the parishioners of in this letter?

19 A. We were proposing an amendment and a resolution,
20 amendment to the constitution and a resolution.

21 Q. Did you also inform the parishioners of when the annual
22 parish meeting would occur?

23 A. Yes, we did, January 31st.

24 Q. Mr. Acken, according to the '89 constitution what notice
25 is required for annual parish meetings?

1 A. Annual parish meeting notice was the rector had to give
2 a notice on two successive Sundays prior to the meeting and a
3 one-week written notice.

4 Q. Mr. Acken, did Holy Comforter's Exhibit 9 serve as
5 notice to the parishioners of the annual meeting?

6 A. Yes, the notice was in excess of one week.

7 Q. And you also informed them of when the meeting would
8 occur, correct?

9 A. That's right.

10 Q. To your knowledge did the rector provide notice to the
11 parishioners of the meeting on two consecutive Sundays?

12 A. Yes, he did.

13 Q. Immediately prior to the parish meeting on January 31st,
14 2010?

15 A. Yes.

16 Q. Therefore, proper -- was notice properly given in
17 accordance with the constitution for the parish meeting on
18 January 31st, 2010?

19 A. Yes, it was.

20 Q. Did your letter, which is Holy Comforter's Exhibit 9,
21 also serve as notice for the proposed constitution on the
22 amendment?

23 A. Yes, it did because it was given two weeks prior to the
24 meeting.

25 Q. And it included -- at the bottom of that letter it

1 references enclosures, correct?

2 A. Yes, it enclosed a proposed amendment and a proposed
3 resolution.

4 Q. So you gave the parishioners a copy of the proposed
5 amendment to the constitution, correct?

6 A. That is correct.

7 Q. Did this letter serve as notice to the parishioners of
8 the proposed constitutional amendment?

9 A. Yes, it did.

10 Q. Did you send it two weeks before the meeting?

11 A. Yes, I did.

12 Q. Was notice properly given in accordance with the
13 constitution for consideration of the proposed constitutional
14 amendment?

15 A. Yes, it was.

16 Q. Did the parish meeting occur on January 31st, 2010?

17 A. It did.

18 Q. Mr. Acken, will you please refer to Holy Comforter's
19 Exhibit 10.

20 A. Yes.

21 Q. What is Holy Comforter's Exhibit 10?

22 A. Minutes of an annual meeting 2010, January 31st, 2010.

23 Q. And it's an accurate representation of what happened at
24 the meeting?

25 A. Yes, it is.

1 Q. Mr. Acken, did you attend the parish meeting on January
2 31st, 2010?

3 A. I did.

4 Q. Was a quorum present?

5 A. Yes.

6 Q. Regarding the resolution that you sent to the parish,
7 which I believe was Exhibit 9, what did the parish decide?

8 A. They approved the resolution.

9 Q. Did they approve it unanimously?

10 A. Yes, they did.

11 Q. Mr. Acken, will you please refer to Holy Comforter's
12 Exhibit 8.

13 A. Yes.

14 Q. Do you recognize Exhibit 8?

15 A. Yes, I do. It's the resolution that we passed at the
16 meeting on January 31st, 2010.

17 Q. Mr. Acken, regarding the proposed constitutional
18 amendment, what did the congregation decide to do?

19 A. They tabled the amendment and to readdress it in a
20 future meeting of November of 2010.

21 Q. So the parish had actually recessed it?

22 A. Yes, the parish recessed the meeting and we reconvened
23 in November.

24 Q. November of 2010?

25 A. That's right.

1 Q. Now, prior to the reconvened annual meeting in November
2 of 2010 did the vestry meet to discuss the proposed
3 constitutional amendments?

4 A. Yes, we did.

5 Q. Was this at a vestry meeting?

6 A. That was at a vestry meeting, yes.

7 Q. At this vestry meeting did the vestry authorize the
8 proposed amendments to the constitution and its submission to
9 the parish for adoption?

10 A. Yes, we did.

11 Q. Mr. Acken, will you please refer to Holy Comforter's
12 Exhibit 12.

13 A. 12, yes.

14 Q. What is Exhibit 12?

15 A. It's a minutes of a vestry meeting on October 26th,
16 2010.

17 Q. And is it an accurate representation of what happened at
18 the October 26, 2010, meeting?

19 A. Yes, it is.

20 Q. Mr. Acken, were you present for this vestry meeting?

21 A. I was.

22 Q. Was a quorum present at the vestry meeting?

23 A. Yes, it was.

24 Q. Did the vestry agree to send the amended constitution to
25 the -- or the proposed amended constitution to the

1 congregation?

2 A. Yes, we did.

3 Q. Was this a unanimous vote?

4 A. It was a unanimous vote, that's correct.

5 Q. Did you end up sending the proposed amended constitution
6 to the members of Holy Comforter?

7 A. We did.

8 Q. Why?

9 A. In order that they could review the proposed amendment,
10 be prepared to vote on it.

11 Q. Giving them notice?

12 A. And giving them the two weeks' notice required by the
13 constitution.

14 Q. Mr. Acken, will you please refer to Holy Comforter's
15 Exhibit 14.

16 A. Yes.

17 Q. Will you please describe for the Court what Exhibit 14
18 is.

19 A. Exhibit 14 shows that there were 175 letters mailed out
20 on November the 4th, 2010, to the parish. It was also a
21 letter signed by myself and John Barr to the parish, giving
22 them notice of the meeting, and there was a resolution -- a
23 new constitution, Church of the Holy Comforter, a resolution
24 for the commitment to the diocesan relationship, and a copy
25 of the new constitution that was proposed to be voted on.

1 Q. So your letter, the two resolutions and the proposed
2 amended constitution were mailed to the parishioners,
3 correct?

4 A. That's correct.

5 Q. What did you inform the parishioners of in this letter?

6 A. In the cover letter, that we were proposing a new parish
7 constitution and giving them notice to attend the meeting on
8 the -- November 21st and we would provide them with pizza and
9 beverages.

10 Q. Got to get them there somehow, right?

11 A. That's right.

12 Q. Did this -- earlier you testified about the notice
13 requirements for the parish meetings and constitutional
14 amendments, correct?

15 A. Yes.

16 Q. Did this letter comply with the constitutional
17 requirements for notice of the reconvened parish meeting?

18 A. Yes, it did.

19 Q. Why?

20 A. Well, it gave at least a one-week notice and it was --
21 the rector got up two weeks prior to the meeting on the
22 Sunday service and announced it in the Sunday service.

23 Q. Did the rector get up two consecutive Sundays
24 immediately prior --

25 A. Yes, yes, he did.

1 Q. If you'll just let me finish out my question for madam
2 court reporter, if you don't mind. So let me ask again.

3 Did the rector provide notice to the parishioners of the
4 meeting in two consecutive Sundays immediately prior to the
5 reconvened parish meeting on November 21st, 2010?

6 A. Yes, he did.

7 Q. Was notice properly given for the reconvened parish
8 meeting on November 21st, 2010?

9 A. Yes, it was.

10 Q. In addition, does your letter also serve as notice for
11 the proposed constitutional amendments?

12 A. Yes, it did because it was provided two weeks ahead of
13 the meeting.

14 Q. And you also included the proposed constitutional
15 amendments in this letter, correct?

16 A. Yes, we did.

17 Q. Was notice properly given for the consideration and vote
18 of the proposed constitutional amendments at the reconvened
19 parish meeting on November 21st, 2010?

20 A. Yes.

21 Q. Did the reconvened meeting occur on November 21st, 2010?

22 A. It did.

23 Q. Mr. Acken, will you please refer to Holy Comforter's
24 Exhibit 15.

25 A. This is the minutes of the 2010 annual meeting, November

1 21, 2010.

2 Q. Is this an accurate representation of what happened at
3 the November 21st, 2010, reconvened meeting?

4 A. Yes, it is.

5 Q. Did you attend the reconvened parish meeting on November
6 21st, 2010?

7 A. I did.

8 Q. Was a quorum present at the meeting?

9 A. It was.

10 Q. Regarding the resolution that amended the constitution,
11 did the parish consider and vote on the resolution?

12 A. Yes.

13 Q. Mr. Acken, will you please look at Holy Comforter's
14 Exhibit 11.

15 A. Exhibit which?

16 Q. 11.

17 A. 11, yes.

18 Q. Do you recognize Exhibit 11?

19 A. Yes, it's the new constitution for the Church of the
20 Holy Comforter.

21 Q. Regarding the resolution that it would amend the
22 constitution, how did the parish vote?

23 A. The vote was 94 in favor, one opposed, two abstained.

24 Q. Do you mind reading that a little bit closer, Mr. Acken?

25 A. 94 total votes, 91 in favor, one opposed, and two

1 abstaining.

2 Q. Was this more than a two-thirds vote in favor?

3 A. Yes.

4 Q. What adjective would you use to describe how the parish
5 voted?

6 A. It was overwhelmingly approved.

7 Q. Did the parish also vote on the other resolution?

8 A. Yes.

9 Q. Do you mind looking -- will you please look at Holy
10 Comforter's Exhibit 13.

11 A. Okay.

12 Q. Do you recognize Holy Comforter's Exhibit 13?

13 A. Yes, I do.

14 Q. What is it?

15 A. It's a commitment to the diocesan relationship.

16 Q. Regarding this resolution, how did the parish vote?

17 A. Unanimously.

18 Q. Back to the resolution to amend the constitution, was
19 the constitution amended in accordance with the parish's
20 vote?

21 A. Yes, it was.

22 Q. Mr. Acken, will you please refer to Exhibit 27.

23 A. Okay.

24 Q. Do you recognize Exhibit 27?

25 A. Yes, I do.

1 Q. What is it?

2 A. It's the constitution of the Church of the
3 Holy Comforter.

4 Q. Is this the amended constitution that came out of the
5 reconvened meeting?

6 A. Yes, it did.

7 Q. Is Exhibit 27 the most current version of the
8 constitution?

9 A. No, it's not.

10 Q. What is the most current version of the constitution?

11 A. It's a 2013.

12 Q. How does the 2013 constitution differ from the 2010
13 constitution?

14 A. Because we added an indemnification agreement for the
15 wardens, vestry, clergy, members, and employees.

16 Q. Did the amendment process to add the indemnification
17 provision comply with the requirements in the 2010
18 constitution?

19 A. Yes.

20 Q. Mr. Acken, will you please refer to Holy Comforter's
21 Exhibit 24.

22 A. All right.

23 Q. Do you recognize Holy Comforter's Exhibit 24?

24 A. I do.

25 Q. Just for the record, will you explain that first page.

1 A. I'm sorry?

2 Q. Just for the record, will you explain the first page.

3 A. First page is a constitutional attestation by the then
4 senior warden, Rick Shaw.

5 Q. What does he say?

6 A. Says that the undersigned, Rick Shaw, senior warden of
7 the vestry of the Church of the Holy Comforter does hereby
8 attest to the attached constitution as a true and correct
9 constitution of the Church of the Holy Comforter duly amended
10 and adopted by the congregation on January 29, 2013.

11 Q. So, Mr. Acken, is this the most current version of the
12 constitution that governs Holy Comforter?

13 A. Yes, it is.

14 Q. Mr. Acken, does Holy Comforter have to seek permission
15 from the national church to change its constitution?

16 A. No.

17 Q. To your knowledge, has Holy Comforter ever sought
18 permission from the national church to change its
19 constitution?

20 A. No.

21 Q. To your knowledge, has Holy Comforter ever sought
22 permission from the Diocese of South Carolina to change its
23 constitution?

24 A. No.

25 Q. Does Holy Comforter have to seek permission from the

1 Diocese of South Carolina to change its constitution?

2 A. No.

3 Q. Does Holy Comforter's constitution require it to seek
4 permission from any third party?

5 A. No.

6 Q. Mr. Acken, switching gears a little bit. At some point
7 in time the vestry and the parishioners of Holy Comforter
8 concluded they no longer wanted to be in communion with the
9 national church, correct?

10 A. That's correct.

11 Q. When was that?

12 A. It was in the late fall of 2012.

13 Q. Did the vestry vote to declare that it was no longer in
14 union with the national church?

15 A. It did.

16 Q. Mr. Acken, will you please refer to Holy Comforter's
17 Exhibit 17.

18 A. Yes.

19 Q. Do you recognize Exhibit 17?

20 A. I do.

21 Q. What is it?

22 A. Vestry minutes for Tuesday, October 23rd of 2012.

23 Q. Were you present for this vestry meeting?

24 A. I was.

25 Q. Was a quorum present at the vestry meeting?

1 A. Yes.

2 Q. Did the vestry pass a resolution at this meeting?

3 A. They did.

4 Q. Mr. Acken, will you please refer to Holy Comforter's
5 Exhibit 16.

6 A. Yes.

7 Q. Do you recognize Holy Comforter's Exhibit 16?

8 A. Yes, I do.

9 Q. Will you please explain to me what it is.

10 A. We were no longer with the Episcopal Church, we stayed
11 in fellowship with the diocese, and that the Episcopal Church
12 has no authority over our property, either real or personal.

13 Q. Will you please flip to the second page of this
14 document, Mr. Acken.

15 A. Okay.

16 Q. Is that your signature at the bottom of the right
17 column?

18 A. It is.

19 Q. Was the parish vote on this resolution unanimous?

20 A. Unanimous, absolutely.

21 Q. Mr. Acken, did the parish also vote on the decision to
22 declare the Holy Comforter is no longer in union with the
23 national church?

24 A. It did.

25 Q. When did that vote occur?

1 A. November the 4th, 2012.

2 Q. Did you hold a special meeting regarding this issue for
3 the parish?

4 A. We did.

5 Q. Who called the special meeting?

6 A. The senior warden.

7 Q. Mr. Acken, will you please refer to Exhibit 20. Do you
8 recognize Exhibit 20?

9 A. Yes, that's the Church of the Holy Comforter 2012
10 special parish meeting Sunday, November the 4th --

11 Q. Is this --

12 A. -- 2012.

13 Q. I'm sorry. Is this an accurate representation of what
14 happened at the November 4th, 2012, special meeting?

15 A. It is.

16 Q. Did you attend this meeting on November 4th, 2012?

17 A. I did.

18 Q. Was a quorum present?

19 A. Yes.

20 Q. Was notice properly given to the congregation for this
21 meeting?

22 A. It was.

23 Q. How?

24 A. It was two consecutive Sundays prior to the meeting, the
25 rector announced it in church, and it was given a one-week

1 letter in writing.

2 Q. In Holy Comforter's Exhibit 20 -- let me flip to it
3 because my eyes aren't good enough to read that screen -- do
4 the minutes reflect -- oh, thank you -- that notice was sent
5 to the parishioners?

6 A. Yes.

7 Q. When does it say notice was sent to the parishioners?

8 A. October 24th, 2012.

9 Q. Mr. Acken, will you please refer to Holy Comforter's
10 Exhibit 19.

11 A. Okay.

12 Q. Do you recognize Holy Comforter's Exhibit 19?

13 A. Yes, it's a letter to the parish from the senior warden.

14 Q. And who was the senior warden at this time?

15 A. Sue McDuffy.

16 Q. And you were at the vestry at this time, correct?

17 A. That's correct.

18 Q. And this letter was sent a week prior to the special
19 meeting, correct?

20 A. Yes, it was.

21 Q. Notice was properly and duly given to the parishioners
22 of the special meeting?

23 A. That's correct.

24 Q. Was a quorum present at the special meeting?

25 A. Yes, it was.

1 Q. How did the parish vote on November 4th, 2012?

2 A. The parish voted, there were 114 qualified votes, 109
3 voted in favor, 5 voted against.

4 Q. Did the parishioners have an opportunity to ask any and
5 all questions they wanted to ask?

6 A. They did.

7 Q. Mr. Acken, will you please refer to Holy Comforter's
8 Exhibit 18. Do you recognize Holy Comforter's Exhibit 18?

9 A. Yes.

10 Q. What is Holy Comforter's Exhibit 18?

11 A. The title is commitment to continue a diocesan
12 relationship, but the exhibit states that we are no longer an
13 Episcopal Church, we fully support the diocese, and the
14 Episcopal Church has no claim to any of our property,
15 personal or real, of the Church of the Holy Comforter.

16 Q. And Holy Comforter's Exhibit 18 is the resolution that
17 was passed by the parish at the special meeting, correct?

18 A. That's correct.

19 Q. Mr. Acken, is Holy Comforter affiliated with the
20 national church?

21 A. No.

22 Q. Does it have any ongoing relationship with the national
23 church?

24 A. No.

25 Q. Is it in any fiduciary relationship with the national

1 church?

2 A. No.

3 Q. Has it ever been in a fiduciary relationship with the
4 national church?

5 A. No.

6 MS. KOSTEL: Objection, Your Honor, these are legal
7 questions.

8 THE COURT: Sustained.

9 MS. DURANT: Fair enough. Well, let me ask, what was
10 the legal question, if I need to go back and rephrase, the
11 fiduciary questions?

12 MS. KOSTEL: Yes.

13 MS. DURANT: Let me take one step back.

14 Q. Mr. Acken, does Holy Comforter have any relationship
15 with the national church?

16 A. No.

17 Q. Does the national church have a vote as to the members
18 of Holy Comforter's vestry?

19 A. No.

20 Q. Does the national church have any veto power as to the
21 members of Holy Comforter's vestry?

22 A. No.

23 Q. Does the national church have any veto power with
24 respect to the corporation of Holy Comforter?

25 A. No.

1 Q. Does the Diocese of South Carolina have a vote as to the
2 members of Holy Comforter's vestry?

3 A. No.

4 Q. Does the Diocese of South Carolina have any veto power
5 as to the members of Holy Comforter's vestry?

6 A. No.

7 Q. Does the Diocese of South Carolina have any veto power
8 with respect to the corporation of Holy Comforter?

9 A. No.

10 Q. Does Holy Comforter have any relationship with an
11 organization known as the Episcopal Church in South Carolina?

12 A. No.

13 Q. Has Holy Comforter ever had any relationship with the
14 Episcopal Church in South Carolina?

15 A. No.

16 Q. And just for clarification, the Episcopal Church in
17 South Carolina is the unincorporated association that
18 Mr. Tisdale represents.

19 A. Yes, I gathered that.

20 Q. Has Holy Comforter participated with Episcopal Church in
21 South Carolina in any fashion?

22 A. No.

23 Q. To your knowledge, did Holy Comforter have any legal
24 counsel about the Dennis canon prior to its passage by the
25 national church?

1 A. No.

2 Q. Has Holy Comforter used the name Church of the
3 Holy Comforter since its inception?

4 A. Yes, in all respects, yes.

5 Q. Has Holy Comforter given anyone else permission to use
6 that name?

7 A. No.

8 Q. Has Holy Comforter given the national church any
9 permission to use its name?

10 A. No.

11 Q. Has Holy Comforter given the Episcopal Church in South
12 Carolina any permission to use its name?

13 A. No.

14 Q. Any permission to post its name in the website of the
15 Episcopal Church in South Carolina?

16 A. No.

17 Q. Are you aware of any money that Holy Comforter has given
18 to the national church?

19 A. I am not aware of any money that the Holy Comforter has
20 given to the Episcopal Church.

21 Q. Are you aware of any money that Holy Comforter has given
22 to the national church related entities such as the World
23 Relief fund or United Thank Offering?

24 A. Not that I'm aware of, no.

25 Q. Has Holy Comforter ever instructed the Diocese of South

1 Carolina not to give any money from Holy Comforter to the
2 national church?

3 A. Repeat that question.

4 Q. Has Holy Comforter ever instructed the diocese not to
5 give any money from Holy Comforter to the national church?

6 A. Yes, we have.

7 Q. Are you aware of any money given to Holy Comforter from
8 the national church?

9 A. I'm not aware of any money given to Holy Comforter, and
10 I'm certain that the rector in 1909 would have agreed with
11 me.

12 Q. To your knowledge, has the national church -- you know
13 much more about history than I do, I'll profess to that.

14 To your knowledge, has the national church ever
15 contributed any funds to purchase any of the real or personal
16 property of Holy Comforter?

17 A. No.

18 Q. Has the national church ever contributed any funds to
19 maintain, repair or renovate any of the real property of
20 Holy Comforter?

21 A. No.

22 Q. Who contributed funds to purchase the real property of
23 Holy Comforter?

24 A. The parishioners of the Church of the Holy Comforter or
25 those on behalf of the parishioners of the Church of the

1 Holy Comforter.

2 Q. People donating on behalf of the parishioners?

3 A. Yes.

4 Q. Who contributed funds to maintain, repair or renovate
5 Holy Comforter?

6 A. The parishioners of Holy Comforter or people donating on
7 behalf of the parishioners of the Church of the
8 Holy Comforter.

9 Q. Who has any interest or rights in the property that
10 we've discussed today?

11 A. Church of the Holy Comforter only.

12 Q. Holy Comforter and Holy Comforter alone?

13 A. Absolutely.

14 MS. DURANT: Please answer any questions the Court or
15 other counsel may have for you, Mr. Acken, thank you.

16 THE COURT: We're going to take lunch. Ladies and
17 gentlemen, it's 1:00, and we will reconvene at 2:15.

18 (Lunch recess held.)

19 THE COURT: All right. Cross-examination?

20 MS. DURANT: Your Honor, if I may interrupt just a bit,
21 I've got two housekeeping matters to clean up, if you don't
22 mind.

23 THE COURT: I don't mind.

24 MS. DURANT: And if defense counsel doesn't mind.

25 If I could just affirm or actually confirm the exhibits

1 that have been admitted. So far -- or the exhibits that I
2 have admitted on behalf of Holy Comforter are 1, 2, 3, 3A,
3 3B, 3C, 4, 5, 5A, 6, 6A, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16,
4 17, 18, 19, 20, 24, 25, 26, and 27.

5 MR. TISDALE: Correct.

6 MS. KOSTEL: Yes.

7 MS. DURANT: And then one other quick matter, Mr. Sowell
8 pointed this out to me, about our Exhibit 13. I asked
9 Mr. Acken how the parish voted, he said they voted but didn't
10 say how they voted, so if I may ask him that now, Your Honor.

11 Q. Mr. Acken, if you'll please refer to Holy Comforter's
12 Exhibit 13, how did the parish vote with respect to this
13 resolution?

14 A. The resolution, we voted in favor of it.

15 MS. DURANT: That's all I have, Your Honor, thank you
16 very much.

17 THE COURT: Thank you. All right. Now
18 cross-examination.

19 CROSS-EXAMINATION BY MS. KOSTEL:

20 Q. Good afternoon, Mr. Acken.

21 A. Good afternoon.

22 Q. You testified about Holy Comforter's constitution,
23 correct?

24 A. That's correct.

25 Q. Okay. Now, could I ask you to turn to that document

1 that's at Exhibit No. 26?

2 A. Yes.

3 Q. Thank you.

4 A. Okay.

5 Q. And you have that in front of you?

6 A. Yes, I do.

7 Q. And so the first page of that exhibit says at the top,
8 index to constitution, correct?

9 A. Yes.

10 Q. And at the left it says, revised January 8, 1989,
11 doesn't it?

12 A. That's correct.

13 Q. And then when you turn the page, the next page, which is
14 numbered 1, says constitution, and it's dated May 30, 1974,
15 correct, at the top of that page?

16 A. Yes.

17 Q. Okay. So we can assume that the constitution was
18 adopted in May 1974 and then perhaps -- well, and revised,
19 strike the perhaps, on January 8, 1989, and that's the
20 document we have, correct?

21 A. That's correct.

22 Q. Let's go back to the first page of the exhibit. And I
23 hate to ask you to do this, but take note of the typeface
24 that the words revised January 8, 1989 are in.

25 A. Yes.

1 Q. It's a different kind of type than the typeface the rest
2 of the page is in, right?

3 A. Yes, appears to be, yes.

4 Q. Okay. And that's just to help us figure out what was in
5 effect in 1974 and what was in effect in 1989 as we go
6 through this document. Does that make sense?

7 A. Yes.

8 Q. Okay. So turning back to the second page, which was
9 numbered 1, the preamble of the constitution that was adopted
10 in 1974 and revised in 1989, what was the first sentence of
11 that preamble?

12 A. You want me to read it?

13 Q. Would you, please.

14 A. We, the congregation of the Protestant Episcopal Church
15 of the Holy Comforter, Sumter, South Carolina, County of
16 Sumter, Diocese of South Carolina, as such do hereby
17 acknowledge, accede, and adopt the doctrine, discipline, and
18 worship of the constitution and canons of the Protestant
19 Episcopal Church in the United States of America and the
20 constitution and canons of the same church in the Diocese of
21 South Carolina (as read).

22 Q. Okay. Thank you.

23 Then if you could turn to Article 4, so we're turning to
24 the next page, we've got Article 1, Article 2, the third page
25 is No. 3, changes typefaces, and I think perhaps we can agree

1 that that reflects language that was added with the revision
2 in 1989. Would you agree with that?

3 A. It would appear so, yes.

4 Q. Yes. And, then, so page 4, let's see -- I'm sorry, I've
5 confused myself now. I'm sorry, turning to page 5,
6 Mr. Acken.

7 A. Yes.

8 Q. Now we get back to the typeface from 1974 that remains
9 in effect after 1989, correct?

10 A. Yes.

11 Q. And Article 4 of that constitution says -- is entitled
12 oath, is it not?

13 A. Yes.

14 Q. And what does that section say?

15 A. You want me to read it?

16 Q. Would you please.

17 A. Every person chosen as warden or vestry member shall
18 qualify by subscribing to the following declaration and
19 promise: I do -- quote -- I do believe the holy scriptures
20 of the Old and New Testament to be the Word of God and to
21 contain all things necessary to salvation, and I do yield to
22 the doctrine, worship, and discipline of the Protestant
23 Episcopal Church in these United States. And I promise that
24 I will faithfully execute the office of warden or vestry
25 member of the Church of the Holy Comforter, Sumter, South

1 Carolina, according to the best of my knowledge and skill.

2 No person shall act or vote as warden or vestry member until
3 he has subscribed to this declaration and promise (as read).

4 Q. Okay. Thank you.

5 And then turning on past page 6 to page 7, at the bottom
6 of page 7 we have Article 9 -- begins Article 9, correct?

7 A. That's correct.

8 Q. And that's still in that older typeface. And then when
9 we turn the page to the top of page 8, section 3 of Article
10 9, it says, conflicts with canons is the title. Why don't
11 you read the paragraph that follows that heading since the
12 heading is kind of long.

13 A. Beginning with any provisions?

14 Q. Yes.

15 A. Any provisions in this constitution repugnant to or in
16 conflict with any of the canons of the Diocese of South
17 Carolina or of the Protestant Episcopal Church in the United
18 States of America shall be null and void (as read).

19 Q. Okay. Thank you.

20 Now, so these were the -- this was the parish
21 constitution that was adopted in 1974, revised in 1989, and
22 in effect until the revision in November 2011; is that
23 correct?

24 A. 2010.

25 Q. I believe you testified November 2011.

1 A. I'm sorry, the constitution was revised in November of
2 2010.

3 Q. Oh, you're right. I'm sorry. Yes. Excuse me. Of
4 course you're right.

5 Let's now turn to -- I'd like to take you very quickly
6 through the deeds. Exhibit No. 2.

7 A. 2?

8 Q. Yes.

9 A. Yes.

10 Q. That deed grants property to the Church of the
11 Holy Comforter and in 1998; is that right?

12 A. December the 29th, 1998.

13 Q. Yes, okay.

14 And then Exhibit 3, this one's not so easy to read, but
15 it appears to grant property to the wardens and vestry of the
16 Church of the Holy Comforter in the year 1903, that's at the
17 bottom, it's in the handwritten left-hand side; is that
18 right?

19 A. Yes, looks like 1st of May 1903.

20 Q. That's what it looks like, yes, thank you.

21 A. I sort of made that up, but I think it's...

22 Q. Well, that's a pretty good guess.

23 3A, this is another deed to the Church of the
24 Holy Comforter --

25 A. Yes.

1 Q. -- transferring property in what year? If you look down
2 on the left-hand bottom of the page, 1954.

3 A. Right-hand -- yes, 14 June of '54.

4 Q. Okay. Now we move to 5B -- I'm sorry, 3B.

5 A. 3B, yes.

6 Q. This one's two pages. It's handwritten. The top of the
7 page indicates that it's -- the conveyance is to the Church
8 of the Holy Comforter, correct?

9 A. Yes.

10 Q. And on the second page in the bottom left, the date is
11 in July of 1896; is that right?

12 A. Yes.

13 Q. Let's turn to Exhibit 4.

14 A. Okay.

15 Q. That is a deed conveying property to Church of the
16 Holy Comforter, correct?

17 A. Yes, it is.

18 Q. And on the next page you can tell that that conveyance
19 happened in 2002, right?

20 A. Yes, 22 August 2002.

21 Q. Okay. And Exhibit 5?

22 A. Yes.

23 Q. That's a deed to the Church of the Holy Comforter
24 (Episcopal)?

25 A. That's correct.

1 Q. And on the next page you can see that that conveyance
2 happened on the 19th of July 1996, correct?

3 A. Correct.

4 Q. Okay. And finally, 5A is a corrective title to real
5 estate?

6 A. Yes.

7 Q. And that occurred on the 20th day of April 2010,
8 correct?

9 A. That's correct.

10 Q. Okay. Now, Mr. Acken, I think you've suggested that the
11 parish had received no assistance from the national church
12 that you're aware of; is that correct?

13 A. That I'm aware of, that's correct.

14 Q. Okay. Now, so you would not have any reason to dispute
15 church records that we've produced to counsel for
16 Holy Comforter reflecting that the Episcopal Church Building
17 Fund made a loan to Holy Comforter in 1909 in the amount of
18 \$4,000, right?

19 A. I would have no knowledge of that.

20 Q. And you would have no knowledge, then, of a loan from
21 the same entity in 1926 for \$8,000, correct?

22 A. No, I have no knowledge of that.

23 Q. Okay. And do you have any idea what \$8,000 in 1926
24 might be worth today?

25 A. I have no knowledge of that.

1 Q. Okay. And you would have no knowledge about whether
2 those loans were made on a favorable -- more favorable basis
3 than --

4 MS. GOLDING: Your Honor, he's already testified he has
5 no knowledge of any of this information, so I would ask --

6 MS. KOSTEL: I'll withdraw it.

7 THE COURT: All right.

8 Q. Mr. Acken, you are aware that the parish used the church
9 insurance -- the Episcopal Church's insurance company to
10 insure its property?

11 A. On occasion if the rates were favorable.

12 Q. So that's a yes, correct?

13 A. Yes, but let me see, if I can recall, we typically use
14 the Bynum Insurance Company in Sumter up until about 2009, I
15 believe, but then we used the church insurance for a while
16 and then we went back to the united ministry -- can't think
17 of the title of the company -- after that.

18 Q. Okay. And the church has used signages that suggest --
19 that use the word Episcopal in them, hasn't it?

20 A. I believe in the past, but not in the recent -- in
21 recent years, no.

22 Q. Do you know how recently?

23 A. I asked that question and the response I got was by the
24 fellow that actually saw the signs had rusted out and were
25 falling down and disposed of them, and he said it was some

1 years ago. I don't know if it was after the year 2000 or
2 not.

3 Q. Okay. But they were there at some point?

4 A. At some point there were signs there, yes.

5 Q. Okay. Now, you testified about a document that's
6 Exhibit 16. Do you have that in front of you?

7 A. I'm finding it.

8 Q. Okay. Take your time.

9 A. I've managed to disarray all of them. I found it, yes.

10 Q. Now, I believe you -- if you look at the second page
11 you'll see some signatures on that document, including yours,
12 correct?

13 A. Yes. I see the second page, yes. What was the question
14 again?

15 Q. So the question is -- well, the question hadn't been
16 posed yet, but I'll ask you, you represented that this was a
17 resolution that was adopted by the vestry, correct?

18 A. That's correct.

19 Q. Okay. Who wrote it?

20 A. I don't know.

21 Q. What was your role?

22 A. I had a -- some input into what should be in it, but I
23 didn't act as a scribe.

24 Q. But what was your position on the vestry or were you a
25 warden at that point?

1 A. Well, I was on the vestry. My signature is there on the
2 second page at the bottom. I was on the vestry at the time,
3 just as a vestry member.

4 Q. Okay. Do you remember who the wardens were?

5 A. The warden at that time I believe was Sue McDuffy, but
6 that's the best of my recollection. I'm not certain.

7 Q. Fair enough. You don't know if she wrote it, do you?

8 A. No.

9 Q. Okay. Mr. Acken, this document has a number of whereas
10 clauses, and if you look at the first page, it sets out,
11 essentially, reasons for the resolution, correct?

12 A. Yes, that's correct.

13 Q. Okay. And so -- and the resolution, if you look at the
14 second page, says in the second line of the first resolved
15 that the church hereby declare that we are no longer an
16 Episcopal Church nor are we in union with the Episcopal
17 Church, correct?

18 A. That's correct.

19 Q. And what was the reason for that change?

20 A. To the best of my recollection is that we wanted to make
21 it clear that we were in total disassociation with the
22 Episcopal Church in all respects.

23 Q. And why was that?

24 A. Why were we in dis --

25 Q. Yes.

1 A. Because we had decided that we could no longer be in
2 communion with the church.

3 Q. And why was that?

4 A. Because we disapproved of their actions.

5 Q. And what sorts of actions?

6 A. Their actions in attacking our bishop.

7 Q. Were there any other reasons?

8 A. That was the -- that was the reason that I thought, and
9 that most of us thought, that really tipped the scales.

10 Q. Okay. Let me remind you that you were deposed on Monday
11 of this week in your capacity as a 30(b)(6) witness for the
12 parish.

13 A. Yes.

14 Q. And you were asked the following question --

15 MS. GOLDING: Your Honor, that's an improper way to
16 utilize deposition testimony, and I would ask that she
17 utilize it properly according to our rules in South Carolina.

18 MS. KOSTEL: Could I let him take a look at the
19 transcript, see if he recalls it? Thank you.

20 THE WITNESS: Thank you.

21 MS. GOLDING: Your Honor, I think the proper way in
22 South Carolina is that she can read the question, then he
23 reads the answer. And first of all, and I think that he
24 needs a copy of the deposition. She has the originals. He
25 needs a copy of the deposition.

1 MR. HOLMES: As local counsel, Your Honor, I'm unaware
2 of any rule that says the witness has got to read the answers
3 to the deposition.

4 THE COURT: I don't know that it's being used for
5 impeachment purposes, but I gather that if what we are
6 talking about is impeachment, then the question needs to be
7 shown to the witness and the witness needs to be asked, did
8 you testify on such and such occasion, etc., etc., and then
9 they will say yes or no. If he says yes, you're done. If he
10 says no, then you can show it -- then certainly Ms. Golding
11 can request that he be shown the document; otherwise, it
12 doesn't automatically have to be shown. I think she's been
13 all over wanting her witnesses to see documents, so that was
14 probably appropriate so --

15 MS. KOSTEL: I can give the witness a copy.

16 THE COURT: -- so I think Ms. Golding would want you to
17 give it to him. If you're going to ask him questions about a
18 deposition, she's going to want him to have it, I have a
19 sneaking suspicion.

20 MS. GOLDING: Thank you, Your Honor.

21 THE COURT: All right. Now you would ask him.

22 Q. Yes, so on Monday you were asked -- and now I'm on
23 page -- at the bottom of -- can you see the little page
24 numbers, Mr. Acken? There are four pages to a page.

25 A. 54 through 57, is that --

1 Q. Yes, and if you look at page 56.

2 A. Okay. It says I --

3 Q. At the bottom of that page, Q -- in the boldface in the
4 Q is the questioner, and the A's are the responses, so why
5 don't we go through that. I'll ask you the questions, and
6 you can read the responses.

7 A. Sure.

8 Q. Okay. So the question was, and the major reasons that
9 the parish wanted no longer to be in the communion with
10 the -- to be in communion with the national Episcopal Church
11 are what?

12 MR. RUNYAN: Your Honor, I'm interposing an objection
13 here. The nonprofit act does not require that a corporation
14 have a reason to do what it does in amending its bylaws.
15 There's no requirement they list the reason they amend the
16 bylaws. This question is deliberately designed to cross the
17 line into a reason that the Court's previously ruled on, and
18 I don't see the relevance of it.

19 THE COURT: Well, first of all, you are correct, it
20 doesn't require a reason. You don't have to justify a reason
21 for the determination to change the governance under the act
22 that you've just mentioned, that I am aware of, and we'll
23 talk about that, but I tend to agree with what you say. The
24 problem is, though, as I sit here and I try to reflect on the
25 testimony that I have already heard and whether or not

1 impeachment is appropriate in terms of the validity with
2 which this witness testifies, if I'm anywhere, that's where I
3 am. And that would be the sole reason that I would hear it.
4 The problem, though, is that I don't think he's done anything
5 other than refer to documents, which is a little bit unique,
6 if that makes sense what I'm saying. In other words, he
7 hasn't really testified anything other than here's a
8 document, here's a document, here's a document, here's a
9 document, this is what it says, this is what it says, so the
10 impeachment value is even marginal, if that makes sense, but
11 that's where we are. And the only reason this would have any
12 relevance at this point would be as to impeachment with
13 regards to just plain old garden variety impeachment, and you
14 may proceed.

15 MS. KOSTEL: Should I reread the question?

16 THE COURT: No, he's got it.

17 Q. Okay. So I've read that question, Mr. Acken, at the
18 bottom of 56, so now if you could read the answer.

19 A. You want me to read the answer?

20 Q. The answer that you gave on Monday, yes.

21 A. We felt they had left us. Well, primarily, they seemed
22 to be moving away from the idea that Jesus Christ is the only
23 path to salvation, which we believe, number one. And that
24 that was the major issue among the parishioners. The
25 Episcopal Church was moving away from that doctrine, which we

1 felt was -- that's the major reason, major (as read).

2 Q. Well, let me just interrupt you. Then the question was,
3 that's the major reason.

4 A. That's the major reason that the parishioners, the
5 parishioners were pushing the vestry.

6 Q. Right. I'm just trying to --

7 A. I understand.

8 Q. -- read the transcript correctly.

9 A. Certainly, certainly.

10 Q. And that's the major reason came from the questioner.

11 A. Okay.

12 Q. And then your answer to the question, that's the major
13 reason, and then go ahead, please.

14 A. And there was also the parishioners and I'm just
15 saying -- I'm just telling you that the parishioners were
16 telling us on the vestry that they were also concerned that
17 the Episcopal Church seemed to be moving away from the Christ
18 teaching that marriage is between a man and a woman. These
19 are the two key drivers behind the parish dissatisfaction (as
20 read).

21 MS. KOSTEL: Okay. Thank you. I don't have anything
22 further.

23 THE COURT: All right. Now, yes, sir, Mr. Tisdale.

24 MR. TISDALE: Thank you, Your Honor.

25 THE COURT: Yes, sir.

1 MS. KOSTEL: May I retrieve that transcript, Your Honor?

2 THE COURT: Sure.

3 CROSS-EXAMINATION BY MR. TISDALE:

4 Q. Mr. Acken, I think you testified before lunch that the
5 Church of the Holy Comforter was founded in the original
6 charter as a nondenominational church?

7 A. There is no denomination associated with the name Church
8 of the Holy Comforter in the legislative charter, that's
9 correct.

10 Q. And did there come a time that it established a
11 relationship with the Episcopal Church?

12 A. We entered into a fellowship with the Diocese of South
13 Carolina.

14 Q. When was that?

15 A. At some point after their founding. I cannot tell you
16 the date. I don't know.

17 Q. Sometime after 1880?

18 A. Sometime after -- well, certainly sometime after the
19 first church was constructed in the late 1850s.

20 Q. Late 1850s.

21 A. Well, I don't know the date, though.

22 Q. Okay. But, in fact, it did become a part of the Diocese
23 of South Carolina, didn't it?

24 A. It became -- it entered into a fellowship with the
25 Diocese of South Carolina, yes, sir.

1 Q. What do you mean by fellowship?

2 A. I think the word is self-explanatory. I don't know how
3 to describe it better.

4 Q. Was it in union with the convention of the diocese?

5 A. Yes.

6 Q. All right. And did delegates from the parish attend
7 annual conventions of the diocese?

8 A. I assume they did, I don't know.

9 Q. All right. In your time, did the parish send delegates
10 to the convention of the diocese's --

11 A. Yes, they did.

12 Q. -- annual?

13 And have you ever served as a delegate?

14 A. To the diocesan convention?

15 Q. Yes.

16 A. Yes, sir.

17 Q. And when did you serve?

18 A. I can't recall off the top of my head. It was in the
19 last five or six years.

20 Q. All right. Before the parish departed from the
21 Episcopal Church?

22 A. Yes.

23 Q. Now, if you will look at your exhibits, please, I want
24 to ask you about HC-3.

25 A. Yes, sir.

1 Q. What is this document?

2 A. I'm sorry?

3 Q. What is this document?

4 A. It's a deed.

5 Q. And what's the date of this deed?

6 A. Looks like July of 1896.

7 Q. And who is it a deed to?

8 A. Church of the Holy Comforter.

9 Q. Who -- does it cover a conveyance of land?

10 A. Yes, it's associated with the property that the current
11 church is located on.

12 Q. On Main Street?

13 A. At 213 North Main Street in Sumter.

14 Q. Okay. Do you know who conveyed this property to the
15 church?

16 A. No, I don't offhand.

17 Q. Can you tell by reading the deed?

18 A. It is practically illegible.

19 Q. Well, that was one of the points I wanted to come to.

20 Have you read this document?

21 A. No, I have not read it in its entirety, no.

22 Q. All right. Do you know whether or not there's any
23 language in this deed that creates any interest in either the
24 Diocese of South Carolina or the Episcopal Church?

25 A. No.

1 Q. You do not know?

2 A. No.

3 Q. Now, turn, please, if you will, to HC-3B, as in bravo.

4 A. HC-3 --

5 Q. B as in bravo.

6 A. This may take a moment.

7 Q. That's okay. Take your time. Do you not have it there?

8 A. No, I'm having a hard time finding it.

9 Q. That's all right. I can show you a copy if the Judge
10 will allow me. You can just look at this.

11 All right. Number one, do you think this document's
12 legible or not?

13 A. I think if I were to sit down with a magnifying glass
14 and read it very carefully and slowly it would be legible,
15 but I have not done that.

16 Q. You have not done that?

17 A. No.

18 Q. It's not legible as we sit here?

19 A. As we sit here, no, but it can be read, yes.

20 Q. Okay. It can be read.

21 Do you know what that document is?

22 A. It's a deed to part of the land surrounding the --
23 underneath the current Church of the Holy Comforter.

24 Q. Is that the same property as --

25 A. It is.

1 Q. -- in the first deed we looked at?

2 A. It is. It is. There are several deeds to that
3 property.

4 Q. It was divided up before?

5 A. It had been assembled to provide the land for the
6 church. And I believe one of those deeds also includes some
7 land that we added at a later date for a parish hall, parish
8 hall building.

9 Q. You said the parish had five tracts of land?

10 A. That's correct.

11 Q. So how many of them --

12 A. There are four in this particular cluster.

13 Q. So that's four of them right there?

14 A. Those four are the tracts of land that the church sits
15 on.

16 Q. Right.

17 A. Then there's a tract of land that has the parish hall, a
18 tract of land that has the parking lot, the rectory, and then
19 the White Oak lots.

20 Q. And what is the fifth one? You said there were five.

21 A. There's the parish hall, there's the parking lot,
22 there's the church properties, the four church properties,
23 the rectory, and the White Oak properties.

24 Q. All right.

25 A. That's the five parcels.

1 Q. Did it come a time that the Church of the Holy Cross
2 received quitclaim deeds from the diocese?

3 A. Are you talking about Holy Cross or Holy Comforter?

4 Q. Holy Comforter.

5 A. I'm sorry?

6 Q. Holy Comforter.

7 A. Yes. What was the question?

8 Q. Did the parish receive quitclaim deeds at some point
9 from various organizations of the Diocese of South Carolina?

10 A. We received a quitclaim deed from the Diocese of South
11 Carolina.

12 Q. All right. And do you have that there?

13 A. Yes, I presume it's here. I don't have the number.

14 Q. Well, I don't either.

15 MS. DURANT: Tom, it's 25.

16 Q. 25, Mr. Acken.

17 A. Thank you.

18 Q. Exhibit 25.

19 A. Yes, I'm looking. I've found it.

20 Q. When did the Church of the Holy Comforter receive this
21 deed?

22 A. 13 January 2010.

23 Q. And what does it convey?

24 A. It states that the diocese has no interest in the
25 property of the Church of the Holy Comforter.

1 Q. All right. And did the parish pay for this deed or was
2 it gratuitous?

3 A. It says consideration of \$5.

4 Q. Okay. And did the parish ask for this deed to be
5 granted?

6 A. Not specifically, no.

7 Q. What do you mean not specifically?

8 A. We didn't ask for the deed. We told the diocese that we
9 were concerned of the events that were unfolding and that we
10 were worried about it, but we didn't go further than that,
11 and not too long after we had the discussion with the diocese
12 we received this.

13 Q. This was 2010?

14 A. This was in 2010. What did I say? January 13, 2010.

15 Q. Look at the second page of the deed, if you will, and I
16 ask you who signed this deed as grantor or grantors.

17 A. Mark Lawrence, Bishop of South Carolina; Reverend
18 Jeffrey S. Miller, President, Standing Committee, Diocese of
19 South Carolina.

20 Q. Okay. And did the Episcopal Diocese of South Carolina
21 have any interest in the property of the Church of the
22 Holy Comforter?

23 A. Never.

24 Q. Did the standing committee of the Diocese of South
25 Carolina have any interest in the property of the

1 Holy Comforter?

2 A. No, sir.

3 Q. Do you know if any communicant of the Church of the
4 Holy Comforter has served as a delegate to the general
5 convention of the Episcopal Church?

6 A. No.

7 Q. Are you familiar with what the general convention of the
8 Episcopal Church is?

9 A. Not really.

10 Q. Have you ever known a communicant of the parish of the
11 Church of the Holy Comforter named Julian T. Buxton,
12 B-U-X-T-O-N?

13 A. I've heard the name Buxton. I don't know a
14 Julian T. Buxton and I've only heard of the name.

15 Q. So you would have no way to know whether he has served
16 as a deputy to the general convention --

17 A. No, I don't know the gentleman and I don't know if he
18 ever served.

19 Q. -- of the Episcopal Church?

20 A. Of the Episcopal Church.

21 Q. All right. When did you say you became a communicant of
22 this parish?

23 A. 1997.

24 Q. And were you aware in 1997 after you became a
25 communicant of the parish, that the Diocese of South Carolina

1 had a canon that created trust interest by it in the property
2 of the Church of the Holy Comforter?

3 A. No, I did not know that.

4 Q. Were you aware after you became a communicant in 1997,
5 that the Episcopal Church had a trust interest in the
6 property of the Church of the Holy Comforter?

7 A. No, and I don't believe they do or did.

8 Q. What's the basis of your belief?

9 A. It's based upon what our chancellor had told us.

10 Q. By who? Who told you?

11 A. Our chancellor.

12 Q. And who is your chancellor?

13 A. At that time it was probably Arthur Wilder -- no, it may
14 have been Arthur -- I'm not sure who it was at that time. It
15 would be wrong for me to guess.

16 Q. But you assume that on the basis of what somebody told
17 you?

18 A. That's correct.

19 Q. Have you ever investigated it to determine for yourself?

20 A. No.

21 MR. TISDALE: Nothing further, Your Honor. Thank you.

22 THE COURT: All right. Redirect?

23 MS. DURANT: No, Your Honor.

24 THE COURT: And on behalf of any other plaintiff? All
25 right. Very well. You may come down.

1 Call your next witness, please.

2 (Plaintiff's Exhibits RS-1, RS-6 through 11 and RS-13
3 through RS-20 premarked for identification.)

4 MR. BRYAN: Judy Casper McMeekin.

5 JUDY CASPER MCMEEKIN,
6 being first duly sworn, testified as follows:

7 THE COURT: And would you state your full name for the
8 record and spell your last name.

9 THE WITNESS: Judy Casper McMeekin, M-C-M-E-E-K-I-N.

10 THE COURT: Your witness.

11 MR. BRYAN: Thank you, Your Honor. For the record, I'm
12 William A. Bryan, and I represent the Church of the
13 Resurrection, Surfside.

14 Your Honor, Church of the Resurrection moves for the
15 admission without objection of Exhibits marked RS-1, RS-6
16 through 11 inclusive; RS-13 through 20 inclusive.

17 THE COURT: Any objection?

18 MR. TISDALE: No objection, Your Honor.

19 MS. KOSTEL: No objection.

20 THE COURT: Very well, so admitted.

21 MR. BRYAN: Thank you.

22 (Plaintiff's Exhibits RS-1, RS-6 through 11 and RS-13
23 through RS-20 admitted into evidence.)

24 DIRECT EXAMINATION BY MR. BRYAN:

25 Q. Ms. McMeekin, where do you live?

1 A. Surfside Beach.

2 Q. Are you employed?

3 A. Yes, I am.

4 Q. Doing what?

5 A. I'm the controller for a strategic marketing firm in
6 Durham, North Carolina.

7 Q. Okay. Are you a member of a church?

8 A. I am a member of the Church of the Resurrection.

9 Q. How long have you been a member?

10 A. Since 1983.

11 Q. Have you held since that time any positions of
12 leadership in the Church of the Resurrection, Surfside?

13 A. Yes, sir.

14 Q. Would you tell the Court what roles and, either as a
15 director or vestry person or otherwise, what you've done at
16 the Church of the Resurrection.

17 A. I've served on the vestry beginning in 1999 for several
18 years; I've also served as treasurer, which was an officer
19 position, for an additional five or six years; I served a
20 second term as vestry beginning in 2010 through 2013 as a
21 vestry member. In that role I served as junior warden and
22 senior warden.

23 Q. And can you remember the date or the year or years you
24 served as junior warden?

25 A. I served as junior warden in 2011.