

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

RECEIVED

Apr 26 2021

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 X

*Attorneys for Appellants  
(individual clients not listed)*

*Attorneys for Respondents  
(individual clients not listed)*

Bert G. Utsey, III  
Thomas S. Tisdale, Jr.  
Jason S. Smith  
Kathleen F. Monoc  
Kathleen C. Barnes  
Allan R. Holmes  
David B. Beers  
Mary E. Kostel

C. Alan Runyan  
Andrew S. Platte  
C. Mitchell Brown  
Henrietta U. Golding  
Charles H. Williams  
David S. Cox  
Thomas C. Davis  
Allan P. Sloan  
Susan MacDonald  
John Furman Wall  
W. Foster Gaillard  
Edward P. Guerard, Jr.  
John B. Williams  
G. Mark Phillips  
Mark V. Evans

James Kent Lehman  
William A. Scott  
Peter Brandt Shelbourne  
David L. DeVane  
David B. Marvel  
Henry E. Grimball  
Francis M. Mack  
C. Pierce Campbell  
Robert R. Horger  
Thornwell F. Sowell  
Joseph C. Wilson, IV  
William A. Bryan  
I. Keith McCarty  
Harry Easterling, Jr.

COUNSEL INFORMATION REQUIRED BY RULE 267

Appellants

Bert G. Utsey, III  
706 Orleans Road, Ste 101  
Charleston, SC 29407  
(843) 970-2700

Thomas S. Tisdale, Jr.  
4 North Atlantic Wharf  
Suite 100  
Charleston, SC 29401

Kathleen F. Monoc  
77 Grove Street  
Charleston, SC 29403  
(843) 790-8910

Kathleen C. Barnes  
P.O. Box 897  
Hampton, SC 29924  
(803) 943-4529

Jason S. Smith  
105 Broad Street, 3rd Floor  
Charleston, SC 29401  
(843) 266-9099

*Counsel for Appellant The Episcopal Church in South Carolina*

Allan R. Holmes  
171 Church Street, Ste. 110  
Charleston, SC 29401  
(843) 722-0033

Mary E. Kostel  
*pro hac vice*  
3737 Seminary Road  
Alexandria, VA 22304  
(703) 898-8413

David Booth Beers  
*pro hac vice*  
1900 N Street, N.W.  
Washington, DC 20036  
(202) 346-4000

*Counsel for Appellant The Episcopal Church*

Respondents

C. Alan Runyan  
Andrew S. Platte  
Runyan & Platte, LLC  
2015 Boundary St., Ste. 239  
Beaufort, SC 29902

Henrietta U. Golding  
Burr, Forman & McNair  
PO Box 336  
Myrtle Beach, SC 29578

C. Mitchell Brown  
Nelson, Mullins, Riley &  
Scarborough  
1320 Main St., 17<sup>th</sup> Floor  
Columbia, SC 29201

Charles H. Williams  
Williams & Williams  
PO Box 1084  
Orangeburg, SC 29116

David Cox  
Barnwell Whaley Patterson  
& Helms  
288 Meeting St., Ste. 200  
Charleston, SC 29401

Thomas C. Davis  
Harvey & Battey  
1001 Craven Street  
Beaufort, SC 29901

*Attorneys for The Protestant Episcopal Church in the Diocese Of South Carolina and  
The Trustees of the Protestant Episcopal Church in South Carolina,  
a South Carolina Corporate Body*

C. Alan Runyan  
Andrew S. Platte  
Runyan & Platte, LLC  
2015 Boundary St., Ste. 239  
Beaufort, SC 29902

Harry Easterling, Jr.  
116 North Liberty Street  
Bennettsville, SC 29512

*Attorneys for St. Davids Church*

G. Mark Phillips  
Nelson Mullins Riley &  
Scarborough  
Liberty Center, Suite 600  
151 Meeting Street  
Charleston, SC 29401

C. Alan Runyan  
Andrew S. Platte  
Runyan & Platte, LLC  
2015 Boundary St., Ste. 239  
Beaufort, SC 29902

W. Foster Gaillard  
Womble, Bond & Dickinson, LLP  
PO Box 999  
Charleston, SC 29402

*Attorneys for The Protestant Episcopal Church of the Parish of St. Philip,  
in Charleston, in the State of South Carolina*

C. Alan Runyan  
Andrew S. Platte  
Runyan & Platte, LLC  
2015 Boundary St., Ste. 239  
Beaufort, SC 29902

Henry Grimball  
Womble, Bond & Dickinson, LLP  
PO Box 999  
Charleston, SC 29402

*Attorneys for 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*

C. Alan Runyan  
Andrew S. Platte  
Runyan & Platte, LLC  
2015 Boundary St., Ste. 239  
Beaufort, SC 29902

*Attorneys for Church of the Cross, Inc. and Church of the Cross Declaration Of Trust,  
The Church of Our Saviour, Of The Diocese of South Carolina,  
The Vestry and Church Wardens of the Episcopal Church of the Parish Of St. Helena and  
the Parish Church of St. Helena Trust,  
The Vestry and Church Wardens of St. Jude's Church of Walterboro,  
Trinity Episcopal Church, Edisto Island,  
Vestry and Church Wardens of the Episcopal Church of the Parish of St. John's, Charleston  
County, The Vestries And Churchwardens Of The Parish Of St. Andrew,  
The Church of the Epiphany  
(Episcopal)*

Keith McCarty  
McCarty Law Firm  
PO Box 3005  
Charleston, SC 29417

*Attorney for Christ St. Paul's Episcopal Church*

William A. Scott  
Pedersen & Scott  
775 St. Andrews Blvd.  
Charleston, SC 29407

*Attorney for Holy Trinity Episcopal Church*

Mark V. Evans  
147 Wappoo Creek Dr. # 202  
Charleston, SC 29412

*Attorney for St. James' Church, James Island, S.C.*

David B. Marvel  
DAVID B. MARVEL, LLC  
PO Box 22734  
Charleston, SC 29403

*Attorneys for The Church of St. Luke  
and St. Paul, Radcliffeboro*

John Furman Wall, III  
140 Wando Reach Court  
Mt. Pleasant, SC 29464

*Attorney for The Church of the Good Shepherd,  
Charleston, SC*

Allan P. Sloan, III  
Pierce, Sloan, Kennedy & Early  
PO Box 22437  
Charleston, SC 29413

*Attorneys for Vestry and Church-Wardens of the  
Episcopal Church the Parish of Christ Church*

C. Pierce Campbell  
Turner, Padgett, Graham & Laney  
319 South Irby Street  
Florence, SC 29501

*Attorney for All Saints Protestant Episcopal Church,  
Inc.; The Church of the Holy Cross; St.  
Bartholomews Episcopal Church*

Robert R. Horger  
Horger, Barnwell & Reid, LLP  
PO Drawer 329  
Orangeburg, SC 29115

*Attorney for Church of the Redeemer*

Francis M. Mack  
656 Fort Motte Road  
Saint Matthews, SC 29135

*Attorney for The Vestry and Church Wardens of the  
Episcopal Church of the Parish of St. Matthew*

William A. Bryan  
Bryan & Haar  
PO Box 14860  
Surfside Beach, SC 29587

*Attorney for The Church of the Resurrection,  
Surfside*

Susan MacDonald  
Jim Lehman  
Nelson, Mullins, Riley & Scarborough  
BNC Bank Corporate Center, Ste. 300  
3751 Robert M. Grissom Pkwy.  
Myrtle Beach, SC 29577

*Attorneys for Trinity Church of Myrtle Beach*

Henrietta U. Golding  
Burr, Forman & McNair  
PO Box 336  
Myrtle Beach, SC 29578

*Attorney for Saint Luke's Church, Hilton Head*

Brandt Shelbourne  
Shelbourne Law Firm  
131 E. Richardson Ave.  
Summerville, SC 29483

*Attorney for The Vestry and Wardens of St. Paul's  
Church, Summerville  
Trinity Episcopal Church, Pinopolis*

Harry Easterling, Jr.  
116 North Liberty Street  
Bennettsville, SC 29512

*Attorney for St. Paul's Episcopal Church of  
Bennettsville, Inc.*

Thornwell F. Sowell  
Bess J. DuRant  
SOWELL & DuRANT, LLC  
1325 Park Street, Ste. 100  
Columbia, SC 29201

*Attorneys for the Church of the Holy Comforter*

**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
<b>United States Supreme Court</b>	
Denial of Petition for a Writ of Certiorari dated June 11, 2018 .....	245
<b>United States District Court for the District of South Carolina</b>	
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
<b>Fourth Circuit Court of Appeals</b>	
Order in <i>vonRosenberg v. Lawrence</i> , No. 19-2112 filed October 27, 2020 .....	351
<b><u>Pleadings and Motions</u></b>	
<b>Circuit Court Filings</b>	
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, *von Rosenberg v. Lawrence*, ECF No. 124  
filed March 1, 2018 .....2128  
TEC’s Motion to Amend Amended Complaint-In-Intervention to Join Parties  
and Claims, *von Rosenberg v. Lawrence*, ECF No. 125  
filed March 1, 2018 .....2186

**Fourth Circuit Court of Appeals**

Motion to Stay Case, *von Rosenberg v. Lawrence*, 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
<b>Certificate of Counsel</b> .....	<b>9016</b>

1 certain bishops that have reviewed a statement which is a  
2 public pronouncement that is about to be placed in what's  
3 called the pastoral letter. And that they believe that the  
4 information that ought to be -- that's about to go into the  
5 pastoral letter is too weak, if you will, and that what ought  
6 to go into the pastoral letter is much stronger language.  
7 And so they make by resolution on, which they have refined,  
8 the following language that they believe ought to go into the  
9 pastoral letter. And then they set it out.

10 They have a resolution and the resolution is adopted  
11 and, apparently, the upgraded language then is the language  
12 which is then suggested go into the pastoral letter.

13 MR. BEERS: But it doesn't matter who thought it up and  
14 who cared about it, who drafted it. It is a resolution  
15 adopted by both houses --

16 THE COURT: Yes.

17 MR. BEERS: -- that states the understanding of the  
18 church at its highest level as to the levels of authority.

19 Where it comes from is not relevant because the ultimate  
20 action is that the convention as a whole, both houses, adopts  
21 it as an official statement of the polity of the church.

22 THE COURT: Yes, to go into the pastoral letter. I  
23 don't know what that means.

24 MR. BEERS: At that point it doesn't have anything to do  
25 with the pastoral letter.

1 THE COURT: Sure it does, that's what it says.

2 MR. BEERS: Yeah, but whether or not it goes into the  
3 pastoral letter, it is adopted by both houses as a statement  
4 of our understanding of our polity.

5 THE COURT: You've got to read it.

6 MR. BEERS: Your Honor, of course. It may be to go into  
7 a pastoral letter, but it stands on its own bottom.

8 THE COURT: Okay. All right.

9 MR. RUNYAN: Well, the first problem I have, Your Honor,  
10 is I really can't tell if this passed by both houses.  
11 Counsel represents that it was. It does have a recitation  
12 that appears that it might be, but in order for a resolution  
13 to pass, it has to, in identical form, pass both the house of  
14 bishops and the house of deputies. And this document doesn't  
15 seem to say that.

16 MS. KOSTEL: Yes, it does.

17 MR. RUNYAN: That's point one.

18 Point two, it's not -- it's not an amendment of the  
19 canons, it's not an amendment of the constitution, which are  
20 the governing documents to the Episcopal Church, at least  
21 according to what we've heard so far, so I'm not really sure  
22 what its relevance is.

23 MR. BEERS: All right. I thought I'd answered that,  
24 Your Honor, and I can answer it some more, but I'll wait  
25 until you're ready.

1 THE COURT: Okay. For what it's worth, I admit it for  
2 what it's worth.

3 (Defendant's Exhibit 479 admitted into evidence.)

4 MR. BEERS: Thank you, Your Honor.

5 Q. Now turn to 503, and we only have one more.

6 A. So I am looking here at excerpts from the journal of the  
7 general convention of 1922.

8 MR. BEERS: Mary, does the Court have the hash marks?

9 MS. KOSTEL: There are a number of different sections.

10 MR. BEERS: But does she have them?

11 MS. KOSTEL: It should be on the document, Your Honor.

12 The hard copy will be a lot easier than this one.

13 THE COURT: Do I have it?

14 MS. KOSTEL: No, I think it should be -- the marked  
15 exhibit should be up there.

16 THE COURT: Oh, okay. I didn't think I did.

17 MR. BEERS: Well, here's mine (indicating.)

18 MR. RUNYAN: Your Honor, if it will speed things up, we  
19 don't object.

20 THE COURT: Okay. 503 is in evidence without objection.

21 (Defendant's Exhibit 503 admitted into evidence.)

22 (Defendant's Exhibit 22 marked for identification.)

23 THE COURT: And then the last one is?

24 MR. BEERS: Exhibit 22.

25 MS. KOSTEL: Now we get out of the electronic and we go

1 back to the hard copy.

2 THE COURT: All right. And it's Exhibit 22, did you  
3 say?

4 MR. BEERS: Yes.

5 THE COURT: Okay.

6 MR. RUNYAN: Your Honor, we do have an authenticity  
7 objection to this document.

8 THE COURT: Okay.

9 Q. Mr. Duffy, what do you have before you?

10 A. So this is a record of the disciplinary board for  
11 bishops signed by Bishop Dorsey Henderson and found in the  
12 archives in the files of -- the bishop's files.

13 Q. Now, what do you mean by "bishop's files"?

14 A. Well, the presiding bishop maintains the equivalent of a  
15 personnel file, for lack of a better word, on each bishop,  
16 active and resigned, retired, of each bishop in the church  
17 and to which is an accumulating file of all the relationships  
18 and oversight and interactions and any event that may occur  
19 in their incumbency.

20 Q. Including discipline?

21 A. Including discipline.

22 Q. Those are maintained by the presiding bishop?

23 A. That's right.

24 Q. And your role as archivist is?

25 A. We maintain the central -- it's our records management

1 function at the Episcopal Church center. We maintain -- we  
2 assist in the maintenance of the central files and to make  
3 sure that the confidentiality is protected and the privacy of  
4 those records, and make sure that they are transferred to the  
5 archives in stages so that everything is secured and well  
6 cared for and we can -- we can do this kind of validation of  
7 the document.

8 Q. Thank you.

9 MR. BEERS: We offer 22, Your Honor.

10 MR. RUNYAN: We still have an authenticity objection. I  
11 don't know whether it's appropriate to deal with it now with  
12 the witness or to wait, but we do have an authenticity  
13 objection.

14 THE COURT: I think you've got to do it now because he's  
15 going to catch a flight.

16 We have business records exception act. If there's an  
17 objection with regards to the document, we need to go through  
18 the inquiry with regards to our statute.

19 MR. HOLMES: All right. Well said.

20 THE COURT: Yes, thank you. Give them the statute.

21 MR. HOLMES: We want to look at the statute. I'm sorry,  
22 Judge, because I am embarrassed to say that I was preoccupied  
23 with another issue. 803(6), it's a regularly conducted  
24 activity in any form. In terms of its authenticity, he's the  
25 archivist, I can't -- I mean --

1 THE COURT: Give him the statute, let him ask the  
2 questions, or you ask the questions, business records  
3 exception.

4 MR. HOLMES: I'd be glad to.

5 DIRECT EXAMINATION BY MR. HOLMES:

6 Q. Mr. Duffy, the document you have before you -- well, the  
7 document you see on the screen, where did it come from?

8 A. From the records of the bishop's office called the  
9 bishop's files.

10 Q. And how did you get to it?

11 A. The archivist receives these files regularly as part of  
12 its records management -- or oversees these records as part  
13 of its records management responsibility for the Episcopal  
14 Church.

15 Q. And you are the archivist --

16 A. Yes, sir.

17 Q. I think that's not at issue.

18 And this particular document is regularly kept in the  
19 course of the business or -- if you want to call it that, of  
20 the Episcopal Church of the United States --

21 A. Yes, that's right.

22 Q. -- the national church?

23 That's a regular practice?

24 A. Absolutely.

25 MR. HOLMES: I would submit --

1 THE COURT: Would you ask him if he is the custodian of  
2 that record?

3 MR. HOLMES: I will.

4 Q. Are you the custodian of that record? As the archivist,  
5 since you're the custodian of the archive, would you be the  
6 custodian of that document in its archival form?

7 A. In its archival form, I would be, yes.

8 THE COURT: I don't know what that means. I don't know  
9 what that means.

10 MR. HOLMES: Well, you mean its archival form?

11 THE COURT: Yes.

12 MR. HOLMES: Well, I think documents are kept by a  
13 business in different places.

14 THE WITNESS: That's right.

15 Q. I'm sorry, where else is the document kept?

16 MR. BEERS: Let me ask a question here.

17 MR. HOLMES: Sure.

18 CONTINUED DIRECT EXAMINATION BY MR. BEERS:

19 Q. Well, you don't physically control every document in the  
20 archives?

21 A. Exactly. We have up to six different locations where  
22 archives are kept just by the archives. Then there are  
23 records that we oversee throughout the building in our  
24 records management role.

25 Q. But you're the boss?

1 A. Yes, sir.

2 Q. And you make sure that the rules for document management  
3 are followed by your staff?

4 A. Exactly.

5 MR. BEERS: All right. Thank you, Your Honor.

6 MS. GOLDING: Your Honor, I continue to object. This  
7 witness, obviously, does not have this document under his  
8 custody, control, as a normal part of the business of the  
9 defendant; and, therefore, he cannot testify with respect or  
10 even to the document.

11 MR. HOLMES: If Your Honor wants argument on that, I'll  
12 be glad to provide it. Well, in the sense that every records  
13 custodian -- I mean, we have people come in here as records  
14 custodians for businesses all the time.

15 THE COURT: That was my problem. He didn't answer that  
16 question. And you switched into this thing called  
17 archivist -- are you the archivist custodian -- and I don't  
18 even know what that means.

19 And the question is: Are you the custodian of that  
20 record? I got that. See, because here's my concern, my  
21 concern is that there are very sensitive records that remain  
22 with the bishop. I'm concerned that that's what this is.  
23 That perhaps when that bishop retires or the bishop dies or  
24 whatever happens, that there comes a point in time under  
25 their doctrine or under their rules, that he gets them. But,

1 see, I feel like we are chicken-stepping around it.

2 MR. HOLMES: I guess what my problem is, and I would  
3 just submit it to you.

4 THE COURT: Yeah, you don't know the answer to the  
5 question.

6 MR. HOLMES: Pardon?

7 THE COURT: I don't think you know the answer to the  
8 question so you don't want to ask it.

9 MR. HOLMES: I'll be glad to ask him any question that I  
10 can think of.

11 THE COURT: Ask him that one. Are you the custodian of  
12 this document?

13 FURTHER DIRECT EXAMINATION BY MR. HOLMES:

14 Q. Are you the custodian of that document?

15 A. Yes.

16 MR. HOLMES: There we go.

17 THE COURT: All right. Yes.

18 MR. HOLMES: Thank you, Your Honor.

19 MR. RUNYAN: Well, we still have an authenticity issue,  
20 but I guess I can handle it on cross-examination.

21 THE COURT: All right. Very well.

22 MR. BEERS: It's admitted.

23 MR. ORR: Your Honor, may I interpose one slight --

24 THE COURT: Sure.

25 MR. ORR: Under Rule 803(6) that Mr. Holmes has been

1 citing, there is a proviso that says, provided, however, that  
2 subjective opinions and judgments found in business records  
3 are not admissible. So to the extent this document contains  
4 opinions or judgments, I would submit that it would not be  
5 admissible.

6 THE COURT: I understand. I got it. All right.

7 MR. BEERS: Thank you, Your Honor.

8 THE COURT: Yes, cross-examination? I know he's got to  
9 catch a plane. That's the only reason I'm being pushy,  
10 pushy, pushy.

11 CROSS-EXAMINATION BY MR. RUNYAN:

12 Q. Mr. Duffy, you were not around when this was signed, if  
13 it was signed, by Dorsey Henderson, were you?

14 THE COURT: What is "this"?

15 MR. RUNYAN: Exhibit 22.

16 THE COURT: Okay.

17 THE WITNESS: I'm not sure what you mean by "around."

18 Q. Were you present?

19 A. No.

20 Q. And you got this because it came in the mail to you?

21 A. No.

22 Q. How did it get to you?

23 A. Through the records of the office of the presiding  
24 bishop.

25 Q. So the presiding bishop sent this to you?

1 A. Yes.

2 Q. In the form that it's presently in?

3 A. Yes.

4 Q. And you don't know the form it was in, do you, on  
5 October the 15th, 2012?

6 A. No, I do not.

7 Q. What time's your flight?

8 A. 4:00.

9 Q. Oh, you've got plenty of time.

10 Do you know if the -- the UTO, what is that?

11 A. The United Thank Offering is an organization of the  
12 Episcopal Church that raises money and distributes it to --  
13 for our mission.

14 Q. And they meet at the same time the general convention  
15 does at another location, don't they?

16 A. Generally at the same location.

17 Q. Do you go to the general convention?

18 A. Yes, sir.

19 Q. Okay. But not in the same place?

20 A. No, often very much right in the same building.

21 Q. Oh, so they meet with the deputies and they all meet  
22 together there, the UTO and the general convention, in the  
23 same room?

24 A. Usually it's a convention center and there are different  
25 rooms, different chambers for different bodies.

1 Q. Okay. Do they meet in the same room or not?

2 A. In the same room, no, I don't believe so.

3 Q. Okay. Thank you.

4 You were asked some questions about an early set of the  
5 constitution and canons, as I recall it, Exhibit 425. Do you  
6 recall that? Do you have that in front of you?

7 A. No.

8 Q. There you go. First of all, is that complete or not?

9 A. This photocopy is not a complete record of what it  
10 purports to be.

11 Q. Do you have a complete copy?

12 A. Yes, sir.

13 Q. Did you bring it with you?

14 A. No, I did not.

15 Q. All right. Do you have the manuscript that goes with  
16 this?

17 A. No, I do not.

18 Q. Does anybody?

19 A. I don't believe so.

20 Q. There is no manuscript?

21 A. No.

22 Q. When was this transferred to printing?

23 A. As early as 1789.

24 Q. How do you know that?

25 A. Because we have an imprint dated 1789.

1 Q. All right. So there never was a manuscript?

2 A. I believe there were copy books, but...

3 Q. Okay. So you have a copy of this with a printer's  
4 designation that says 1789?

5 A. I believe so.

6 Q. In the archives?

7 A. Yes.

8 Q. Did you bring it with you today?

9 A. No.

10 Q. Could you have brought it with you today?

11 A. No.

12 Q. You couldn't have?

13 A. No.

14 Q. Could you have brought a copy of it?

15 A. Yes.

16 Q. Why didn't you?

17 A. I was not asked to.

18 Q. Okay. Now I want to hand you another document, ask you  
19 if you can identify this. I'll give you the color copy.

20 Could you identify that document for us?

21 A. Yes, sir.

22 Q. What is it?

23 A. It's the journal of general convention for the  
24 Protestant Episcopal Church in the states of New York, New  
25 Jersey, Pennsylvania, Delaware, Maryland, Virginia, and South

1 Carolina dated 1789.

2 Q. Look at the cover sheet of 425 and the cover sheet of  
3 this one and tell me if they're the same.

4 A. I gave you back the other -- hold on a second. I think  
5 I have that. Here it is. They are not the same.

6 Q. So what is the one I handed you that has not yet been  
7 marked as an exhibit?

8 A. Not sure what it is. It's obviously a reprint, or a  
9 second printing, or another printing.

10 Q. Are you familiar with the works of Mr. Perry?

11 A. Yes, I am.

12 Q. Does this appear to be from his book?

13 A. I would have to look at his book to know that, but I  
14 don't -- it could very well be because it has the page  
15 numbers consecutively at the top, which reminds me very much  
16 of the Perry volume.

17 Q. Does it include in it the portion that you brought that  
18 is in 425?

19 A. It appears at first glance to contain the list of the  
20 members of the convention. It appears to have the same  
21 information as found on page 57 of Exhibit 425, but it is on  
22 Perry's page 78 -- or starts on that page in -- what -- if  
23 this indeed is from Perry, the second item, forgive me.

24 Q. Here's the simple question: Would it appear to you that  
25 the document that I handed you that's not in evidence is a

1 complete version of that particular convention, July 28 to  
2 August 8, 1789, which includes the portion that you brought  
3 with you today that is Exhibit 425?

4 A. Well, I can't state that affirmatively in this short  
5 period of time. It looks -- it looks good.

6 MR. RUNYAN: Okay. We'll mark this as Diocese's next  
7 for identification.

8 (Plaintiff's Exhibit DSC-68 marked for identification.)

9 MR. RUNYAN: Move it in evidence.

10 MS. KOSTEL: Objection, Your Honor, based on it looks  
11 good. He didn't have enough time.

12 THE COURT: He said it looks good.

13 MS. KOSTEL: I don't think he said it was what  
14 Mr. Runyan said it was. We may stipulate to it if he'd asked  
15 us.

16 MR. RUNYAN: Well, I am asking you. I moved it in  
17 evidence.

18 MS. KOSTEL: You moved it in based on what Mr. Duffy  
19 said.

20 MR. RUNYAN: I move it in on its own right or based on  
21 what Mr. Duffy said.

22 MS. KOSTEL: Yes, then, Your Honor, we'd like to see a  
23 copy of what Mr. Runyan's offering. Thank you.

24 THE COURT: Sure, of course.

25 Q. While she is looking at that, to move along, we talked

1 about the Book of Common Prayer.

2 A. Yes, sir.

3 Q. It is not copyrighted, is it?

4 A. That's right, it's not.

5 Q. I can go right now and get on the Internet and buy it  
6 from Amazon?

7 A. That's right.

8 Q. And buy it from Barnes & Noble and a lot of different  
9 places, right?

10 A. Right.

11 Q. It's not exclusively sold by the Episcopal Church?

12 A. That's right.

13 Q. All right. I could go to New Zealand and find a Book of  
14 Common Prayer there as well, correct?

15 A. The American Book of Common Prayer, you probably could.

16 Q. The New Zealand Book of Common Prayer?

17 A. You could do that as well.

18 Q. How about in Kenya?

19 A. You could find a Book of Common Prayer in a number of  
20 different languages.

21 Q. Are you familiar with the Book of Common Prayer that is  
22 not the Episcopal Church Book of Common Prayer that is  
23 available all over the world?

24 A. Yes.

25 Q. All right. It originated from the 1662 Book of Common

1 Prayer in England, did it not? Do you know that?

2 A. Yes, I do. I'm thinking. Thank you.

3 Q. Okay. Did it?

4 A. Yes.

5 Q. And in its cover it says according to the use of the  
6 Episcopal Church; is that right?

7 A. I believe so.

8 Q. Okay. And you know, of course, that bishops with  
9 jurisdiction can authorize other things to be used as well?

10 A. Under the authorization of the general convention, texts  
11 authorized by the general convention, that's how I understand  
12 it.

13 Q. Are you familiar with what a bishop can do in terms of  
14 authorizing other rites in a diocese?

15 A. I am familiar only with those rites and trial usages  
16 that are authorized by general convention.

17 Q. Okay. Exhibit 431 marked for identification which  
18 was -- I don't know if you have that in front of you. Here  
19 it is. Blue book 1994, cover page, and then one more page,  
20 page 99. Did you bring this with you?

21 A. No.

22 Q. This is found in its -- in the form that it is here in  
23 the archives, correct?

24 A. Yes.

25 Q. Is there a page 100?

1 A. Yes.

2 Q. Did you bring it?

3 A. No.

4 Q. Would you agree with me that a resolution to be  
5 effective has to be passed in the same form by both bodies of  
6 the Episcopal Church?

7 A. I concur that a resolution has to be passed by both  
8 houses.

9 Q. And would you agree with me that a modification of the  
10 constitution, it takes two meetings of the general convention  
11 for that to happen?

12 A. Yes, sir.

13 Q. Would you agree that in between that time, the proposed  
14 amendment must go to the diocese and be read in convention so  
15 that they will know what it is?

16 A. Yes.

17 Q. Would you agree with me that canons of the Episcopal  
18 Church can, in fact, be passed at a single convention?

19 A. Could you repeat the question?

20 Q. Would you agree with me that canons of the Episcopal  
21 Church may be passed by the general convention at a single  
22 sitting?

23 A. Yes.

24 THE COURT: And you're talking about the national  
25 church?

1 MR. RUNYAN: Yes, Your Honor.

2 Q. How would you define the word "autonomous"?

3 A. I would define the word autonomous as meaning having  
4 some relevant level of independence from -- I'll leave it  
5 there. Independence -- some level of independence.

6 Q. Independence. Okay.

7 Would you accept the dictionary version of that?

8 A. I'm sorry, what's your question again?

9 Q. I don't have another question. Thank you.

10 Just a moment. Yes, thank you.

11 I assume that in the archives you have records of how  
12 much money the Episcopal Church has received from -- the  
13 national church has received from the dioceses?

14 A. I have a number of records that might do that, yes.

15 Q. And if someone wanted to know that, you would be able to  
16 provide that answer, would you not?

17 A. Yes.

18 Q. Were you asked to do that?

19 A. No.

20 Q. And you did not do it on your own?

21 A. No.

22 MR. RUNYAN: That's all I have.

23 MR. BEERS: Mr. Runyan, do you want to close the loop on  
24 this (indicating)?

25 MS. KOSTEL: No objection on 68.

1 THE COURT: All right.

2 (Plaintiff's Exhibit DSC-68 admitted into evidence.)

3 REDIRECT EXAMINATION BY MR. BEERS:

4 Q. Did you testify earlier that, in your role as management  
5 of the document retention program at the Episcopal Church,  
6 that you receive documents from the offices in the church  
7 frequently on a regular basis?

8 A. Yes, sir.

9 Q. You don't wait years or months or...

10 A. No.

11 MR. BEERS: Okay. That's it. That's all I have.

12 THE COURT: Okay. Recross?

13 MR. RUNYAN: One follow-up.

14 RECROSS-EXAMINATION BY MR. RUNYAN:

15 Q. With regards to the certificate, do you have that in  
16 front of you?

17 A. Yes.

18 Q. Do you know when you received that document?

19 A. Not right now I don't, no.

20 Q. And your testimony is not that you received it the day  
21 it was purportedly signed, is it?

22 A. That's right.

23 Q. You don't know how long after that it was that you  
24 received it?

25 A. No.

1 MR. RUNYAN: Thank you.

2 MR. BEERS: I forgot. One more.

3 THE COURT: Okay. It's nonjury, I'll allow it and then  
4 if there's any response, counsel can do that.

5 FURTHER REDIRECT EXAMINATION BY MR. BEERS:

6 Q. Who is Dorsey Henderson?

7 MR. BEERS: Three questions, I'm sorry.

8 THE WITNESS: He is the presiding judge [sic] of the  
9 disciplinary board of review for the Episcopal Church.

10 Q. Was he that in that capacity in 2012?

11 A. Yes.

12 Q. And is he a bishop?

13 A. Yes.

14 Q. And where was he a bishop?

15 A. I can't remember.

16 Q. Okay.

17 THE COURT: That was question four.

18 MR. BEERS: Yeah, I know. This is the last one.

19 Q. Do you recognize his signature on Exhibit 22?

20 A. Yes, I do.

21 MR. BEERS: Thank you.

22 THE COURT: Yes.

23 MR. RUNYAN: Couple quick ones.

24 FURTHER RECROSS-EXAMINATION BY MR. RUNYAN:

25 Q. Do you get records of review committee decisions

1 regardless of whether they are -- a person is found to have  
2 violated something or whether they are found to be innocent  
3 of something?

4 A. Certain board of review records are confidential. Until  
5 there's a finding they are not, they're not archival.

6 Q. So, for instance, if someone had charged a bishop in  
7 2010 with, let's say, things that are identical to what you  
8 have in 2012, and there was a finding that that was not an  
9 offense, you would not have that in the archives?

10 A. I wouldn't have the review board's records.

11 Q. Would you have anything?

12 A. There would be perhaps some evidence of that in the  
13 presiding bishop's personnel file.

14 Q. Were you asked to look for any proceedings against  
15 Mark Lawrence in 2010?

16 A. In 2010?

17 Q. Yes.

18 A. No.

19 Q. Are you aware of any?

20 A. No, not off the top of my head.

21 Q. All right. Excuse me, 2011?

22 A. In clarification of your question, was I asked to look  
23 for records in 2011 or records dated 2011?

24 Q. Were you asked to look for any records associated with a  
25 charge against Bishop Lawrence for which the review committee

1 considered the charge in 2011?

2 A. I don't know.

3 Q. You don't know if you were asked?

4 A. I don't know. I'm unclear about the dates right now.

5 Q. Is there information about that in your file?

6 A. I just really, for the moment, don't understand exactly  
7 what you're asking me. I mean, we have a -- there is a  
8 file -- a bishop's file on Bishop Lawrence. I don't know  
9 everything that's in the file. It is not my habit nor the  
10 habit of any of my staff to browse those files.

11 If I'm asked for a record, I can produce it. It is done  
12 usually under the oversight of someone in the staff. There's  
13 always two people present when we do this.

14 Q. Okay. So --

15 A. And I have a staff person who does this for me who is  
16 the records management officer for the church.

17 Q. So the reason that you have that one is you were asked  
18 for that one?

19 A. Yes.

20 Q. Exhibit 22. Thank you, sir.

21 THE COURT: Okay.

22 MR. BRYAN: Your Honor, could you just give me a minute  
23 or two? I haven't seen the documents. I don't have the  
24 documents because of this paper problem. I want to talk to  
25 counsel.

1 THE COURT: Because you might have a question, yes.

2 MR. HOLMES: There were a number of questions about the  
3 form of the documents and so forth and I just thought that I  
4 would make reference to the statute 19 -- 19, what is it?  
5 510, it has to do with photographic copies of originals and  
6 all that business, South Carolina statute. Not the rules of  
7 evidence, but in the statute. If you don't have the original  
8 it's okay, essentially.

9 MR. TISDALE: Photocopies are okay.

10 THE COURT: I gotcha. I'm with you. That really wasn't  
11 the point.

12 MR. HOLMES: On cross there were a number of  
13 questions --

14 THE COURT: I agree with you completely, but that wasn't  
15 exactly the point.

16 MR. HOLMES: Thank you.

17 MR. BRYAN: None, Your Honor, thank you.

18 (Witness excused.)

19 THE COURT: Wonderful. Now we're going to have some  
20 lunch. We'll start back at 3:15. And I need to have a  
21 representation from both sides, and it's probably -- it  
22 really needs to be with Mr. Platte and Mr. Smith for this  
23 one. Y'all go on, go get some lunch, let me see the guys.

24 MR. TISDALE: What time, Your Honor?

25 THE COURT: 3:15, and let me see my guys a second.

1 (Lunch recess held.)

2 THE COURT: Call your next witness, please.

3 MR. BEERS: One preliminary matter on behalf of this  
4 side of the courtroom. We very much appreciate you going  
5 over and moving it along so we could get this guy out of  
6 here.

7 THE COURT: Absolutely. I'm happy to do that.

8 MR. TISDALE: Your Honor, what we'd like to do, given  
9 the schedule that you told us about, we'd like to read a  
10 deposition in now, if we may --

11 THE COURT: Sure.

12 MR. TISDALE: -- as our next witness.

13 THE COURT: Sure.

14 MR. TISDALE: He was on the list we provided the last  
15 time we provided one. And I'll ask Mr. Holmes to do the  
16 honors.

17 MR. HOLMES: Your Honor, you'll want to imagine that I'm  
18 a priest.

19 MR. TISDALE: Your Honor, I have the original here, may  
20 I open it and give it to you?

21 THE COURT: Thank you kindly.

22 MR. TISDALE: Deposition of Thomas Rickenbacker. We're  
23 using his deposition because he's unavailable. This  
24 deposition was taken, for the record, on June 11th, 2014.  
25 Ms. Golding represented the defendants on that occasion.

1 MS. GOLDING: I represented the plaintiffs, Your Honor.

2 MR. TISDALE: Did I say defendants? I don't know how I  
3 made that mistake after 11 days. And I'll just start with  
4 the questions on the bottom of page -- the first page, page  
5 3, actually.

6 And, Henrietta, I'm going to do my best to stop whenever  
7 you -- unless you handle that part.

8 MS. GOLDING: That would be fine. Thank you, kindly.

9 MR. TISDALE: And Mr. Holmes, Allan Holmes, is reading  
10 the part of the witness.

11 THE COURT: Father Rickenbaker.

12 MR. TISDALE: Father Rickenbaker, okay, line 23.

13 (Deposition transcript of Thomas Rickenbacker read as  
14 follows:)

15 DIRECT EXAMINATION BY MR. TISDALE:

16 Q. Father Rickenbaker, under the rules I'm required to say  
17 to you that if you don't understand any of my questions,  
18 please ask me and I will attempt to clarify. I don't think  
19 this deposition's going to be very long, but if you need a  
20 break at any time, just say so and we'll take one for any  
21 reason.

22 And you're not, under the rules, allowed to talk to me  
23 or any other lawyers while the deposition is going on to  
24 ensure that the answers are your answers and not the  
25 suggestion of someone else.

1           Also, I'm required under the rules to ask you if you are  
2 healthy and not under the influence of any medication or  
3 illness or anything that would impair your ability to answer  
4 questions.

5       A.    I'm healthy and not under any medication other than a  
6 drug I take for diabetes.

7       Q.    Okay. State your name for the record, please.

8       A.    The Reverend Thomas M. Rickenbaker.

9       Q.    What is your current address?

10      A.    369 Carlton Circle, Spartanburg, South Carolina, 29301.

11      Q.    How long have you lived there, Father Rickenbaker?

12      A.    About nine months.

13      Q.    Are you a priest of the Episcopal Church?

14      A.    I am a priest in good standing in the Episcopal Church.

15      Q.    And to go back a little bit, when were you born?

16      A.    I was born January 26th, 1956, in Cheyenne, Wyoming.

17      Q.    Where did you grow up principally?

18      A.    Principally, I grew up in Conway, South Carolina.

19      Q.    Now, did you go to school there?

20      A.    I did.

21      Q.    Graduated Conway?

22      A.    Conway High School.

23      Q.    And for college, what did you do?

24      A.    I graduated Coastal Carolina College at the University  
25 of South Carolina, which is what it was called back then.

1 Q. When was that?

2 A. I graduated cum laude in 1978.

3 Q. Father Rickenbaker, did you -- you've already -- you've  
4 said already you're a priest of the Episcopal Church. Did  
5 you, after college, go immediately into seminary or do  
6 something else?

7 A. No, I worked two different jobs, I worked for Milliken  
8 in management, Milliken & Company, which is a textile firm  
9 based out of Spartanburg, but I lived in Aberdeen, North  
10 Carolina, which is near Pinehurst, and then I commuted to  
11 Robbins, which was where our plant was located. I worked  
12 there for about a year, then I took a position with the  
13 Indian Waters Council Boy Scouts of America in Columbia,  
14 South Carolina as a district scout executive.

15 Q. Boy Scouts of America?

16 A. Yes.

17 Q. How long did you work in that position?

18 A. A year.

19 Q. All right. Now, when you -- what led you to the  
20 ministry of the Episcopal Church personally?

21 A. Well, I'm a lifelong Episcopalian. I had the great  
22 privilege of my mother introducing me to Jesus Christ from  
23 the earliest of days. She modeled that relationship and that  
24 ministry for me. And then when I was in high school I  
25 started to think about ordained ministry. My rector was the

1 Reverend Doctor, the R. N. Robinson, who was also the head of  
2 the philosophy and religion department at Coastal Carolina.  
3 And on May the 17th, 1974, at about 7:00 in the evening, the  
4 Spirit called me into ordained ministry.

5 Q. Where were you physically at that moment?

6 A. I was seated in the Coastal Carolina gymnasium for the  
7 Horry County Quest for Christ. And if the call hadn't been  
8 that clear, I would not have taken it.

9 Q. Okay. So that was in '74?

10 A. '74, yes.

11 Q. Now, Father, how long after that experience did you  
12 begin seminary?

13 A. I began seminary in the fall of 1980.

14 Q. And so six years after that --

15 A. Uh-huh.

16 Q. -- experience?

17 A. Yes.

18 Q. And what diocese did you enter -- sponsor you for the  
19 seminary?

20 A. The Diocese of Upper South Carolina.

21 Q. Is that headquartered in Columbia?

22 A. It is.

23 Q. All right. And which seminary did you go to?

24 A. The Protestant Episcopal theological seminary in  
25 Alexandria, Virginia.

1 Q. Did you do a normal three-year course there?

2 A. Yes.

3 Q. And what degree did you end up with?

4 A. A master's of divinity.

5 Q. When was that?

6 A. 1983.

7 Q. Just tell us briefly, we don't need a lot of detail, but  
8 what was the course of your ministry from then to now,  
9 progression-wise?

10 A. I was assigned as a deacon to St. Christopher's  
11 Episcopal Church here in Spartanburg, working with Rogers Ed  
12 Harris who later became bishop of southwest Florida.

13 After completing my diaconate, which was 11 1/2 months,  
14 the bishop assigned me to start a new congregation in Boiling  
15 Springs, South Carolina.

16 Q. Who ordained you to the diaconate?

17 A. William A. Bennett.

18 Mr. Tisdale: I think that's supposed to "Beckham," but  
19 that's all right.

20 Q. Bishop of South Carolina?

21 A. At that time he was, yes.

22 Q. Go ahead, sir.

23 A. So he sent me to start a new congregation which later  
24 became St. Margaret's Episcopal in Boiling Springs, and I  
25 served there from June -- or maybe it's mid-May 1984 until

1     sometime in July of 1998.

2     Q.    Go back a minute.  When were you ordained to the  
3     priesthood?

4     A.    I think it was May the 12th, 1984.

5     Q.    Okay.  So after Boiling Springs, what did you do?

6     A.    I received a call to be the rector of St. Paul's  
7     Episcopal Church in Edenton, North Carolina by the Diocese of  
8     East Carolina --

9     Q.    And what year -- excuse me -- and what year was that?

10    A.    That was -- I started July the 15th, I think it was,  
11    1998.

12    Q.    And how long did you serve in that position in  
13    St. Paul's?

14    A.    A little over 15 years.  I officially retired from  
15    St. Paul's and from active full-time ministry October the  
16    1st, 2013.

17    Q.    Now, in your retirement, are you living in Spartanburg?

18    A.    I am.

19    Q.    And are you working in any church-related activities  
20    here?

21    A.    I've been licensed by the bishop of Upper South  
22    Carolina.  I've worked with three different parishes filling  
23    in when the rectors have been on vacation; getting ready to  
24    do a fill-in for a rector who's going to be on sabbatical.

25            I've also done some consulting work in Indiana with a

1 congregation that's doing a building program. And I've also  
2 helped to lead a stewardship campaign for the Episcopal  
3 Church in Highlands, North Carolina.

4 Q. But as I gather, you're not engaged in any full-time  
5 singular --

6 A. No.

7 Q. -- position?

8 A. No.

9 Q. And retired?

10 A. Yes.

11 Q. All right. Going back some time now, do you recall when  
12 Bishop Edward Salmon was about to retire as bishop of South  
13 Carolina, and the Diocese of South Carolina was about to  
14 engage in a search process for a new bishop?

15 A. I do recall that.

16 Q. And do you know whether or not you had been nominated by  
17 anyone?

18 A. Yes.

19 Q. As a possibility to fill the bishop's -- that bishop's  
20 post?

21 A. Yes.

22 Q. And when did that occur?

23 A. I don't know exactly, but if I had to say, I would say  
24 it was sometime probably in early 2005.

25 Q. And do you know how you were nominated?

1 A. Well, I was told by a priest, who was my former rector,  
2 that there were one or more nominations that came from his  
3 parish, and I had other people who said that they were  
4 intending to nominate me. But whether they actually followed  
5 through with that, I don't know.

6 Q. But the priest who you said was -- had been your rector?

7 A. Yes.

8 Mr. Tisdale: Ms. Golding?

9 MS. GOLDING: I objected, but you can go ahead.

10 MR. TISDALE: Okay.

11 Q. Okay. The purpose of this deposition is to -- is  
12 *de bene esse*, Father Rickenbaker. Who was it that nominated  
13 you, as far as you know?

14 A. The Reverend Harry Lawhorn spoke to several people in  
15 the congregation that he was serving in. One or more of  
16 them, I was told, nominated.

17 Q. Where was --

18 Mr. Tisdale: Ms. Golding?

19 MS. GOLDING: You can go down to page 13, line 1, the  
20 question.

21 MR. TISDALE: Thank you.

22 Q. Where was Harry Lawhorn serving at the time?

23 A. He was serving in two small churches in the Diocese of  
24 South Carolina. I think one was Rembert.

25 Q. Hagood Ascension, probably, Hagood, South Carolina,

1 Church of the Ascension?

2 A. And then there was --

3 Q. I didn't mean to answer the question.

4 A. There was another one that he was linked with, but I  
5 don't recall the name of the bishop.

6 Q. Right. Is he any longer with us?

7 A. He is among the saints in heaven.

8 Q. All right. Now, as a result -- strike that.

9 After that, you said you -- you said was sometime in  
10 perhaps 2005. Did you hear from anybody at the Diocese of  
11 South Carolina about your nomination?

12 A. Yes, I received some information from the search  
13 committee saying that my name had been placed among those to  
14 be considered and was I interested.

15 Q. And do you recall who that communication came from?

16 A. I don't recall the name, but it was the person who was  
17 doing the communication for the search committee, which I  
18 think was the -- either the secretary or parish administrator  
19 at St. Luke's in Hilton Head.

20 Q. Right. In Hilton Head, South Carolina?

21 A. Yes.

22 Q. And so how did you respond to that communication?

23 A. I said yes, I was willing to enter into a dialogue about  
24 that.

25 Q. And give us the course of the dialogue, and I'm leading

1 up to whether or not you were ever interviewed for that  
2 position.

3 A. Yes, after they sent me the letter saying are you  
4 interested, and I sent a something, I'm interested in a  
5 dialogue, then they sent some questions that they wanted  
6 answered. I assume it was to all the candidates, but I know  
7 I got it. So I submitted my answers to those questions and  
8 then later received a phone call from St. Luke's parish  
9 indicating that they wanted to come and make a visit with lay  
10 and clergy representatives.

11 Q. All right. And Father Rickenbaker, St. Luke's parish  
12 you said?

13 A. Yes.

14 Q. Why was it coming from St. Luke's parish, if you know?

15 A. I think all the communication for the search committee  
16 was coming out of that parish because Greg Kronz was the  
17 chair of the search committee and I think that's the way that  
18 diocese had chosen to --

19 MS. GOLDING: You can go to line 13.

20 MR. TISDALE: Thank you.

21 Q. Okay. And who is Greg Kronz?

22 A. He was then the rector of the parish. He may still be.  
23 I'm not exactly sure where he is now.

24 Q. Right, but did you understand he was also chair of the  
25 search committee?

1 A. He was the chair of the search committee.

2 MS. GOLDING: Go to line 2470.

3 Q. Okay. Did you receive a call or a letter or what kind  
4 of communication from --

5 A. Well, the visit, it was a phone call.

6 Q. Okay. From whom -- from who?

7 A. The lady that was doing the communication.

8 Q. Okay.

9 A. I don't know what her name was.

10 Q. But, okay, what was the outcome of the phone call?

11 A. They arranged to come for a visit.

12 Q. Who is they?

13 A. Well, they had said that they were going to or I was  
14 told when they called --

15 MS. GOLDING: You can go to line 19.

16 MR. TISDALE: Thank you.

17 Q. You stated a few minutes ago in answer to my question  
18 that someone from St. Luke's who was handling the search  
19 committee activities called you?

20 A. Yes, that's correct.

21 Q. And what did that person say?

22 A. They wanted to establish a time to come and visit me at  
23 St. Paul's Edenton to be interviewed as a candidate.

24 Q. All right. And did the person who called you say who  
25 would be coming to see you?

1 A. They did not say names, they just said there would be  
2 clergy representatives and lay representatives.

3 Q. All right. And was this still in 2005 or later?

4 A. No, it was still in 2005.

5 Q. All right. And was such a visit arranged?

6 A. It was.

7 Q. Do you remember the exact date of that visit?

8 A. I don't. And since I retired, I've gotten -- retired  
9 and moved, I've gotten rid of my calendars from that time  
10 period.

11 Q. All right. Did there come a time that you received a  
12 visit from representatives of the search committee?

13 A. Yes.

14 Q. Do you remember which day of the week it was?

15 A. They arrived on a Saturday.

16 Q. All right. Now, when you say they, who is they?

17 A. The Reverend Greg Kronz and Reverend Paul Fuener.

18 Mr. Tisdale: They pronounce that "Fee-ner," but --

19 THE WITNESS: "Fee-ner," thank you.

20 Q. And that's spelled -- excuse me -- and you already, I  
21 think, have told us about Greg Kronz's position as chair of  
22 the search committee and rector of St. Luke's. Who was Paul  
23 Fuener? And that's spelled F-U-E-N-E-R.

24 A. He was a member of the search committee.

25 Q. Is he a layperson or a priest?

1 A. He's a priest and he was the rector then of Prince  
2 George Winyah parish in Georgetown, South Carolina.

3 Q. Right. Where was this interview to take place?

4 A. It took place in my office.

5 Q. All right. Do you recall roughly, or exactly if you  
6 remember, what time this interview took place in your office?

7 A. I don't recall exactly, but I would say somewhere in the  
8 neighborhood of 10 o'clock.

9 Q. In the morning?

10 A. Yes.

11 Q. Okay. Was there any layperson in attendance?

12 A. No.

13 Q. And was that in any way significant to you -- of any  
14 significance to you?

15 MS. GOLDING: I objected to that form of the question,  
16 Your Honor, I didn't think that that was a proper question  
17 and, therefore, I'd move to strike the deponent's response.

18 MR. TISDALE: That's fine, and I'll just move down to  
19 line 15, if that's okay.

20 MS. GOLDING: That's good.

21 THE COURT: Okay.

22 Q. Okay. Do you remember which one of the two said that?

23 A. Not specifically.

24 Q. All right. Now, is your office -- where is your office  
25 in Edenton, or was it at the time?

1 A. It's located in the parish hall complex, which is 100  
2 West Gate Street, G-A-T-E -- excuse me -- West Gale Street,  
3 G-A-L-E, Edenton.

4 Q. I think you said you didn't remember the exact date  
5 because your records were at St. Paul's, but was it still in  
6 2005 you think?

7 A. When they made their visit?

8 Q. Yes.

9 A. It was either late 2005 or early 2006. I don't recall  
10 specifically.

11 Q. All right. Now, would you please relate, as narrowly as  
12 you can and as clearly as you can, the interview, from the  
13 beginning to the end, in your office? First of all, was  
14 anybody else present other than the two priests and you?

15 A. No.

16 Q. All right. Tell us what was said by who.

17 A. Okay. We came into the office. I had things set up so  
18 they could have something to drink, something to eat, if they  
19 wanted, knowing that these interviews tend to last a fairly  
20 lengthy time. We sat down. I think they asked me to open  
21 with a prayer.

22 Q. Did you?

23 A. Yes. And then Father Kronz said, we've got some  
24 questions that we want to ask you and we'd appreciate your  
25 answering them forthrightly. The first question that was

1 asked --

2 Q. By who?

3 A. Father Kronz.

4 -- was, what can you do to help us leave the Episcopal  
5 Church and take our property with us.

6 Q. How did you answer that question?

7 A. I answered him by saying I was shocked and surprised  
8 that even such a question was being asked and that -- that it  
9 was the first question.

10 So after noting that, I followed that up with, why in  
11 the world would anybody even be asking a question like that?

12 Q. Did you say that?

13 A. Yes.

14 Q. All right.

15 A. To which Father Fuener said, well, we're interested in  
16 having a bishop who is -- who either will or is willing to  
17 lead us out of the Episcopal Church.

18 Q. All right. After that response to your question, how  
19 did the interview go?

20 A. Well, one, I was -- that was the last question in the  
21 world I expected to be asked.

22 Q. Why?

23 A. Well, it's difficult for me to imagine, in the election  
24 process of a bishop, the first question is to take the  
25 diocese out of the denomination of which it is a part of --

1 excuse me -- of which it is part of, so that was a shock and  
2 a disappointment, so I kind of mentally processed -- was  
3 processing through that. They asked some other questions,  
4 but the first question was so overpowering that I'm not sure  
5 I entirely processed much of the rest of that.

6 They asked questions about what I knew about the  
7 diocese. They asked questions had I read the diocesan  
8 profiles, what I thought about that. Those are the main  
9 questions that I can remember being asked, although I'm sure  
10 there were others.

11 Q. How long do you think that interview lasted?

12 A. That part of the interview was probably a little more  
13 than an hour.

14 Q. All right. Now, I want to go back. I think I  
15 understand what you said, but I want to be certain for the  
16 record. After Father Kronz asked you or made the first  
17 statement or questioned you about looking for a bishop to  
18 take them out of the church, what was your response to that?  
19 That's what I was not clear about.

20 Mr. Tisdale: And Ms. Golding?

21 MS. GOLDING: You can go to -- the witness can go to  
22 line 2 of the next page.

23 MR. TISDALE: The deponent.

24 MS. GOLDING: The deponent, excuse me.

25 Mr. Tisdale: Thank you.

1 A. My response to that was, why is this question even being  
2 asked, and that I was surprised, shocked, disappointed that  
3 that question was being asked and certainly that it was the  
4 first question.

5 Q. Right. Did you ever say directly to them one way or  
6 another whether you had any interest in such a plan?

7 A. Yes. I mentioned to them that they had traveled a long  
8 way and I invested a lot of time in the search process up to  
9 that point, because if that's what they were looking for,  
10 they were looking for the wrong guy -- looking to the wrong  
11 guy.

12 Q. Okay.

13 A. That they, in essence, had wasted their time and my  
14 time.

15 Q. All right. And you said that just now that the  
16 interview lasted for little over an hour?

17 A. Uh-huh.

18 Q. What next occurred in connection with your relationship  
19 with these two gentlemen or the search committee?

20 A. We, my wife and I, were invited out to supper with the  
21 two of them, Father Kronz and Father Fuener. We selected --  
22 Cindy and I selected a restaurant in Elizabeth City, because  
23 when you're going through a search process like that in a  
24 small town like Edenton, you don't want to have that out on  
25 display, so we went over to Elizabeth City.

1 Q. Was that made in advance of the interview, that  
2 reservation?

3 A. Yes, and I made that reservation.

4 Q. And did you have dinner with these two gentlemen?

5 A. We did.

6 Q. Anyone else present other than you, your wife, and they?

7 A. No.

8 Q. Did you say your wife's name was Cindy?

9 A. Cindy.

10 Q. Okay. Was there any further discussion of the contents  
11 of the interview after the interview?

12 A. I'm not sure what you're --

13 Q. Well --

14 A. If you could restate.

15 Q. You said you had conversations with them for little over  
16 an hour?

17 A. Yes.

18 Q. Including what you directly quoted?

19 A. Yes.

20 Q. Was there any other conversation about the search  
21 process at dinner or any other time after the interview?

22 A. Yes. There were questions of Cindy, how did she like  
23 being married to a priest, what was our time in Edenton like.  
24 We talked about -- Cindy and I talked about what it would be  
25 like if I were to be elected bishop in the Diocese of South

1 Carolina. They talked about their parishes. I remember  
2 Father Kronz talking about his son who, I think, played  
3 football. That was just general conversation.

4 Q. Yes.

5 A. There were not a set of prescribed questions that I'm  
6 aware being asked at supper, although it was more than just a  
7 casual conversation.

8 Q. Right. Father Rickenbaker, did you have any other  
9 meetings with these two during the course of that weekend?

10 A. They came to church.

11 Q. The next morning?

12 A. The next morning on Sunday morning.

13 Q. What time -- do you recall when that service was?

14 A. They came to both of them. They came to the 8 o'clock  
15 service and they came to the 11 o'clock service.

16 Q. 8 o'clock is the Holy Eucharist?

17 A. Both of them are Holy Eucharists with sermons.

18 Q. All right. Did they -- did they attend?

19 A. They both attended both. They both sat together at  
20 both.

21 Q. Was anyone else with them on that occasion?

22 A. No.

23 Q. Did you have any further conversation with them during  
24 the course of the weekend?

25 A. Just a short conversation after the last service where

1 they said, basically, that they would be getting in touch.

2 Q. All right. Did they get in touch?

3 A. They did.

4 Q. When did that occur?

5 A. Probably within a month after their visit.

6 Q. And what was that in the form of; a letter, email, a  
7 call or what?

8 A. I think I received both. I think the call came first  
9 and then the letter.

10 Q. Who was the call from, if you -- if you remember?

11 A. Greg Kronz.

12 Q. Greg Kronz, K-R-O-N-Z. What did he say?

13 A. They appreciated my participation in the process, but  
14 they were moving forward with other candidates.

15 Q. Did he give you a reason other than -- I mean, any  
16 reason at all?

17 A. No.

18 Q. Did you ask?

19 A. No, I didn't ask for one.

20 Q. All right. What did you say?

21 A. I said thank you very much.

22 Q. All right. And did you say you thought you got a letter  
23 as well?

24 A. Yes.

25 Q. Who was that from?

1 A. It would have been from the search committee, basically  
2 saying, thank you for your participation in the process, but  
3 we're moving forward with other candidates.

4 Q. How long after the interview do you think both of those  
5 communications came?

6 A. A month or so.

7 Q. All right. Did you have any other contact with this  
8 interview -- after this interview weekend and visit weekend  
9 with anyone in connection with the search committee, except  
10 for the phone call and letter you just mentioned?

11 A. Not with the search committee.

12 Q. Well, what did you have -- what -- well, did you have  
13 any communication with anyone else about it?

14 A. Not from the Diocese of South Carolina. I immediately  
15 spoke to my bishop about it.

16 Q. And who was that?

17 A. The Right Reverend Clifton Daniel, III.

18 Q. All right. Did you share your experience with  
19 Bishop Daniel?

20 A. I did.

21 Q. Okay.

22 A. I also spoke with, sometime later, the Right Reverend  
23 William Skelton, who was -- I don't know if he is a suffragan  
24 bishop or assisting bishop in South Carolina, and shared my  
25 experience, and his basic response was --

1 MS. GOLDING: Your Honor, I objected on the basis of  
2 hearsay at that time.

3 THE COURT: You wish to have it ruled on at this point?

4 MR. TISDALE: Well, I think I'll just move on.

5 THE COURT: All right.

6 Mr. Tisdale: Then line 15.

7 Q. Right, all right. So you spoke with Bishop Daniels,  
8 spoke with Bishop Skelton?

9 A. Yes.

10 Q. Anyone else that you can recall?

11 A. I spoke with one of my wardens, Mr. Earl Willis from  
12 St. Paul's Edenton, obviously spoke to my wife,  
13 Cindy Rickenbaker.

14 Q. And you shared the experience of what had happened?

15 A. I did. I did. Sometime some years later, probably  
16 2011, the Reverend Jimmy Taylor called me to ask about his  
17 concerns about what was going on.

18 Q. And --

19 MS. GOLDING: I objected based on hearsay, Your Honor.

20 MR. TISDALE: Okay. And I'll just move on from that.

21 THE COURT: Okay.

22 MR. TISDALE: And go down to line 19.

23 Q. Did you share with him the contents of the interview --

24 A. Yes.

25 Q. -- that you had described here today in this deposition?

1 A. That's correct.

2 Q. In your office in Edenton?

3 A. Yes.

4 Q. With Father Kronz and Fuener?

5 A. Yes.

6 Q. Anyone else that you had any conversation with in which  
7 you shared the experience that you can recall?

8 A. No one else comes to mind at the moment.

9 Q. All right. Have you had any contact, other than with  
10 anyone in the search process or anyone in the leadership of  
11 the South Carolina Lawrence group, other than what you've  
12 described?

13 A. Not in reference to the bishop search stuff.

14 MR. TISDALE: Okay. All right. Father Rickenbaker, I  
15 would appreciate your answering any questions Ms. Golding  
16 might have of you.

17 THE COURT: Cross-examination.

18 MS. GOLDING: Thank you.

19 CROSS-EXAMINATION BY MS. GOLDING:

20 Q. Thank you, Father Rickenbaker. Am I pronouncing -- it  
21 is Rickenbaker?

22 A. Yes, ma'am.

23 Q. Very good. Thank you.

24 My understanding is that you were baptized by  
25 Mr. Tisdale's father?

1 A. That's correct.

2 Q. Okay. And that is the Tom Tisdale sitting here that  
3 took your deposition; is that correct?

4 A. The deponent moves his head up and down, yes.

5 MS. GOLDING: Thank you.

6 Q. Also, I note that you're just shaking your head, and you  
7 need to make verbal responses to all my questions so the  
8 court reporter can pick that up. Do you understand?

9 A. I do.

10 Q. Okay.

11 A. If I don't do that, you let me know.

12 Q. I will. Thank you.

13 You took no notes of any kind that you had in this  
14 meeting in late 2005 or early 2006 with Father Kronz and  
15 Father Fuener, did you?

16 A. That's correct, I took no notes.

17 Q. And after that meeting, you did not put the contents of  
18 this conversation you had with Father Kronz and Father Fuener  
19 in any type of a diary or anything of that nature, did you?

20 A. That's correct.

21 Q. Okay. So there's basically no written documentation  
22 that exists today which in any way reflects the  
23 communications that occurred during this interview in late  
24 2005 or 2006 that you personally saved; is that correct?

25 A. That's correct.

1 Q. Okay. And you did not record this interview that you  
2 had in late 2005 and 2006 with Father Kronz and  
3 Father Fuener, did you?

4 A. No.

5 Q. Okay. There was nobody else in the room with you when  
6 Father Kronz and Father Fuener conducted this interview with  
7 you in late 2005 or early 2006, was there?

8 A. That's correct, there was not anyone else there.

9 Q. Okay. And this interview lasted at least an hour; is  
10 that correct?

11 A. Yes.

12 Q. Okay. And this interview could have lasted close to two  
13 hours; is that correct?

14 A. No, I don't think it lasted that long.

15 Q. Okay. And why do you say it did not last close to  
16 two -- two hours, excuse me?

17 A. Because I remember going over to our house and my wife  
18 had fixed lunch and lunch wasn't ready, and if it had been  
19 two hours, lunch would have been ready.

20 Q. Did Mr. Kronz -- excuse me, Father Kronz and  
21 Father Fuener also go to your house for your lunch?

22 A. No.

23 Q. Okay. So what did -- to your knowledge, did  
24 Father Kronz and Father Fuener do after this interview that  
25 was about an hour in late 2005 and 2006?

1 A. They said they were going back to their motel room.

2 Q. When was the next time that day that you saw  
3 Father Kronz and Father Fuener?

4 A. We went out for supper, I know that. We may have met  
5 for a period of time, possibly in the afternoon before we  
6 went out with Cindy.

7 Q. And this meeting that was in the afternoon that you had  
8 with Father Kronz and Father Fuener, was that meeting also in  
9 your office or was that in the sanctuary?

10 A. No, it would have been in the office.

11 Q. And how long was the afternoon meeting with Father Kronz  
12 and Father Fuener?

13 A. I don't recall exactly.

14 Q. Okay. Other than exactly, what do you recall?

15 A. I would think less than an hour.

16 Q. Now, in this afternoon meeting that you had with  
17 Father Kronz and Father Fuener in late 2005, early 2006, did  
18 you take any notes of that meeting?

19 A. No.

20 Q. Did you record that meeting in any way?

21 A. No.

22 Q. Did you in any way transcribe in a personal diary the  
23 communications that occurred in this afternoon meeting with  
24 Father Kronz and Father Fuener?

25 A. No.

1 Q. With respect to the dinner that you had that evening  
2 after you had those two interviews with Father Kronz and  
3 Father Fuener, did you all ride together in a vehicle?

4 A. I don't recall.

5 Q. But you selected the restaurant or your wife selected  
6 the restaurant in Elizabeth City; is that correct?

7 A. Yes.

8 Q. And what's the distance between Elizabeth City and your  
9 church?

10 A. About 30 miles.

11 Q. Do you recall the name of the restaurant?

12 A. Montero's.

13 Q. And how do you spell that for the court reporter?

14 A. I'm a lousy speller, but I think it's M-O-N-T-E-R-O,  
15 apostrophe S.

16 Q. Is that a Mexican restaurant?

17 A. No.

18 Q. What type is it?

19 A. Classic American cuisine.

20 Q. Had you been there before?

21 A. Many times.

22 Q. And after that day in late 2005 and early 2006 when you  
23 had dinner with Father Fuener and Father Kronz, had you been  
24 to the restaurant many times; is that correct?

25 A. Been back, I'm sorry.

1 Q. Been back.

2 A. Yes.

3 Q. Now, the dinner that you had with Father Fuener,  
4 Father Kronz, and your wife that latter part of 2005 or early  
5 2006, that dinner lasted for approximately an hour or so.

6 MR. TISDALE: I withdraw an objection.

7 THE WITNESS: I would say it probably is more like  
8 closer to two hours.

9 Q. Was this dinner set up before you interviewed on the  
10 first hour session of the interview you had that morning,  
11 that Saturday morning?

12 A. Yes, I made reservations prior to that point.

13 Q. Was it an enjoyable dinner that you had with  
14 Father Kronz and Father Fuener?

15 A. Not particularly.

16 Q. And why not?

17 A. Well, I presume that, after that first answer I had  
18 given them, we were all wasting our time.

19 Q. Did you advise that or say anything to Father Kronz and  
20 Father Fuener that you felt like you were all wasting  
21 everybody's time?

22 A. No, I did not say that at supper. What I did say was,  
23 when they asked the question, that I was shocked and  
24 disappointed that the question was asked and that they had  
25 driven a long way, I'd invested a lengthy amount of time

1 preparing my answers to the questions, and they had driven a  
2 long way, so I indicated it at that point.

3 Q. Well, did you tell Father Kronz and Father Fuener that  
4 they were wasting their time?

5 A. Did I use those exact words?

6 Q. Yes, sir.

7 A. No, ma'am, I did not use those exact words.

8 Q. Okay. Did you at any time even imply to Father Kronz  
9 and Father Fuener that they were wasting their time?

10 A. I felt like my statement was pretty clear.

11 Q. With respect to your statement, and you believe that you  
12 then implied that to them, that they were wasting their time?

13 A. It certainly stated that I was wasting my time.

14 Q. Did you force Father Fuener and Father Kronz to take you  
15 to dinner that night?

16 A. No, ma'am.

17 Q. Did you force Father Kronz and Father Fuener to  
18 interview that Saturday afternoon and spend an hour with you?

19 A. No, ma'am.

20 Q. Did you force Father Kronz and Father Fuener to go and  
21 attend two of your services the next day?

22 A. No.

23 Q. Did you force Father Kronz and Father Fuener to have a  
24 discussion with you after your second service the next day?

25 A. No.

1 Q. To your knowledge, Father Kronz and Father Fuener were  
2 cordial and respectful at all times, were they not?

3 THE WITNESS: I think that's supposed to be Mr. Tisdale.

4 MR. TISDALE: Yes, I think that's a -- but I withdraw it  
5 if it's me.

6 A. Reasonably.

7 Q. You just stated that you spent a great deal of time in  
8 preparing your documents that you submitted for the position  
9 of bishop; is that correct?

10 A. Yes, ma'am.

11 Q. Okay. Did you want to be bishop, the 14th bishop of the  
12 Protestant Episcopal Church of South Carolina?

13 A. Want is not the right word. I was willing to have a  
14 dialogue.

15 Q. Okay. So it would be fair to state that you were  
16 disappointed when you did not become the bishop?

17 A. I think I was more relieved than I was disappointed.

18 Q. Did you at any time withdraw your name from  
19 consideration as the 14th bishop?

20 A. No, I did not.

21 Q. Nobody prevented you from withdrawing your name as the  
22 14th bishop after this meeting that you had with Father Kronz  
23 and Father Fuener in late 2005 or 2006, did they?

24 A. No one prevented me from doing that.

25 Q. Okay. With respect to the application process for the

1 bishop, I think you indicated earlier you had to fill out a  
2 questionnaire?

3 A. Uh-huh, there was a series of questions that were asked,  
4 I was told, of all of the candidates.

5 Q. And this questionnaire was in written -- was in written  
6 form; is that correct?

7 A. It was a series of questions.

8 Q. And this questionnaire was a number of pages; is that  
9 correct?

10 A. Yes.

11 Q. Okay. With respect to this questionnaire, do you know  
12 how, over a time period -- do you know how over a time  
13 period, the time between you filing out -- filling out the  
14 questionnaire and the being notified that you would be  
15 interviewed?

16 A. Something more than a month, maybe a couple of months.  
17 I don't remember exact timeframe.

18 Q. Other than filling out this questionnaire, what other  
19 information did you provide to the search committee for your  
20 candidacy as the 14th bishop?

21 A. I don't recall anything else in written form.

22 Q. With respect to this questionnaire, when you responded  
23 to the questionnaire and filled it out, did you make any  
24 notations on the questionnaire that you objected to any of  
25 the questions?

1 A. No.

2 Q. Okay. Did you, in fact, find any of the questions on  
3 that questionnaire to be offensive in any way?

4 A. No.

5 Q. Did you save the -- make a copy of the questionnaire  
6 that you filled out?

7 A. I did.

8 Q. And where -- okay, and where is that questionnaire that  
9 you saved?

10 A. That, I don't know. We moved, so it's possible it might  
11 be in my attic, but I can't lay my hands on it.

12 Q. Is this the first time that you applied for a position  
13 as a bishop in the diocese?

14 A. Was this position the first time?

15 Q. Yes, sir.

16 A. Well, I didn't make an application, I was nominated, but  
17 yes.

18 Q. Was this the first time you agreed to be nominated for  
19 bishop in any diocese?

20 A. Yes.

21 Q. And since this nomination to be the 14th bishop, have  
22 you been nominated subsequently?

23 A. Yes.

24 Q. What other bishops?

25 A. The Diocese of Upper South Carolina.

1 Q. And when did that occur?

2 A. Whenever they elected their last bishop, which was  
3 probably 2008, 2009, somewhere in there.

4 Q. And were you interviewed for that process?

5 A. I was.

6 Q. Do you know if your nomination to be bishop of the  
7 Diocese of Upper South Carolina, if you became one of the top  
8 five?

9 A. No, I think it was -- there were seven or eight of us  
10 that were in the semigroup.

11 Q. But you did not make it into the final group to be voted  
12 on?

13 A. No.

14 Q. With respect to your nomination for the bishop for the  
15 14th bishop, do you know how many nominees there were when  
16 you were interviewed in late 2005 or early 2006?

17 A. I think they alluded to there were maybe about eight.

18 Q. And when you say they, you're referring to Father Kronz?

19 A. Father Kronz, yes.

20 Q. Now, my understanding is that you spoke to Mr. Tisdale  
21 sometime the summer or fall of 2013; is that correct, last  
22 year?

23 A. It was the fall.

24 Q. The fall?

25 A. Uh-huh.

1 Q. Did Mr. Tisdale meet with you?

2 A. Yes, we met.

3 Q. Okay. And where was this meeting?

4 A. I think we had it at Olive Garden.

5 Q. And who was present at the meeting?

6 A. The two of us.

7 Q. And how long did that meeting last?

8 A. Including the meal, it was probably a little over an  
9 hour.

10 Q. And tell me what you recall about that meeting you had  
11 with Mr. Tisdale in the fall of 2013 at Olive Garden.

12 A. He basically asked me what -- he was aware that I had  
13 had a conversation with the priest from North Charleston  
14 and --

15 Q. Was that Mr. Taylor, Father Taylor?

16 A. Yeah, and -- yes, ma'am, and wanted to talk with me  
17 about that and ask me if I'd be willing to give a -- it's not  
18 a deposition. What's it called?

19 Q. Give an affidavit?

20 A. Affidavit, yes.

21 Q. Now, the communications or conversations you had with  
22 Father Taylor that I was -- that was, I believe you  
23 testified, in 2011; is that correct?

24 A. Uh-huh.

25 Q. You'll have to make a verbal.

1 A. Yes, ma'am.

2 Q. Okay. Do you know when in 2011 you had this  
3 communication with Father Taylor?

4 A. I don't know exactly. I don't recall.

5 Q. Other than exactly, approximately?

6 A. Maybe the summer.

7 Q. Okay. So the summer of 2011?

8 A. Yes, ma'am.

9 Q. Would that be correct?

10 A. (Deponent moves head up and down.)

11 That would be an approximation. As I said, I didn't  
12 know exactly.

13 Q. Okay. So if you believed your interview with  
14 Father Kronz and Father Fuener occurred in, let's say, the  
15 early part of 2006, the conversation you had with  
16 Father Taylor in the summer of 2011, that would have been at  
17 least a five-year period between those two events; is that  
18 correct?

19 A. Yes, ma'am.

20 Q. Okay. And during that time period, you were fully  
21 employed as a rector; is that correct?

22 A. That's correct.

23 Q. And during those five years, your church was in Edenton,  
24 North Carolina; is that correct?

25 A. Yes, ma'am.

1 Q. And that was a full-time position; is that correct?

2 A. It's almost 900 members. I'd say that's pretty  
3 full-time with one priest.

4 Q. And that's pretty demanding on your part, isn't it?

5 A. Yes, ma'am.

6 Q. Okay. Now, this telephone conversation you had with  
7 Father Taylor in the summer of -- probably the summer of  
8 2011, did you take any notes of that conversation?

9 A. No, ma'am.

10 Q. Okay. Did you write any letters to Father Taylor or  
11 make any confirmation of that conversation you had with --

12 A. No, ma'am.

13 Q. You retired relatively young?

14 A. Uh-huh.

15 Q. How old were you when you retired?

16 A. 57.

17 Q. Any special reason why you retired at the age of 57?

18 A. Because I can.

19 Q. And what do you mean by that?

20 A. I mean, I have more than 30 years' full-time service in  
21 the Episcopal Church and because I don't have to do that  
22 anymore.

23 Q. You're financially well off; would that be fair to  
24 state?

25 A. I don't know that I'd say that, but I would say that I

1 was financially able to retire.

2 Q. Any other reason why you retired at age 57?

3 A. Not really.

4 Q. Okay. Not really seems to me there might have been some  
5 other reasons.

6 A. Well, we did move back to Spartanburg so my wife could  
7 be nearer to her now 93-year-old mother and her family.

8 Q. Any other reasons?

9 A. Not really.

10 Q. Now, you said -- you testified on direct examination  
11 that after this interview with Father Kronz and Father Fuener  
12 in the latter part of 2005 or early 2006, you spoke to your  
13 bishop; is that correct?

14 A. That's correct.

15 Q. And you spoke to your bishop about this conversation, it  
16 was a month or so later; is that correct?

17 A. Yes, ma'am.

18 Q. Okay. So you didn't immediately call your bishop that  
19 day or the next day or even the following week to report that  
20 conversation?

21 A. He was gone.

22 Q. My question is: Did you immediately call your bishop?

23 MR. TISDALE: Okay. I withdraw now my comment.

24 THE COURT: Okay.

25 Q. My question is: Did you immediately call your bishop?

1 A. I did not.

2 Q. Okay. And, in fact, it was at least a month, if not  
3 more, before you called your bishop; is that correct?

4 MR. TISDALE: I withdraw my comment again.

5 THE COURT: Okay.

6 Q. Is that correct?

7 A. Yes.

8 MS. GOLDING: Line 23.

9 Q. With respect to the Sunday following the interview in  
10 the latter part of 2005 and early part of 2006, do you recall  
11 that the subject -- do you recall the subject of your sermons  
12 in the two services that Reverend -- excuse me --  
13 Father Kronz and Father Fuener attended?

14 A. Do I recall the content?

15 Q. Yes, sir.

16 A. No, ma'am.

17 Q. Okay.

18 A. I don't think I know any priest that would remember a  
19 sermon that long ago.

20 MS. GOLDING: Your Honor, I just want the record to  
21 reflect that we just published a deposition that was taken on  
22 June 14, 2014.

23 THE COURT: Thank you.

24 MR. HOLMES: I've got June 11.

25 MS. GOLDING: June 11, excuse me, June 11, 2014.

1 MR. TISDALE: And I said at the end, "Thank you very  
2 much, Father Rickenbaker, appreciate your time coming here  
3 today."

4 THE COURT: All right.

5 MR. TISDALE: Your Honor, we're trying to meet 4 o'clock  
6 that you mentioned for working on the documents, so we did  
7 pretty good.

8 THE COURT: You did very well. All right.

9 MR. TISDALE: Thank you very much.

10 THE COURT: So you all are prepared at this time to  
11 continue working on your documents; is that right?

12 MR. TISDALE: That's what you said Your Honor would like  
13 to do and that's what we're prepared to do.

14 MS. KOSTEL: I think we're pretty close to being able to  
15 talk with the Court about relevance objections.

16 MR. TISDALE: We'd be prepared to proceed with a witness  
17 first thing in the morning.

18 THE COURT: All right. Very well. Well, do you think  
19 that you would be ready to handle the objections in  
20 30 minutes, handle some of them?

21 MS. KOSTEL: I think we'd be ready in 10.

22 THE COURT: That would be excellent. I will take a  
23 break, and you all call me when you're ready. We'll try to  
24 knock those out this afternoon.

25 (The Court's Exhibit 7 marked for identification.)

1 (Recess held.)

2 THE COURT: All right.

3 MS. KOSTEL: Just to bring Your Honor up-to-date, I  
4 think I've talked to every lawyer -- a lawyer for every  
5 parish, and what -- so we had an original set of lists that  
6 we gave to Your Honor and everybody.

7 THE COURT: Right.

8 MS. KOSTEL: And we have winnowed it down quite a bit,  
9 removed all the duplicate exhibits. And what I've done is  
10 relied on the plaintiffs' counsel to tell me what's been  
11 duplicates and we've taken those out.

12 We have also removed other things on our own volition  
13 and have largely winnowed down the documents that are left on  
14 our list to some documents that are -- where there's no  
15 objection; other documents that fall into categories -- and I  
16 can discuss that in a minute. And then about with ten, about  
17 ten parishes, there are one or two documents that we may need  
18 argument on. I mean, they're very specific, narrow --

19 THE COURT: Sure.

20 MS. KOSTEL: -- and they don't really fall into  
21 categories.

22 THE COURT: All right.

23 MS. KOSTEL: So probably -- well, it's up to Your Honor.  
24 We could do the specific ones first or we could take the  
25 categories, which will --

1 THE COURT: Which one? I don't have an opinion.

2 MS. KOSTEL: Okay. Well, I think it's possible that  
3 with the categories -- or with the specific things, we can  
4 still work some things out.

5 THE COURT: Okay.

6 MS. KOSTEL: So perhaps that should be reserved for  
7 tomorrow morning and maybe we'll get through it.

8 THE COURT: That would be fine.

9 MS. KOSTEL: So then let's turn to the categories.

10 THE COURT: Good.

11 MS. KOSTEL: So what we did is that we categorized the  
12 different types of documents, parish-specific documents,  
13 documents they produced to us, each parish, and so that --  
14 that they understood -- plaintiffs' counsel understood that  
15 was the basis for our argument, they're relevant.

16 The first category was what I called "organic  
17 documents," and that's -- and I'll read what I said to  
18 them -- how I described this category. Documents such as  
19 bylaws, parish constitutions and canons, corporate charters  
20 or articles incorporating statutes, amendments to any of  
21 these, and documents showing adoption of any of these.

22 It's my understanding that on the whole -- well -- and,  
23 you know, they'll have something to say, but in large  
24 measure, most of these are not objected to. A lot of them  
25 are in, so I've took them off my list. And the ones that

1 aren't in, in large measure, are not objected to. But some  
2 of the parishes, I believe, have an argument about  
3 cumulative -- the cumulative nature of these documents; in  
4 other words, if the 1980 bylaws were already in, I want to  
5 put in the '54 and the '65 ones. And my suggestion is, no,  
6 they actually matter at each point in time because each --  
7 you know, there's arguably a promise at each point in time,  
8 so I think that's the only issue about the organic documents.

9 But I yield -- should we take the issues one at a time?

10 THE COURT: Yes, one at a time.

11 MS. KOSTEL: One at a time, okay.

12 THE COURT: Who would like to speak to that?

13 Mr. Mark.

14 MR. PHILLIPS: Your Honor, I think in my case, we  
15 literally have a single document to discuss, one.

16 THE COURT: Go for it.

17 MR. PHILLIPS: I'll tell you what I'll do, if you like,  
18 I can read into the Court's record what we agreed on.

19 MS. KOSTEL: Which one are you talking about?

20 MR. PHILLIPS: This consecration certificate.

21 MS. KOSTEL: We're talking about organic documents.

22 MR. PHILLIPS: Oh, geez, you and I already agreed on all  
23 of those. Okay. Never mind.

24 MS. KOSTEL: I was wondering what you were doing up  
25 here. So maybe we're done with that. I don't know.

1 MS. DURANT: Thank you, Your Honor.

2 THE COURT: Everybody who's got concerns, come up here  
3 and hang out in the jury box.

4 MS. DURANT: Your Honor, Bess Durant for Church of the  
5 Holy Comforter.

6 THE COURT: Okay.

7 MS. DURANT: And Ms. Kostel probably explained my  
8 objection better than I could. She wants to introduce a --

9 MS. KOSTEL: Darn.

10 MS. DURANT: Thank you kindly. I appreciate it.

11 But she wants to enter to a -- or enter into evidence a  
12 1968 constitution. We've already admitted a 1989  
13 constitution and a 2010 and 2013 constitution. And, Your  
14 Honor, I just think it's cumulative and not relevant to the  
15 matters at hand. And I'll rely on Ms. Kostel's explanation  
16 of my objection as well.

17 THE COURT: Let me just ask you this question, if the  
18 argument is -- and I'm not ruling, but assuming there is an  
19 argument that the duration of the -- I'm looking for the  
20 right word -- the duration for which the national church's  
21 constitution and canons were accepted or acceded to, if that  
22 has meaning, then arguably the meaning is greater if it goes  
23 from 1968 through whatever year than if it just existed for  
24 one year. See what I'm saying?

25 MS. DURANT: Yes, Your Honor, I see what you're saying.

1 I do see what you're saying.

2 THE COURT: And so for that purpose, I think it could  
3 have some relevance.

4 MS. DURANT: That's fair enough, Your Honor. Thank you  
5 for listening to me.

6 MS. MACDONALD: Susan MacDonald, Trinity Myrtle Beach.

7 We had several amendments along the years and I have no  
8 objection, as I've told Mary. I'm fine with putting in the  
9 very first articles and bylaws for us in 1939 and the last  
10 ones, but there's a '72, there's a '93, there's several in  
11 between that really are, in my opinion, cumulative.

12 If that's the reason, you know, the duration is  
13 important and relevant; if it is, then I have no trouble with  
14 the first and the last. But having the Court wade through  
15 four additional sets of amended bylaws over 75 years just  
16 seems cumulative, and that would be our objection.

17 THE COURT: I understand. And, again, at this point, I  
18 certainly don't want to be in a position of telegraphing what  
19 my opinion may or may not be. But if the argument is that  
20 there is importance to the number and the period of -- the  
21 number of times and the periods of time over which a parish  
22 said we accede to the constitution and canons, we accede to  
23 the constitution and the canons, and that happens not only  
24 over time but repeatedly, for whatever merit that argument  
25 has, if it has none, then there's no harm done. It's just --

1 you know, I have done terrible -- you know, Westvaco should  
2 probably put my picture up. But, you know, if it's an  
3 argument which has merit which should be considered by the  
4 Court, then I have then worked an injustice. And it seems to  
5 me, certainly at this juncture, that it makes more sense to  
6 make Westvaco happy at this juncture than it is to put the  
7 potentiality of committing an error at this point.

8 MS. MACDONALD: Thank you, Your Honor.

9 THE COURT: So that's sort of where it is for me.

10 MR. OXNER: Your Honor, Harry Oxner for Prince  
11 George Winyah. Same issue, but we don't have the accession  
12 clause. Never had one. Never put one in. Never been there.

13 THE COURT: Okay.

14 MR. OXNER: Going with your ruling, and if that makes  
15 the difference, I just --

16 THE COURT: Well, so you wouldn't have that?

17 MR. OXNER: No, ma'am. So we don't think it's relevant.  
18 We think it's cumulative.

19 THE COURT: Are you like bragging or what?

20 MR. OXNER: I am bragging. Absolutely, I am. I'm glad.

21 THE COURT: Okay. So then this is not an issue that  
22 involves you?

23 MR. OXNER: I don't think so.

24 THE COURT: Okay. Go have a seat.

25 MR. OXNER: I've got other issues with this church, but

1 I think -- are we just dealing with that one issue on bylaws?

2 THE COURT: Hang on one second. Okay. Mr. Campbell.

3 MR. CAMPBELL: Pierce Campbell, All Saints. One organic  
4 document. All Saints has a school on the property. Since at  
5 least 2001, it has been a completely separate operation with  
6 its own corporation, bylaws, no control by the vestry. I  
7 mean, there are minimal contacts like a 99-year ground lease  
8 that they built a building on, but it's no longer a  
9 church/school, it's a separate private school.

10 And there's a set of bylaws, looks like maybe proposed  
11 original bylaws of that school. The copy that's presented  
12 says on it in writing, this is the copy of bylaws presented  
13 to the vestry in April '01 for final approval; however,  
14 revisions were made and amendments were added, refer to  
15 minutes, and it's unsigned.

16 I don't represent the school. I don't have their  
17 records. They are not in the church office. They are their  
18 own entity. I can't make any representation about what the  
19 school did in their bylaws.

20 We had this draft in our file, but otherwise, I just  
21 don't know that that's admissible to prove anything about the  
22 church.

23 MS. KOSTEL: Which exhibit number is that?

24 MR. CAMPBELL: This is All Saints D-AS-29.

25 MR. KOSTEL: We struck that one.

1 MR. CAMPBELL: Okay. I didn't have it stricken, so that  
2 takes care of it.

3 THE COURT: Cool.

4 MS. KOSTEL: I withdrew that one.

5 MR. BRYAN: May I address Ms. Kostel just to confirm  
6 something?

7 THE COURT: Yes, organic stuff.

8 MR. BRYAN: D-R-20 is out.

9 MS. KOSTEL: D-R-20 is not, no. I don't think we  
10 discussed D-R-20 coming out. I have 21 out because 21 was a  
11 duplicate.

12 MR. BRYAN: Then I have an issue with D-R-20. We talked  
13 about it yesterday.

14 MS. KOSTEL: I forgot what it was regarding.

15 MR. BRYAN: Okay.

16 MS. KOSTEL: What's the issue?

17 MR. BRYAN: The issue, Your Honor, is that that is a  
18 document that is -- Church of the Resurrection, Surfside, I'm  
19 sorry, I'm William Bryan.

20 That's a document that purports to be a revised set of  
21 bylaws adopted in 1972, it also has the date 1959, and has no  
22 signatures on it. And I, as chancellor, in the past in my  
23 parish, don't consider unsigned -- we don't use unsigned  
24 documents, as far as I'm concerned, and there has to be some  
25 evidence of adoption or something. And I don't have any

1 indication these were ever adopted. I just have no way to  
2 verify what they are.

3 We sort of disgorged ourselves of whatever we could find  
4 when we answered discovery. That's where these came from.  
5 So I can't say, and I would then question, and I would  
6 question my own parish -- that these are ever the bylaws of  
7 my parish. And we talked about that last night and I think  
8 we agreed they were out.

9 THE COURT: And so you don't know how they can be  
10 authenticated because you don't even think they're authentic?

11 MR. BRYAN: No. And I had an instance in my situation  
12 when I got to the amendment process for the foundation of  
13 this case where I saw some unsigned documents and I did some  
14 digging, and I couldn't find any evidence they were ever  
15 passed, adopted, or anything and they were unsigned.

16 I didn't go all the way back to '72 and do the same  
17 thing, but that's what this is, Order 59, I went back to '83,  
18 found some bylaws that were adopted, and we changed those.

19 But anyhow, I think they're not just duplications,  
20 they're just -- there's no -- they're questionable.

21 THE COURT: I understand.

22 MR. BRYAN: -- and that's the problem. And I don't  
23 think there's any way to have a witness in here. Even if  
24 they subpoena somebody, I don't think they're going to get  
25 anybody that's going to prove them in.

1 THE COURT: Okay, okay.

2 MR. BRYAN: So they ought not be in for that reason.

3 MS. KOSTEL: And as I look at my -- what was on the hard  
4 drive, we didn't even put it on the hard drive, so I think it  
5 might be on the list in error.

6 MR. BRYAN: Okay.

7 MS. KOSTEL: Maybe we discussed it and I just didn't  
8 mark it out.

9 MR. BRYAN: We did and I thought you said out and I'm  
10 just --

11 MS. KOSTEL: I probably did and didn't mark it out  
12 myself.

13 MR. BRYAN: I'm just scared about these documents, what  
14 is in and what --

15 THE COURT: Put O-U-T, put O-U-T.

16 MR. BRYAN: I've got it with a question mark. I'll just  
17 delete my question mark.

18 THE COURT: Exactly.

19 MR. BRYAN: Great.

20 THE COURT: Anything else, organic? Mr. Campbell?

21 MR. CAMPBELL: I'm sorry, I meant to say this before,  
22 and I just want to make this clear on the record. Ms. Kostel  
23 and I have talked about it, but this is St. Bartholomew's  
24 proposed Defendants' SB-14. It's some old bylaws, which  
25 sounds like Your Honor wants to let those in, and that's

1 fine. The problem is, these had some proposed amendments  
2 attached to the back, but it doesn't say whether those  
3 proposed amendments were attached -- were voted on, passed,  
4 included, not included, or anything else. And so I'm fine  
5 with the bylaws coming in and I know they've already kind of  
6 prepared the set of documents that they want to come in. I  
7 just want to make sure that, you know, she said, well, we're  
8 not arguing about those amendments because we can't tell, but  
9 I don't have any way to protect myself on that in an appeal  
10 if they try to point to that and it comes into evidence. And  
11 so --

12 THE COURT: So you would like to not submit the proposed  
13 amendments that you have no way of knowing if they became  
14 amendments?

15 MR. CAMPBELL: If they did, they're incorporated in one  
16 of these sets of bylaws; and if they didn't, they didn't.

17 MS. KOSTEL: I mean, two things. First, that's fine.  
18 If you remind me tomorrow, we'll remove the pages. But it  
19 says "proposed amendments," so clearly they were not. I  
20 mean, as I said to Pierce, there's the bylaws, and then  
21 there's another page that says proposed amendments. But, you  
22 know, if I had the gumption to cite them, I think he would  
23 have the gumption to say they were only proposed, so it's  
24 whatever. But we'll take the pages off.

25 THE COURT: Okay. Good. Done. Great. But you're

1 responsible for the, I call them snake teeth, pulling out  
2 the...

3 MR. CAMPBELL: Will we have actual documents?

4 MS. KOSTEL: Yes, tomorrow we'll have actual documents.

5 THE COURT: Great.

6 MR. MARVEL: Your Honor, David Marvel for St. Luke and  
7 St. Paul, Radcliffeborough.

8 THE COURT: Right. All right. Are we still organic or  
9 not?

10 MR. MARVEL: We are still organic.

11 THE COURT: Okay. Yes.

12 MR. MARVEL: And I -- we essentially have the same issue  
13 as to their Exhibit 6, 7, and 8, which are -- you know, these  
14 were copies of constitutions and bylaws from probably -- the  
15 earliest, I believe, is 1926, and then through there through  
16 1950. And I have no verification or information that these  
17 are actually correct copies of true bylaws. They're not  
18 signed or anything. They were in our files. We produced  
19 them in the course of discovery and, you know, we believe  
20 they're wholly irrelevant. And so I still have that same  
21 objection that I can't verify that they're authentic and,  
22 therefore, we've got an issue with them.

23 And I understand Your Honor's ruling and I just wanted  
24 to make sure that that was ruled upon in the process.

25 THE COURT: Well, Mr. Marvel, tell me what you've done

1 to ascertain whether or not they are -- in fact, can be  
2 authenticated as a document.

3 MR. MARVEL: Well, Your Honor, there is no person who  
4 can verify that they were authentic as they were.

5 THE COURT: How about minutes?

6 MR. MARVEL: We don't have any minutes from that time  
7 period, Your Honor.

8 THE COURT: And what is the beginning time period that  
9 you have minutes?

10 MR. MARVEL: 1987.

11 THE COURT: 1987?

12 MR. MARVEL: Correct, Your Honor.

13 THE COURT: Okay. And tell me what you have done to  
14 assure the defendants that you have no minutes pre-1987 and  
15 why do you have no minutes pre-1987 that you've been able to  
16 determine?

17 MR. MARVEL: My best determination, Your Honor, is that  
18 we do not have any paper copies of minutes pre-Hugo. We  
19 started taking -- we have electronic versions of minutes  
20 since we had a server which collected those, and so we  
21 originally produced those. And if you recall, it became an  
22 issue because we ultimately located binders of minutes as  
23 they were kept by the individual vestry members. The reason  
24 why we have them from 1987 on is there was a vestry member  
25 who had their personal set of minutes that went from '87 to

1 1990. And when they rolled off, that starts the new period  
2 and so --

3 THE COURT: What was the damage that was done to -- and  
4 tell me your parish is --

5 MR. MARVEL: Yeah, St. Luke and St. Paul  
6 Radcliffeborough, Your Honor, which is the Cathedral.

7 THE COURT: What was the damage that was done during  
8 Hugo?

9 MR. MARVEL: I think what happened to these minutes and  
10 some other documents, that we would certainly like to have  
11 for lots of different reasons, is not necessarily during the  
12 storm, although, we had some roof issues. We have a  
13 brand-new roof that did not do what roofs are supposed to do  
14 in a hurricane, essentially, but that roof was less than two  
15 years old. And we lost some portion of it during that. And,  
16 frankly, we think we lost some portion of it during  
17 reconstruction as well. Reconstruction was pretty chaotic at  
18 that point, so for whatever reason, we do not have paper  
19 copies of those documents now.

20 THE COURT: All right. Here's what I think I'm going to  
21 need you to do, is lay a foundation for that and just bring  
22 somebody that can make that -- that's familiar with that  
23 history and can give us some information, maybe that was  
24 involved in the building process, just someone who could lay  
25 that foundation.

1           And let me tell you about that. Let me tell you what  
2 happened. Unfortunately, we all experienced it and what  
3 Mr. Marvel is saying is -- rings true because even though our  
4 office was in Summerville, and what was unique about  
5 Summerville as opposed to Charleston is that the plantation  
6 owners came to Summerville, because of the height of  
7 Summerville, to get away from mosquitoes in the summertime  
8 and that's why it's called Summerville. Oh, how quaint.

9           And so when Hugo came along, everybody had turned tin  
10 roofs. Y'all probably did too. And what happened was we had  
11 a turned tin roof on our brand-new office building in  
12 downtown Summerville, at which point Hugo rolled it up,  
13 literally rolled it up like it was opening a can of sardines,  
14 and threw it on the other side of town behind the dry  
15 cleaners.

16           And the day after Hugo, we had a day, sun was shining,  
17 it was beautiful, and it gave us an opportunity to move out  
18 our files. We were able to do that only because our staff  
19 had chainsaws and could cut through, and were willing to cut  
20 through to get to the office and help us do that.

21           We were actually able to take out, and all we could take  
22 out were the files. Then the rain started and then  
23 continued. And it was a nightmare. We took out everything  
24 in our law office in buckets. We took out our law library.  
25 We took out our sheetrock. We took out our desks.

1 Everything went out in buckets.

2 So what Mr. Marvel is saying actually does ring true.  
3 There was a day, and then after that it was the monsoons  
4 after that. So Hugo, as devastating as it was to begin with,  
5 it really was, but I think so that these defendants have got  
6 a basis as they scratch their heads and say, well, how can  
7 you not have the minutes? I think we need to lay a  
8 foundation for that so they've got that.

9 MS. KOSTEL: Your Honor?

10 THE COURT: Yes.

11 MS. KOSTEL: Could I also say -- could we ask  
12 Mr. Marvel, I mean, these, I think, they produced -- they  
13 did, obviously, have these old constitution and canons. And  
14 I can show them to Your Honor. I mean, they look like they  
15 have the name of the church and they say constitution and  
16 canons. Where were they kept?

17 MR. MARVEL: In a folder of bylaw amendments. And some  
18 of them are -- they have handwritten notes on them and things  
19 along those lines.

20 THE COURT: They just need to have somebody to talk  
21 about that.

22 MS. KOSTEL: But if they're in a folder, that's kept in  
23 the regular course of business containing --

24 THE COURT: What I'm hearing -- what I'm hearing is they  
25 may be personal to individualized vestry members; is that

1 what you're telling me?

2 MR. MARVEL: I can't tell you where they came from, Your  
3 Honor.

4 THE COURT: You've got to find out between now and  
5 tomorrow. And you're right, if they're in folders somehow in  
6 the church, you know, it's all we've got. It is what we --  
7 you have what you have.

8 MS. KOSTEL: Right.

9 THE COURT: But Mr. Marvel, you're just going to have to  
10 find out where they came from so that we've got that  
11 information. If they came from individualized vestry  
12 members, then it's impossible to know and the vestry member  
13 may or may not be able to shine some light, so see what you  
14 can do to find out the origin of it.

15 MR. MARVEL: All right. Thank you, Your Honor.

16 THE COURT: Yes, absolutely. All right.

17 MR. RUNYAN: Parish Church of St. Helena, Mary,  
18 D-PCSH-2.

19 THE COURT: And what is it?

20 MR. RUNYAN: It is bylaws of the preservation trust for  
21 Historic St. Helena's Episcopal Church. The bylaws of a  
22 separate entity with no control over it by the Parish Church  
23 of St. Helena and not a party to this lawsuit.

24 THE COURT: Oh, okay. Who is it?

25 MR. RUNYAN: Preservation Trust for Historic

1 St. Helena's Episcopal Church.

2 THE COURT: What is it?

3 MR. RUNYAN: It is a corporation created to gather money  
4 to help defray the costs of operation of the old church and  
5 old church yard, separate 501(c)(3), we don't control the  
6 board.

7 THE COURT: And the objection is relevance?

8 MR. RUNYAN: Relevance.

9 THE COURT: Got it.

10 MR. WALL: Your Honor, John Wall, Church of the Good  
11 Shepherd.

12 THE COURT: Wait, I've got to handle this one.

13 MR. WALL: Oh, I'm sorry.

14 THE COURT: No, no, you're fine. Don't go anywhere.  
15 Stop. Don't go anywhere.

16 Okay. So who's agent for service or process; do you  
17 know? Do you happen to know?

18 MR. RUNYAN: Pardon me?

19 THE COURT: Who's the agent for service or process for  
20 the preservation? And you may not know.

21 MR. RUNYAN: I don't really.

22 THE COURT: Okay.

23 MR. RUNYAN: I don't.

24 THE COURT: Okay.

25 MR. RUNYAN: I mean, anybody could go to the Secretary

1 of State's office and find out.

2 THE COURT: Okay.

3 MS. KOSTEL: So I'm looking at the bylaws, Your Honor.  
4 And they state -- I can flash them up if you'd like, but I'm  
5 too tired to do that.

6 THE COURT: I know.

7 MS. KOSTEL: This was page 2, Article 3, Section 31,  
8 authority and responsibility of the board of trustees, subA,  
9 the authority of the church preservation trust and the  
10 government and management of the affairs of the church  
11 preservation trust shall be vested in the board of trustees.  
12 And all the powers, duties and functions of the association  
13 conferred by the parish bylaws, these bylaws, the  
14 constitution and canons of the Protestant Episcopal Church in  
15 the Diocese of South Carolina or otherwise shall be  
16 exercised, performed, or controlled by the board of trustees.

17 Yes, it's funky, but it does suggest that the trustees  
18 have to conform to those rules.

19 THE COURT: Okay.

20 MR. RUNYAN: Well, then she needs to lay a foundation  
21 for this because that's just not the case. I mean, I -- as  
22 part of the problem of doing it this way, she needs to see  
23 the present articles of incorporation, present board, the one  
24 that -- the articles that existed then. This is just not --  
25 it's an insufficient foundation for this document. It is a

1 separate corporation, separate board, easily discovered by  
2 the defendants, had they chosen, easily made a party, not a  
3 party.

4 THE COURT: Okay. We'll just deal with it at that  
5 point, I mean, if you offer it.

6 MS. KOSTEL: I think I'm -- well, I'm offering all of  
7 them now, so I think I'm offering the organic --

8 THE COURT: Stuff.

9 MS. KOSTEL: -- stuff now.

10 THE COURT: Okay. I would tell you that -- give me the  
11 name of the corporation.

12 MR. RUNYAN: The Preservation Trust for Historic  
13 St. Helena's Episcopal Church.

14 THE COURT: Is it a corporation?

15 MR. RUNYAN: It is a South Carolina nonprofit  
16 corporation in good standing, the last I checked.

17 THE COURT: And the date of the bylaws that you're  
18 interested in?

19 MS. KOSTEL: October 10, 1989.

20 THE COURT: Okay. I'll let you know in a little bit.  
21 Yes, now, moving right along.

22 MR. WALL: Thank you, Your Honor. John Wall, Church of  
23 the Good Shepherd. Three organic documents generally labeled  
24 16, number 37, and 36. Two of them are bylaws. 36 and 37  
25 are okay, I'm not objecting to those. No. 16 is our vestry

1 minutes and I don't understand the relevance. They're not  
2 really organic documents. They -- and I didn't know what the  
3 reason for the admission.

4 THE COURT: Okay. First of all -- first of all, let  
5 Ms. Kostel just have -- 36 and 37 are --

6 MR. WALL: Are okay.

7 THE COURT: -- are fine.

8 MS. KOSTEL: Which church are you from?

9 MR. WALL: Good Shepherd.

10 THE COURT: Which Good -- we've got a couple of them.

11 MS. KOSTEL: All right. Good Shepherd.

12 THE COURT: Got it.

13 MS. KOSTEL: And which numbers are they, John?

14 MR. WALL: 36 and 37.

15 THE COURT: Which are fine.

16 MS. KOSTEL: Yes.

17 THE COURT: Is it 16 that you have a concern?

18 MR. WALL: Correct, that's the vestry minutes.

19 THE COURT: Okay. And those are vestry minutes, and  
20 they are relevant. And authenticity is not the problem, it's  
21 the relevance?

22 MS. KOSTEL: Yes.

23 THE COURT: Okay. How are you percolating over there?

24 MR. RUNYAN: Your Honor, by what I can see, it's a 2002  
25 incorporated corporation.

1 MR. PLATTE: '04.

2 MS. KOSTEL: Alan, are you talking about the  
3 preservation trust?

4 MR. RUNYAN: (Nodding.)

5 MS. KOSTEL: We can withdraw that one.

6 MR. WALL: Thank you.

7 MS. KOSTEL: That's 16.

8 MR. WALL: 16 is withdrawn. Thank you.

9 MS. KOSTEL: Okay. Is that it for organic, the organic  
10 category?

11 THE COURT: Okay. Well, the only one we're left with,  
12 Mr. Runyan, is yours. Now, the Secretary of State says that  
13 the corporation was incorporated 2/2/04, it was amended  
14 5/19/04, and the amendment was the bylaws.

15 So how long are those bylaws? How many pages?

16 MR. RUNYAN: I really don't know. I haven't had that  
17 much involvement with them. I know of them.

18 THE COURT: Well, the Secretary of State says they're 13  
19 pages long.

20 MR. RUNYAN: As far as I know, it was an unincorporated  
21 association for a while and then it incorporated. It's had  
22 bylaws and bylaws amendments, but I don't know any more about  
23 them than that.

24 MS. KOSTEL: This is 18 pages, for what it's worth, Your  
25 Honor, this document.

1 THE COURT: Oh, it's 18 pages, the one that you want in  
2 is 18?

3 MS. KOSTEL: Yes.

4 THE COURT: Okay, okay. Great.

5 MS. KOSTEL: The year of these is '89.

6 THE COURT: '89?

7 MR. TISDALE: Does it say it's a corporation?

8 MS. KOSTEL: No, it says it's an unincorporated  
9 association.

10 MR. RUNYAN: What I'm looking at is a document, refers  
11 to it as an unincorporated association, unsigned, and you  
12 know, there's just not enough foundation for it. I can't go  
13 beyond that. It is currently a separate 501(c)(3)  
14 corporation. What it was in '89, I'm not really sure, except  
15 for it was an unincorporated association.

16 THE COURT: And how did you all get the document?

17 MS. KOSTEL: He produced it to us.

18 THE COURT: Okay. And where'd you find it?

19 MS. KOSTEL: Where'd you find it?

20 THE COURT: What box?

21 MS. KOSTEL: They didn't come in boxes. You mean from  
22 him?

23 THE COURT: Yes.

24 MS. KOSTEL: They didn't come in boxes, they just came,  
25 I think electronically. It wasn't in boxes, Your Honor.

1 THE COURT: I bet you dollars to donuts down in  
2 St. Helena it was in a box.

3 MS. KOSTEL: But I don't know the answer to that.

4 THE COURT: I know. I wasn't even looking you. Listen,  
5 I wasn't even bothering you about this one.

6 MS. KOSTEL: Sorry, I just can't...

7 MR. RUNYAN: I'm confident the document came from the  
8 Parish Church of St. Helena's files in some fashion.

9 THE COURT: Got it.

10 MR. RUNYAN: I'm confident of that.

11 THE COURT: Here's what I'm going to do, I'm going to  
12 accept it for what it's worth, understanding that the  
13 foundation is -- it is what it is. It is what it is. It was  
14 in the documents. It speaks for itself and it may speak  
15 nothing. It may merely whisper, and why would I accept it at  
16 all? The only reason, the only reason that I would accept it  
17 at all is because it makes reference to being governed by the  
18 parish bylaws, and that is the only reason. The quality of  
19 it, it's not worth keeping out because it makes that  
20 reference, to be honest with you. Is it earth shattering?  
21 Is it a smoking gun? It ain't even a smoking match, but  
22 there we have it. I think you're entitled to have it in  
23 evidence.

24 MS. KOSTEL: Okay. Thank you.

25 MR. OXNER: We only have just one question. Somebody

1 else mentioned vestry minutes, are we calling vestry minutes  
2 organic?

3 MS. KOSTEL: No.

4 MR. OXNER: I didn't think so.

5 MS. KOSTEL: Just to be clear, right, no, vestry minutes  
6 we are offering only if they contain information on specific  
7 subjects.

8 THE COURT: I bet.

9 MS. KOSTEL: Yes, we don't want all the vestry minutes.

10 THE COURT: We're no longer organic now. We're back to  
11 just good ol' won't rot in the landfill stuff.

12 MS. KOSTEL: All right. So the next category of  
13 documents are documents, I call them "consecration," and  
14 these are documents showing that church property was  
15 consecrated. A lot of these documents we've struck, we've --  
16 at the other side's request because they're in -- they're in  
17 documents that just -- you know, they can't be authenticated  
18 basically.

19 But there are some where there's a sentence of  
20 consecration where it says, you know, the bishop came and  
21 consecrated this building on such and such a date. And the  
22 reason we think that's relevant is that, first of all, the  
23 church has certain special rules for property that has been  
24 consecrated.

25 THE COURT: Okay.

1 MS. KOSTEL: And we also think it's, you know, another  
2 indicium of the parishes, right.

3 THE COURT: Okay.

4 MS. KOSTEL: I don't even need to finish that sentence.

5 THE COURT: Got it.

6 MS. KOSTEL: Okay.

7 THE COURT: Okay. So like who's worried about  
8 consecration?

9 MR. BRYAN: I'm worried about everything.

10 THE COURT: Good.

11 MR. BRYAN: We have one, Church of the Resurrection,  
12 Surfside, Bill Bryan. This is D-RS-32.

13 THE COURT: Okay.

14 MR. BRYAN: It's just a record of a church proceeding  
15 where the bishop did come, sang at a service when they opened  
16 up the new church building back in '79 -- no, excuse me,  
17 excuse me -- '99, but I just don't see where that's relevant  
18 at all to the issue of whether there's a trust on church of  
19 the resurrection, and that seems to be what's in the  
20 pleadings.

21 THE COURT: Okay. Yes.

22 MS. KOSTEL: I'm sorry, I missed some of that because  
23 Mr. Marvel was talking to me.

24 THE COURT: That's okay. 1999 the bishop came and sang  
25 songs and --

1 MS. KOSTEL: Resurrection.

2 THE COURT: Right. And they had a service and it has no  
3 relevance regarding any indicia of ownership or trust.

4 MS. KOSTEL: Well, consecrated property is subject to  
5 certain specific rules. And as I said, the church's canons  
6 place particular rules on consecrated property that are in  
7 addition to rules that are on unconsecrated property. And so  
8 we think it's relevant to the extent that the rules may be  
9 binding or the course of conduct between the parties show  
10 that the rules were binding or agreed to. And then it's  
11 relevant that a particular part of their property was  
12 consecrated.

13 THE COURT: Okay.

14 MR. BRYAN: I do have one other thing.

15 THE COURT: Yeah.

16 MS. KOSTEL: What number is that, Bill, just quickly?

17 MR. BRYAN: D-RS-32.

18 MS. KOSTEL: Okay.

19 THE COURT: You had something else.

20 MR. BRYAN: I did.

21 MS. KOSTEL: On consecration?

22 MR. BRYAN: Yes, on this particular document. In the  
23 discovery exchange, of course, I provided this whenever --  
24 more than a year ago. I then sent discovery requests to the  
25 -- both defendants and asked specifically about any documents

1 they had specific to Resurrection that showed any property  
2 interest or trust or words to that effect. And this has  
3 never been listed or disclosed, even though it's my document.

4 I mean, I'm the fellow that came in here and asked about  
5 chapter and verse way back, and we're getting chapter and  
6 verse in this trial, but that's really not appropriate, I  
7 don't believe. So I think that's an additional basis for  
8 Your Honor to understand that this is just in this list, I  
9 think, this week, maybe last, whenever, that it's come up  
10 that they think this is relevant. And, you know, I'm  
11 thinking it's a trust case or a property case and here's this  
12 church stuff so --

13 MS. KOSTEL: Well, I don't think that when we're asked  
14 to produce documents in discovery we're under the obligation  
15 to produce documents that were produced to us because that's  
16 not what we're being asked to do.

17 THE COURT: It wouldn't be except in the instance where  
18 there is a request for the defendants to explain to them and  
19 share with them the documents and the theories upon which the  
20 defendants would base a property claim or trust claim. And I  
21 think that's what I'm being told, is that although they -- no  
22 question they provided the document, in essence they asked  
23 back for information regarding the basis for any ownership  
24 interest, be it either in fee simple or trust or otherwise.

25 MS. KOSTEL: Right.

1 MR. BRYAN: I have an interrogatory as well, Your Honor,  
2 and I'd be glad to read it.

3 THE COURT: Yes.

4 MR. BRYAN: Says Interrogatory 8 --

5 THE COURT: You've got to go slow, you know that right?

6 MR. BRYAN: What?

7 THE COURT: Slow.

8 MR. BRYAN: I'm sorry. Set forth all facts, legal or  
9 ecclesiastical authority relied upon by the defendants to  
10 support any claim by defendants of any interest or control  
11 over the real or personal property of Resurrection and  
12 identify all such property.

13 The response was facts and legal and ecclesiastical  
14 authority known to the church at this time that underlie the  
15 church's claim of an interest in real property titled to the  
16 Church of the Redeemer are found in the church's historical  
17 constitution and canons through 2012, the historical versions  
18 of the Book of Common Prayer, the diocese historical  
19 constitution and canons through 2012, the historical  
20 relationship between Resurrection and the larger church and  
21 South Carolina law as bounded by the First Amendment to the  
22 U.S. Constitution. The church at this time lacks information  
23 sufficient to enable it to identify the property at issue.

24 That was in an original response to the discovery, so  
25 amen.

1 THE COURT: Okay. Now let me ask this question of you:  
2 Let me see the quote/unquote consecration document, which at  
3 this point is marked, I gather, as D-RS-32; is that right?

4 MR. BRYAN: 32.

5 MS. KOSTEL: Yes.

6 THE COURT: Okay. Great. All right. Let me just...

7 (Brief pause.)

8 THE COURT: I'm going to share this with the group and  
9 because it is my -- this is the tenant of law that I intend  
10 to follow, and I will share it with you. And to some extent,  
11 it may or may not dictate whether some of these documents are  
12 made for the purposes of offers of proof or whether or not  
13 they are admitted into evidence. And this is clearly a  
14 document that my determination and my view of the law will  
15 affect. And I'm so excited that you give me this opportunity  
16 to do it at this juncture. I didn't really want to do this  
17 now, but here we are: Jones versus Wolf is, of course, the  
18 case, it's a United States Supreme Court case where it  
19 discusses pretty fully about the relationship between the  
20 hierarchical church and the rules of neutrality and the  
21 doctrine of neutrality, neutral-based principles of law. And  
22 it really talks to, might even say warns those that wish to  
23 continue with a hierarchical-based church. Because it says  
24 that -- it's really a discussion that's found -- I'm not  
25 going to read it to all of you, but it's found in the

1 decision on page 606. Of course, 443 US 595 is the cite for  
2 Jones versus Wolf. And it basically says if a church wants  
3 to enforce the hierarchical nature of the church, that's  
4 fine, but you're going to have to do that exercising the  
5 neutral principles of law and -- meaning, that you better  
6 have your -- you need to have your churches, if you will,  
7 take legally cognizable forms of creating ownership interests  
8 in property.

9 So I do not believe that the consecration ceremony as  
10 shown in D-RS-32 is a legally cognizable form under South  
11 Carolina law that would grant an interest in property, either  
12 a fee simple or a trust interest; meaning, I don't think this  
13 document creates a trust either by declaration or by transfer  
14 of property.

15 So I don't know what you want to do with that. I don't  
16 know if you want to have an offer of proof with that or -- or  
17 that at this point you just simply want to mark it for  
18 identification purposes.

19 MS. KOSTEL: May I confer for a moment?

20 THE COURT: Absolutely.

21 MS. KOSTEL: Thanks. I think we offered it, he  
22 objected, you sustained the objection, and that's all in the  
23 record. So I think we're --

24 THE COURT: Let's mark it, then, for identification  
25 purposes so it's in the record as ID.

1 MR. BRYAN: Would you mind if I have mine back if she  
2 marks hers?

3 MS. KOSTEL: Oh, well, they'll be here tomorrow.

4 THE COURT: I have a copying machine too. That's one  
5 dispute that I can settle easily.

6 MR. BRYAN: Well, I'm a paper guy, Judge, I have a hard  
7 time with all this electronic stuff. I have another.

8 MS. KOSTEL: I have one favor I would ask of Bill, if he  
9 would tomorrow when all the massive paper arrives, will you  
10 make sure that that happens so that it gets marked for  
11 identification?

12 THE COURT: We're doing it right now.

13 MS. KOSTEL: Okay. You're using his? You are using  
14 his?

15 THE COURT: I'm going to copy it --

16 MS. KOSTEL: Okay, fair enough.

17 THE COURT: -- and I might give you the long one back  
18 but I might keep his copy.

19 MR. BRYAN: Thank you, Judge. I have one more  
20 consecration document.

21 THE COURT: Sure. Go right ahead, trouble-maker.

22 MR. BRYAN: I'll hand it to you. This is D-RS-35. I'm  
23 just following the list we were given by categories.

24 THE COURT: Sure, okay. And --

25 MR. BRYAN: That is listed as a consecration document

1 that the defendant national church wants to enter in evidence  
2 about the pancake suppers and the Girl Scouts.

3 It's a -- it purports to be a history by somebody, but I  
4 don't know. It was in my church records that I, again,  
5 disgorged for these folks.

6 THE COURT: And it's a history of the Episcopal Church  
7 of the Resurrection written for the occasion of the 50th  
8 anniversary by Delores Hess Butler in 2008.

9 MS. KOSTEL: Yes. Your Honor, we'll withdraw that one.

10 THE COURT: Okay.

11 MR. BRYAN: Thank you. That's all I have on  
12 consecration, Judge.

13 MR. CAMPBELL: Thank you, Your Honor, on the  
14 consecration. To save time, Your Honor, if that's your  
15 ruling on consecration documents, there are many amongst many  
16 parishes, and so do we need to go through each one for you to  
17 say that you are not going to admit it and they can decide  
18 whether to put it in as an offer of proof or mark it?

19 MS. KOSTEL: He's right, yeah.

20 MR. CAMPBELL: There are many.

21 THE COURT: With this caveat, if there is language --  
22 trust happens in South Carolina in two ways, a declaration of  
23 trust, or transfers of property to a trust.

24 MS. KOSTEL: Actually, I did a little bit of research on  
25 that, Your Honor.

1 THE COURT: I did too. And one of the things I've been  
2 listening for, too, I don't think there's any way in the  
3 world we've got a resulting trust, but I have been listening  
4 very carefully for the theory of constructive trust, which is  
5 why some of the things I've had come on in and had people go  
6 there because I wanted to hear about that.

7 MS. KOSTEL: Right.

8 THE COURT: Which is another reason why I wanted to see  
9 that document that I had just looked at. I am a little bit  
10 concerned about, with the consecration, just making that  
11 blanket statement, but if there's something in these  
12 consecration documents that say -- because I looked. I mean,  
13 they're singing songs and having a good ol' time.

14 MS. KOSTEL: Right. How about this, to keep things  
15 rolling --

16 THE COURT: Yes.

17 MS. KOSTEL: -- if I go through the consecration  
18 documents this evening, if I think any of them say anything  
19 more, I'll bring them up tomorrow.

20 THE COURT: That would be perfect.

21 MS. KOSTEL: Okay.

22 THE COURT: That would be perfect. Because I don't want  
23 to miss those because I think that's important. I mean, say  
24 it gets worked up and says, you know, we give this in  
25 trust --

1 MS. KOSTEL: My guess is that most of them will not.

2 THE COURT: I don't know.

3 MS. KOSTEL: But I need to make sure.

4 THE COURT: And here, you know, all these songs just are  
5 flying off in my head. Okay. So this is marked for  
6 identification. Ruth will mark that. It's already got it  
7 written on it, what it's supposed to be.

8 MR. PLATTE: Your Honor, it's my understanding of the  
9 consecration documents that they -- if Ms. Kostel over  
10 tonight, if they have some language that might be relevant,  
11 she'll bring it to the Court, but otherwise they will not be  
12 entered in?

13 THE COURT: They'll be marked for identification  
14 purposes only because I want them part of the record.

15 MR. PLATTE: Thank you, Your Honor.

16 (Defendant's Exhibit D-RS-32 marked for identification.)

17 MS. KOSTEL: So I'll report to the Court tomorrow about  
18 that.

19 Okay. Next topic: This one is called compliance. And  
20 I'll read what I've -- how I've described this category to  
21 the plaintiffs.

22 THE COURT: Sure.

23 MS. KOSTEL: Documents showing compliance with national  
24 church or diocesan rules or acknowledging the need to do so.

25 So this is -- this is a wide range of stuff. It occurs

1 to me that there are a couple categories later that are  
2 actually subcategories of this, but they're their own special  
3 categories. But this is just a broad category, like in the  
4 vestry minutes we have to make sure we obey the national  
5 church canon on remarriage or we have to make sure we do our  
6 audits according to the national church business methods,  
7 or -- it's that kind of stuff. That's what it is.

8 THE COURT: Got it. And there are objections to the  
9 relevancy of those documents?

10 MS. KOSTEL: Correct. I think we've gotten rid of  
11 everything except relevance.

12 THE COURT: I understand.

13 MR. RUNYAN: I just have an inquiry. You mentioned  
14 diocesan canons and the national constitution and canons.  
15 Are all the diocesan canons derivative of something in the  
16 national canons? Because if they're not, then I think that's  
17 a different issue. I don't think it's relevant.

18 MS. KOSTEL: Right. Some probably are. I'm not sure I  
19 can answer that.

20 THE COURT: Yes.

21 MS. KOSTEL: If it just shows that they obey the  
22 diocesan canons, who cares? And I can't show that it's  
23 derivative.

24 THE COURT: Yes.

25 MR. HOLMES: May I make a suggestion, Your Honor? Those

1 come in for what they're worth.

2 THE COURT: You know, how many times have you heard that  
3 in a nonjury case, you know what I'm saying?

4 MR. HOLMES: Many.

5 THE COURT: And I have resisted saying that because what  
6 used to happen to me as a lawyer, I'm like, what does that  
7 mean? Does that mean I go down that road or I don't go down  
8 that road? And so I understand now it's like, you know,  
9 riding down the road, when will we be there? Soon.

10 MS. KOSTEL: Yes.

11 THE COURT: Help me with this issue. Because while  
12 though all of those issues, I think, are very important in  
13 terms of the establishment of a hierarchy, there are a couple  
14 of other things going on, and I need to ask because here's  
15 what I was listening for very carefully when we went through  
16 that lovely four days of each parish coming up and going  
17 through the corporate changes, and we went through those  
18 corporate changes. And while I have not -- I haven't gotten  
19 down with my jeweler's loupe on it, it appears at this  
20 point -- and let's just say for argument's sake that,  
21 understanding the dictates of the statute, the pre-1900,  
22 post-1900 corporations, the charters, and the ability to make  
23 changes to the constitution and bylaws, if in fact that has  
24 occurred, and let's just say for the sake of that argument  
25 that it did occur.

1 MS. KOSTEL: That the corporate amendments --

2 THE COURT: Yes, that they occurred.

3 MS. KOSTEL: Okay. Thank you.

4 THE COURT: And then we go to taking a look at the  
5 compliance documents.

6 MS. KOSTEL: Yes.

7 THE COURT: The real core issue, the real core issue is,  
8 why not? What is the vehicle that forbids the parishes  
9 vis-à-vis All Saints and the diocese. And I think that  
10 argument would be separated. Because, obviously, the  
11 diocese's position is that, by analogy, what is true of the  
12 parish is true of the diocese. What is the vehicle with the  
13 national church that forbids that from happening?

14 Because I'm very mindful of the testimony last week  
15 where the bishop says there is nothing in the constitution  
16 and the bylaws of the national church that forbids an  
17 amendment to the individual parish, the individual diocese's  
18 constitution and bylaws that forbids a change and a  
19 separation. And that goes to the core.

20 MS. KOSTEL: Okay. So let me -- couple of things.

21 THE COURT: Yes.

22 MS. KOSTEL: First, even if, for the sake of argument, a  
23 parish could leave, I think we're talking about parishes  
24 here, not the diocese, because this is parish specific.

25 THE COURT: Okay.

1 MS. KOSTEL: Even if a parish could leave, it may  
2 have -- it may have -- there may be a trust interest in its  
3 property; for example, let's say, you know, that could be  
4 agreed to, there could be a trust instrument, there could  
5 be -- and there are, in some cases, agreements or statements  
6 that some of the parishes have made after the adoption of the  
7 church's trust canon in 1979, the Dennis canon saying we  
8 agree to those rules; some of them say we agree to the  
9 property rules post-'79.

10 My understanding is that in South Carolina before 2006,  
11 a trust is irrevocable unless expressly stated otherwise.  
12 So, arguably, you have a promise to make a trust if that's  
13 what's happened.

14 THE COURT: Well, there are a couple of hoops. There  
15 are several things that would have to happen for there to be  
16 a trust created. Number one, whoever -- as I understand it,  
17 the canons that were passed that created the trusts, if you  
18 will, those were done at conventions.

19 MS. KOSTEL: There was a general convention one and then  
20 the diocesan convention actually adopted a sort of mirror one  
21 in 1987.

22 THE COURT: Okay.

23 MS. HOSTEL: I think, yes.

24 THE COURT: Okay. So the people, the individuals who  
25 are attending those have to be clothed with the authority to

1 do two things: One, to have the authority to transfer  
2 property or create a trust.

3 MS. KOSTEL: Right.

4 THE COURT: Erstwhile, if it doesn't happen when they go  
5 home, then I think it's incumbent upon the national church to  
6 come marching down to South Carolina and say (indicating) and  
7 then see what happens. And so I don't think that that --  
8 number one, I'm suspicious that the authority to which  
9 deputies or delegates are clothed doesn't include that.

10 MS. KOSTEL: Well, I agree with you, Your Honor. We're  
11 not -- that's not our argument.

12 THE COURT: Okay. And then secondly, secondly, if that  
13 is correct, under South Carolina law you get a trust, in  
14 these circumstances, in one of three ways; by declaration, by  
15 transfer, arguably by the operation of law in the terms of a  
16 constructive trust.

17 MS. KOSTEL: Right.

18 THE COURT: Now --

19 MS. KOSTEL: I understand that the Court's looking at  
20 constructive trust. And so what this body of -- well, some  
21 of this body of compliance stuff would arguably show is  
22 that -- so the general convention adopts a canon that says  
23 the property's held in trust -- and well, the diocese does  
24 too, but set that aside for a moment -- and then we come back  
25 and a few years later the parish revises its -- well, no, not

1 its bylaws. It does something in its minutes that says when  
2 we have to do -- we have to remember that we're obeying the  
3 national church's rules about property. We have to do things  
4 in compliance with the national church's rules about property  
5 post-'79.

6 THE COURT: Be sure I get those.

7 MS. KOSTEL: Yeah, that's what I'm talking about.

8 That's -- to me, those are the most critical compliance  
9 documents.

10 THE COURT: I agree.

11 MS. KOSTEL: Yes, and there are those. Now -- and I'm  
12 talking about separate from organic documents. That happens  
13 with the organic documents too. Post-'79 they amend their  
14 bylaws and they say, we're obeying the national church's  
15 rules, and it's post-Dennis canon. Okay. I'm talking about  
16 here, not the organic documents but in vestry minutes or, you  
17 know, a vestry handbook saying, you know, one of the vestry's  
18 responsibilities is to comply with the national church's  
19 rules governing property. That kind of stuff. Now, that's a  
20 subset of the compliance.

21 There's also, as I say, this sort of bigger category  
22 which is, you know, we have to obey the rules on weddings, we  
23 have to obey the rules on ordinations and all that stuff.  
24 And that -- I don't think that goes to this narrow issue. I  
25 think that goes to the larger issue of -- setting hierarchy

1     aside -- it goes to the larger issue of control of the nature  
2     of services, which goes to our trademark defense; in other  
3     words -- yes, so, you know, right.

4             THE COURT:    Okay.

5             MR. RUNYAN:   Your Honor, could I just speak to the  
6     framework that she's working under?

7             THE COURT:    Sure.

8             MR. RUNYAN:   Because I think there's an important issue  
9     here that needs to be understood.

10            In the absence of a parish saying, I adopt the national  
11     church's rules, or I agree with the national church's rules,  
12     they have no relationship with the national church at all.  
13     The relationship they have is through the diocese, and they  
14     have a relationship with the diocese, and they deal with that  
15     relationship, and the diocese has one.

16            I stand to be corrected, but I don't know of any of  
17     these compliance things that are directly associated with the  
18     national church. I think most of them are from the diocese  
19     and I question whether they are, in fact, compliance. But in  
20     any event, there's no -- there's no day-to-day relationship  
21     between a parish and the national church.

22            The parish operates in union with the diocese, and it  
23     operates consistently with its view of the diocese's  
24     constitution and canons to the extent it's applicable. So  
25     the idea that they're trying to create this relationship

1 through a diocesan relationship has just got a whole bunch of  
2 problems, even for a trust, an implied trust or whatever.  
3 Because in the parish's mind, to the extent they're doing  
4 anything, they're doing what they're doing in relationship to  
5 their diocese, not the national church, unless they've  
6 expressly said, we're going to do -- we're going to follow  
7 the national church on something, so --

8 MS. KOSTEL: I think we're talking about documents that  
9 say we're going to expressly follow the national church.  
10 That's what we're -- that's exactly what we're talking about.

11 I mean, it's true there are some that say diocesan, and  
12 if it's diocesan it can't be traced to the national church,  
13 fine. But the bulk of this is about calling out a national  
14 church canon, calling out a national church rule. It's  
15 national church stuff.

16 MR. RUNYAN: I think what's missed with that comment is,  
17 the canon in question is not a national church canon.

18 MS. KOSTEL: Yes, it is, actually.

19 MR. RUNYAN: Okay. Well --

20 MS. KOSTEL: Yes, it is. They're cited.

21 MR. RUNYAN: Excuse me.

22 MS. KOSTEL: They're cited in the --

23 THE COURT: Okay.

24 MS. KOSTEL: Yeah.

25 MR. RUNYAN: It would be easy to show, then.

1 MS. KOSTEL: It will be, indeed.

2 THE COURT: Okay.

3 MS. KOSTEL: So that's compliance. I don't know if  
4 anybody has anything else.

5 THE COURT: Got it.

6 MR. MCCARTY: I've got a question, maybe, on this. I've  
7 got one document that has to do with compliance.

8 THE COURT: Okay.

9 MR. MCCARTY: Sorry I've got a little bit of laryngitis,  
10 so --

11 THE COURT: That's okay.

12 MR. MCCARTY: Most of my colleagues are applauding.

13 Christ St. Paul's, CSP-17. It's just a question, has to  
14 do with the vestry handbook. There was a vestry handbook in  
15 the documents that I turned over. My priest had never seen  
16 it. I've questioned my vestry. They have never seen it.  
17 They have never operated with a vestry handbook. They have  
18 never sought any kind of authority from the vestry handbook.  
19 He was questioned at his deposition and on the stand and said  
20 he didn't know anything about it.

21 I don't think it's relevant, I mean, any more than if I  
22 took a book and laid it over on the church property and told  
23 them, you know, now those rules in that book are -- you've  
24 got to comply with. I just have a serious question about the  
25 relevance of the vestry handbook that happened to make its

1 way onto our property in 2006 and nobody knew it was there  
2 until we got our documents together and sent them in.

3 THE COURT: Well, does it say -- does it identify your  
4 parish and your vestry on like the handbook?

5 MR. MCCARTY: Not that I know of. I don't have it with  
6 me, and I apologize. But, no, evidently it's just a general  
7 vestry handbook from the Episcopal Diocese in South Carolina.

8 MS. KOSTEL: Why don't we check that out.

9 THE COURT: Yes, who knows, at some point maybe they  
10 were toying with the idea of having one and they had one for  
11 an exemplar and they never meant to use it.

12 MR. MCCARTY: I questioned them and that's not the case.

13 THE COURT: We'll take a look and see if we can't work  
14 that one out. All right. Great.

15 MR. CAMPBELL: Your Honor, I just want to make sure I  
16 understand because there are so many different categories in  
17 this compliance, and I don't want us to lose our chance to go  
18 on the record here and all of a sudden tomorrow get a  
19 document dump where we had problems with compliance, specific  
20 issues such as Mr. McCarty just raised. I don't want to stay  
21 here all night, I know Your Honor doesn't, but I don't know  
22 how to protect ourselves really if we don't do that  
23 because --

24 THE COURT: In fact, we're going to leave here by  
25 6 o'clock and if we pick up tomorrow, we pick up tomorrow. I

1 mean, we just do. That's just where we're going to be.

2 So how many documents do you have compliance-wise that  
3 you're concerned about?

4 MR. CAMPBELL: I have many amongst several parishes that  
5 are compliance but they're all different.

6 THE COURT: Okay.

7 MR. CAMPBELL: Some fall into the wedding category. I  
8 don't think any fall under the "we follow the national  
9 church's real property rules category" but maybe I've missed  
10 one. Some of them just reference, hey, maybe we should look  
11 at our bylaws to see how they look against the constitution  
12 and canons. Is that really relevant to anything? I don't  
13 think it is. So it's hard to generalize, I guess, is my  
14 point, but I don't want to waste the Court's time on that  
15 either.

16 THE COURT: Sure. Now, here's what -- I don't think  
17 that we can generalize. I think I've got a fairly decent  
18 idea of what we're talking about and I'd rather do this when  
19 I'm fresh and y'all are fresh rather than trying to do it now  
20 because I don't want to lump stuff together on folks. That's  
21 very difficult.

22 After we do compliance, what's our next category?

23 MS. KOSTEL: Aid. So documents from the parishes that  
24 show aid from the national church or the diocese, financial  
25 aid.

1 THE COURT: Okay.

2 MS. KOSTEL: So we've already been over this ground  
3 before, I mean, essentially.

4 THE COURT: Yes, we sort of have been. Okay. Great.

5 MS. KOSTEL: Would you like me to tell you the other  
6 categories?

7 THE COURT: Yes.

8 MS. KOSTEL: One is self-representation, which, in other  
9 words, is documents showing how the parish held itself out.

10 THE COURT: Okay.

11 MS. KOSTEL: Another one is consent, which really should  
12 be a subcategory of compliance, but it's documents showing  
13 the seeking or receiving of consent to alienate or encumber  
14 property or acknowledging the need to do the same because  
15 that's required by the national canons.

16 THE COURT: Isn't that -- they're doing that, though,  
17 through the diocese.

18 MS. KOSTEL: Yes, yes, the national canons require them  
19 to get the consent from the diocese. And the diocese, I  
20 believe, had its own canon.

21 MR. RUNYAN: There is no national canon requiring the  
22 parish to give consent to the national church.

23 MS. KOSTEL: No, no, no.

24 MR. RUNYAN: There is a canon that says alienation or  
25 get consent from the standing committee of the diocese.

1 MS. KOSTEL: That's what I'm talking about. That's what  
2 I'm talking about, is the national canon requiring a parish  
3 to get a consent from the diocese before it alienates or  
4 encumbers property.

5 THE COURT: Got it.

6 MS. KOSTEL: It's a compliance type of thing with regard  
7 to property.

8 Okay. The next one is admission. These are documents  
9 showing the request of the parish to become a mission or a  
10 parish, the steps taken to admission into union with the  
11 diocese. So this is -- it's kind of like a formation. It's  
12 not exactly organic, but it's -- it goes to the steps the  
13 parish took to get let into the diocese. And so, you know,  
14 for example, you saw evidence, I can't remember when,  
15 sometime this week, that there was a canon that said you have  
16 to say you're willing to conform, that stuff.

17 Okay. Disaffiliation, I think probably most of these  
18 are -- were already in from the other side, but there are  
19 some stray documents that we wanted to put in showing the  
20 decision to disaffiliate, the process or the reasons.

21 And then, finally, deeds -- deeds, titles, attachments  
22 to them and other documents discussing the deeds. Discussing  
23 them is pretty narrow, like cover letters and stuff like  
24 that. Those are the subjects.

25 THE COURT: Okay, okay.

1 MR. BRYAN: Just so we'll have some order, my  
2 understanding is that those categories that she has just  
3 recited to Your Honor were identified on a list Ms. Kostel  
4 provided per --

5 MS. KOSTEL: Yes.

6 MR. BRYAN: -- each document so that the parish lawyers  
7 can look at your list and see where you're going with these  
8 categories; is that right?

9 MS. KOSTEL: Exactly. I provided each lawyer -- once we  
10 struck out the ones we were striking out, they have the  
11 exhibit that we've proposed, and I've essentially given them  
12 my relevance argument for each document so they know --

13 THE COURT: Where you're coming from.

14 MS. KOSTEL: -- where I'm coming from.

15 THE COURT: Aren't we going to have the loveliest time  
16 in the morning?

17 MR. BEERS: There's a separate exhibit issue I need to  
18 raise.

19 THE COURT: Okay.

20 MR. BEERS: Several days ago we advised plaintiffs'  
21 counsel that we were going to introduce the 30(b)(6)  
22 deposition transcripts. And we raised the question of  
23 whether we should do it by page and line or whether -- and  
24 some people on the other side said, well, maybe we should  
25 just put the whole thing in.

1           We're prepared to do either, but we want to move those  
2 into evidence. And we can either move them in *in toto*, or we  
3 can move them in by page and line, but we want to do that.  
4 And I have not heard any response from the -- we have not  
5 heard any response from the plaintiffs, so I don't know what  
6 their position is.

7           THE COURT: Okay. Well, let me tell you what it is.  
8 Let me tell you what the law is. The law says that a party  
9 is entitled to put in the deposition testimony of an opposing  
10 party as though that party was testifying; meaning this: If  
11 it is admissible, if they were testifying, then you are  
12 allowed to put that in.

13           Now, I'm going to just tell you -- and first of all,  
14 thank you for being ready to put it in by line and page  
15 number, I appreciate that greatly, and that's how we're going  
16 to do it.

17           MR. BEERS: We will tender the page and lines to the  
18 other side immediately.

19           THE COURT: That would be wonderful. And then they have  
20 some time, if they wish, to have responsive page and line to  
21 put those in as well.

22           MR. BEERS: All right. Now, Your Honor, what we've done  
23 is we've actually marked the pages rather than just give them  
24 a list of page, line, page, line. We've actually marked the  
25 sections.

1 THE COURT: That's great. And you've done yours in,  
2 what, in a highlighter?

3 MR. BEERS: Pencils in the margin, the old-fashioned  
4 way.

5 THE COURT: Pencils in the margin. Wonderful.

6 Well, let me tell you how you all might like to respond  
7 is take a highlighter, any color suits me. Since they've  
8 done pencil, you all can do a highlighter on the ones that  
9 you guys want, and that will be how I will review them.

10 MS. KOSTEL: I just want to point out, that's our only  
11 copy of each one of them.

12 THE COURT: So if they lose them they're in deep poo.

13 MS. KOSTEL: We will be very sad.

14 MR. BEERS: And since I marked them, I would cry.

15 THE COURT: Mr. Phillips?

16 MR. PHILLIPS: Mark Phillips for St. Philip's Church.  
17 Only for consideration of arguably burdening the record, in  
18 my case -- and I dare say in 95 percent of the cases -- the  
19 persons who you heard from on the stand were the persons who  
20 gave the 30(b)(6) depositions Monday, I think two weeks ago  
21 yesterday, so I would suggest that the best evidence is the  
22 testimony that the Court heard live. And that's not to say  
23 that I'm fearful of Myron Harrington's deposition testimony  
24 given on Monday, July the 7th, but I do suggest that it would  
25 be a larger burden on the Court and on its record than is

1 necessary since the Court heard from each of these parishes.

2 THE COURT: It's tempting. It's yummy. I appreciate  
3 it. Unfortunately, it would be a violation of the rules and  
4 I've just got to deal with it.

5 MR. CAMPBELL: The only other point I would make, Your  
6 Honor, several of the topic areas are -- fall into the same  
7 categories that Ms. Kostel just went through, you know, what  
8 were you doing with the national church; what were you doing  
9 with the national church, so if we determined that that's  
10 irrelevant, if Your Honor determines that, then I think it  
11 would apply to these depositions too.

12 I'm just trying to save them time and us time. I don't  
13 know how to best do that, but somehow there's got to be a way  
14 where Your Honor doesn't have to go through every single  
15 question and figure this out. But Your Honor made a lot of  
16 statements yesterday about, you know, I'm not really -- I  
17 don't really care about whether you did this or that because  
18 you were with them at that time, I believe was the phrase  
19 Your Honor used, and so I guess we're just looking for any  
20 guidance you may want to give on any of these points to save  
21 them the effort and save Your Honor the effort of having to  
22 go through that.

23 THE COURT: I think I've done a fair amount of that. I  
24 mean, we just talked about that. I mean, South Carolina, you  
25 create a trust in one of three ways.

1           Okay.  Yes.  I kind of want to tell you that with  
2   regards to the marks, some of them are not similar, but  
3   that's enough for today.

4           MR. BRYAN:  Your Honor, my understanding of this rule is  
5   that the adverse parties should submit something in writing  
6   to the Court and at least one day in advance and we would  
7   have a day to respond.  I'd like to get a paper copy of  
8   whatever it is they intend to submit.

9           THE COURT:  Oh, they're going to give it to you.

10          MR. BRYAN:  I wasn't sure about that.

11          THE COURT:  I'm sorry, they're going to show those to  
12   you.  Listen, this is nonjury.  You all have got a lot going  
13   on.  You're going to have some time to take a look at it and  
14   submit it.

15          The only fear -- and I think it's legitimate on behalf  
16   of the defendants -- is that we forget about it and you guys  
17   go trucking out of here with the 30(b)(6) depositions and  
18   they never get back here.

19          The only rule is that they're going to try to submit  
20   those to you all tomorrow, and it's going to be impossible  
21   for you to do that tomorrow with everything else we're going  
22   to be doing.  You'll have overnight to take a look at your  
23   30(b)(6) deposition.  And then instead of having to type,  
24   you'll just take a highlighter, bam, bam, bam.  And if you  
25   color the rest of all of it, oh, I'm going to come after you

1 with a highlighter, except mine's going to be a Sharpie,  
2 permanent ink. But I just think that makes it so much easier  
3 like, okay, this is a partial sentence, instead of you having  
4 to go find your computer and then you just take your  
5 highlighter, and since I'm going to have the deposition --  
6 and the reason I said a highlighter is because I know that  
7 the defendants want me to look at what's in pencil. And  
8 irrespective of what the color is, I know that the  
9 highlighted portion is what the parish wants me to look at  
10 for completeness or -- I'm going to say for completeness and,  
11 therefore, I've got it.

12 And I think Mr. Phillips is exactly correct, an awful  
13 lot of it is going to be repetitive. Okay. That's my  
14 problem, not yours. See what I'm saying? You are going to  
15 have time to do that.

16 (Trial of the case adjourned for the day.)

17 - - -

18

19

20

21

22

23

24

25

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 22nd 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 September 14, 2014

16

17 Ruth L. Mott

18 Official Court Reporter

19

20

21

22

23

24

25

VOLUME XII

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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., )

TRANSCRIPT OF RECORD  
  
JULY 23, 2014  
ST. GEORGE, SC

Plaintiffs,

vs.

THE EPISCOPAL CHURCH, )  
(A/K/A THE PROTESTANT )  
EPISCOPAL CHURCH IN THE )  
UNITED STATES OF AMERICA); )  
THE EPISCOPAL CHURCH IN )  
SOUTH CAROLINA, )

Defendants.

B E F O R E:

HONORABLE DIANE S. GOODSTEIN

Ruth L. Mott, RPR, CRR  
Official Court Reporter

## 1 I N D E X

2

3 WITNESS DIRECT CROSS REDIRECT RECROSS

4 CHARLES VONROSENBERG

5 MR. TISDALE 2148

6 MR. BEERS 2162 2199

7 MS. GOLDING 2181

8 MR. RUNYAN 2195

9 GREGORY J. KRONZ

10 MS. GOLDING 2288 2298

11 MR. TISDALE 2293

12 MR. BEERS 2297

13 CERTIFICATE OF REPORTER 2325

14

15

## 16 E X H I B I T S

17

18 NO. DESCRIPTION ID EVD

19

20 D-23 DEPOSITION TRANSCRIPT - NANCY 2205

21

22 ARMSTRONG

23

24 D-24 DEPOSITION TRANSCRIPT - MARK J. 2205

25

26 LAWRENCE

27

28 D-AS-4 1959 CONSTITUTION AND CANONS OF 2207 2220

29

30 ALL SAINTS CHURCH

31

32 D-AS-5 1/27/1960 ANNUAL MEETING 2207

33

34 MINUTES OF ALL SAINTS EPISCOPAL  
35 CHURCH

36

37 D-AS-6 1/27/1960 ARTICLES OF 2207 2220

38

39 ASSOCIATION

40

41 D-AS-7 12/31/1983 ALL SAINTS EPISCOPAL 2207 2220

42

43 CHURCH SCHEDULE OF SECURITIES

44

45 OWNED AS OF 12/31/1983

46

47 D-AS-8 1/3/1990 RECTOR'S REPORT 2207 2220

48

49 D-AS-9 12/26/1959 LETTER 2207 2220

50

51 D-AS-10 2/6/1960 LETTER 2207

52

53 D-AS-11 7/22/1959 LETTER 2207 2220

54

55 D-AS-12 7/11/1959 LETTER 2207 2220

56

57 D-AS-13 2/28/1960 LETTER 2207 2220

58

59 D-AS-14 5/8/1960 PROGRAM 2207

60

61 D-AS-16 12/30/1958 LETTER 2207 2220

62

63 D-AS-17 12/22/1959 LETTER 2207

64

65 D-AS-18 3/10/1959 MINUTES 2207 2220

1	NO.	DESCRIPTION	ID	EVD
2	D-AS-19	7/21/1959 MINUTES	2207	2220
	D-AS-23	1959 NEWSLETTER	2207	2220
3	D-AS-24	1985 BYLAWS	2207	2220
	D-AS-27	9/11/1995 MINUTES	2207	2220
4	D-AS-32	9/16/2001 MINUTES	2207	2220
	D-AS-33	6/10/2002 WEDDING PROCEDURES	2207	2220
5	D-AS-36	2/28/2005 LETTER	2207	2220
	D-AS-44	10/9/1979 MINUTES	2207	2220
6	D-AS-45	1/22/2006 MINUTES	2207	2220
	D-AS-46	2/13/2006 MINUTES	2207	2220
7	D-AS-48	4/10/2006 MINUTES	2207	2220
	D-AS-49	5/5/2006 EMAIL	2207	2220
8	D-AS-51	2/5/2007 MINUTES	2207	2220
	D-AS-54	9/10/2007 MINUTES	2207	
9	D-AS-55	11/9/2009 MINUTES	2207	2220
	D-CC-6	7/14 1989 LETTER	2221	2223
10	D-CC-7	7/31/1979 LETTER	2221	2223
	D-CC-47	5/24/2005 TITLE	2221	
11	D-CC-48	3/9/2004 TITLE	2221	
	D-CC-54	1/18/1999 PRESENT DEBT SERVICE	2221	2223
12	D-CC-56	11/20/1999 MINUTES	2221	
	D-CC-57	9/9/2000 LETTER	2221	2223
13	D-CC-58	7/16/2001 MINUTES	2221	2223
	D-CC-59	8/16/2004 LETTER	2221	2223
14	D-CC-60	9/9/2005 LETTER	2221	2223
	D-CC-62	5/5/1996 MINUTES	2221	2223
15	D-CSP-2	1951 BYLAWS	2224	2226
	D-CSP-4	12/9/1971 LETTER	2224	2226
16	D-CSP-6	3/23/1972 MINUTES	2224	2226
	D-CSP-8	2/12/1974 MINUTES	2224	2226
17	D-CSP-9	1977 ACTIONS OF VESTRY	2224	2226
	D-CSP-12	6/13/1978 MINUTES	2224	2226
18	D-CSP-17	2006 HANDBOOK	2224	2226
	D-CSP-22	2008 LETTER	2224	2226
19	D-CSP-54	11/9/1992 LOAN TERMS	2224	2226
	D-CSP-55	4/23/1996 LETTER	2224	2226
20	D-CTK-1	3/4/2012 PROGRAM	2228	2229
	D-CTK-17	9/7/2010 LETTER	2228	2229
21	D-TC-8	10/31/94 MINUTES	2229	2230
	D-TC-14	10/25/2000 MINUTES	2229	2230
22	D-TC-33	12/12/20005 LETTER	2229	2230
	D-TC-34	12/5/2005 LETTER	2229	2230
23	D-TC-35	12/5/2005 LETTER	2229	2230
	D-TC-36	10/30/2008 LETTER	2229	2230
24	D-TC-38	9/6/2000 DEED	2229	2230
	D-TC-40	5/1/2003 TITTLE	2229	2230
25	D-TC-42	2/10/2004 LETTER	2229	2230

1	NO.	DESCRIPTION	ID	EVD
2	D-E-8	2/19/2007 MINUTES	2230	2232
	D-E-11	9/2010 MINUTES	2230	2232
3	D-E-14	1/12/2012 MINUTES	2230	2232
	D-E-21	12/15/2012 RESOLUTION	2230	
4	D-GS-1	10/8/2002 ENDORSEMENT	2232	2233
	D-GS-7	1/20/1999 LETTER	2232	2233
5	D-GS-10	1/15/1996 DEED\	2232	2233
	D-GS-11	12/27/1984 DEED	2232	2233
6	D-GS-13	11/10/1998 MINUTES	2232	2233
	D-GS-14	6/8/1998 MINUTES	2232	2233
7	D-GS-15	1/8/2000 MINUTES	2232	2233
	D-GS-21	3/18/2012 MINUTES	2232	2233
8	D-GS-36	11/1991 BYLAWS	2232	2233
	D-GS-37	4/18/1982 BYLAWS	2232	2233
9	D-GS-39	12/9/2012 MINUTES	2232	
	D-HC-6	1/8/1968 CONSTITUTION	2234	2236
10	D-HC-8	DOCUMENT TITLED, "IS THE PARISH PROPERTY SAFE"	2234	2236
11	D-HC-13	8/11/2011 LETTER	2234	2236
	D-HC-14	8/18/2011 LETTER	2234	2236
12	D-HC-15	7/26/2002 LETTER	2234	2236
	D-HC-16	7/31/2002 LETTER	2234	2236
13	D-HC-18	9/8/2001 LETTER	2234	2236
	D-HC-19	9/20/2011 CONSENT	2234	2236
14	D-HC-20	9/22/2011 RESOLUTION	2234	2236
	D-HC-21	8/5/2011 CERTIFICATE	2234	2236
15	D-HC-29	5/31/1996 LETTER	2234	2236
	D-HC-33	9/17/1982 DEED	2234	2236
16	D-HC-34	3/5/1984 DEED	2234	2236
	D-HC-35	8/29/1995 DEED	2234	2236
17	D-HC-36	12/19/1994 DEED	2234	2236
	D-HCS-9	4/17/2008 MINUTES	2236	2237
18	D-HCS-29	11/8/2000 LETTER	2236	2237
	D-HCS-30	11/2/2000 LETTER	2236	2237
19	D-HCS-31	11/1/2000 LETTER	2236	2237
	D-HT-30	11/16/2006 BYLAWS	2237	2238
20	D-HT-31	3/18/2003 BYLAWS	2237	2238
	D-HT-33	12/2001 BYLAWS	2237	2238
21	D-HT-34	1993 BYLAWS	2237	2238
	D-HT-35	9/17/1988 BYLAWS	2237	2238
22	D-HT-36	12/19/1985 BYLAWS	2237	2238
	D-HT-38	1/22/1975 BYLAWS	2237	2238
23	D-HT-40	1/20/1977 BYLAWS	2237	2238
	D-HT-43	8/9/1994 PROGRAM	2237	2238
24	D-HT-44	9/14/1986 PROGRAM	2237	2238
	D-HT-45	2/10/2010 PROGRAM	2237	2238
25	D-OSA-2	12/13/1954 MINUTES	2238	2241

1	NO.	DESCRIPTION	ID	EVD
2	D-OSA-3	1955 ARTICLES	2238	2241
	D-OSA-6	1/10/1970 CONSTITUTION AND	2238	2241
3		CANONS		
	D-OSA-7	1/21/1996 PROPOSED CHANGES	2238	2241
4	D-OSA-8	2007 CONSTITUTION AND CANONS	2238	2241
	D-OSA-9	1/30/2008 LETTER	2238	2241
5	D-OSA-10	2/1/2008 LETTER	2238	2241
	D-OSA-11	12/5/2010	2238	2241
6	D-OSA-17	1/22/2012 MINUTES	2238	2241
	D-OSA-19	1/17/1939 ORDER	2238	2241
7	D-OSA-20	1/21/1953 DEED	2238	2241
	D-OSA-21	10/3/1961 DEED	2238	2241
8	D-OSA-28	10/30/1950 DEED	2238	2241
	D-OSA-31	6/11/2009 LETTER	2238	2241
9	D-OSA-32	6/29/2009 LETTER	2238	2241
	D-OSA-33	6/2009 EMAIL	2238	2241
10	D-OSA-34	12/17/1998 DEED	2238	2241
	D-OSA-36	4/22/1974 DEED	2238	2241
11	D-OSA-37	10/3/1961 DEED	2238	2241
	D-OSA-38	2/26/2008 MINUTES	2238	2241
12	D-OSA-41	5/26/2010 MINUTES	2238	2241
	D-OSA-43	3/27/1955 PETITION	2238	2241
13	D-OSA-53	5/27/2004 MINUTES	2238	2241
	D-OSA-62	8/25/2013 CONSTITUTION AND	2238	2241
14		CANONS		
	D-OS-1	11/20/1980 LETTER	2241	2246
15	D-OS-2	8/29/1983 LETTER	2241	2246
	D-OS-13	8/4/2003 LETTER	2241	2246
16	D-OS-14	7/29/2003 LETTER	2241	2246
	D-OS-16	6/24/2002 LETTER	2241	2246
17	D-OS-17	7/31/2002	2241	2246
	D-OS-18	1/9/2002 LETTER	2241	2246
18	D-OS-22	11/10/1980 MINUTES	2241	2246
	D-OS-24	1/12/1981 MINUTES	2241	2246
19	D-OS-34	7/18/1993 MINUTES	2241	2246
	D-OS-43	7/16/2000 MINUTES	2241	2246
20	D-OS-45	12/17/2000 MINUTES	2241	2246
	D-OS-47	8/18/2002 MINUTES	2241	2246
21	D-OS-51	7/1984 LETTER	2241	2246
	D-OS-52	11/20/1980 LETTER	2241	2246
22	D-OS-53	11/16/2011 MEMORANDUM	2241	2246
	D-OS-54	12/6/2011 EMAIL	2241	2246
23	D-OS-63	2/1/1981 BYLAWS	2241	2246
	D-OS-64	1986 BYLAWS	2241	2246
24	D-OS-65	11/8/1992 BYLAWS	2241	2246
	D-OS-66	12/15/2003 BYLAWS	2241	2246
25	D-OS-67	NOTICE	2241	2246

1	NO.	DESCRIPTION	ID	EVD
2	D-OS-68	3/18/2009 BYLAWS	2241	2246
	D-OS-72	2/10/1998 DEED	2241	2246
3	D-OS-73	5/14/1982 DEED	2241	2246
	D-PG-4	3/11/1991 CONSTITUTION	2246	2247
4	D-PG-6	5/2/2007 LETTER	2246	2247
	D-PG-7	7/7/2007 LETTER	2246	2247
5	D-PG-14	5/21/1985 MINUTES	2246	2247
	D-PG-15	6/18/1985 MINUTES	2246	2247
6	D-PG-16	7/16/1985 MINUTES	2246	2247
	D-SAMP-1	6/27/2011 DEED	2251	2253
7	D-SAMP-31	6/27/2011 DEED	2251	2253
	D-SAMP-38	12/18/1992 MINUTES	2251	2253
8	D-SAMP-40	3/26/2003 MINUTES	2251	2253
	D-SAMP-57	9/6/1977 MINUTES	2251	2253
9	D-SB-8	6/17/1966 DEED	2253	2255
	D-SB-9	6/17/1966 DEED	2253	2255
10	D-SB-12	1/16/2005 BYLAWS	2253	2255
	D-SB-14	3/24/1996 BYLAWS	2253	2255
11	D-SB-25	11/21/2010 MINUTES	2253	2256
	D-SB-44	ANNUAL PARISH MEETING MINUTES, 1966 AND 1967	2253	
12	D-SD-3	4/4/1982 CONSTITUTION AND BYLAWS	2256	2258
13	D-SD-4	5/24/1992 CONSTITUTION AND BYLAWS	2256	2258
14	D-SD-5	11/24/2012 MEMORANDUM	2256	2258
15	D-SD-6	2/27/2009 - 3/1/2009 VESTRY RETREAT	2256	2258
16	D-SD-7	3/18/2010 MINUTES	2256	2258
	D-SD-10	7/31/1979 LETTER	2256	2258
17	D-SD-11	3/4/2009 LETTER	2256	2258
	D-SD-12	5/31/2009 MINUTES	2256	2258
18	D-SD-13	3/1/2012 LETTER	2256	2258
	D-SD-14	3/1/2012 LETTER	2256	2258
19	D-PCSH-2	10/10/ 1989 BYLAWS	2259	2263
	D-PCSH-6	8/16/1988 MINUTES	2259	2263
20	D-PCSH-35	12/18/2009 ARTICLES OF AMENDMENT	2259	2263
21	D-PCSH-36	3/15/1972 CERTIFICATE OF INCORPORATION	2259	2263
22	D-PCSH-39	11/1966 BYLAWS	2259	2263
	D-PCSH-40	1/18/1972 BYLAWS	2259	2263
23	D-PCSH-42	3/9/1987 BYLAWS	2259	2263
	D-PCSH-44	2/10/1993 BYLAWS	2259	2263
24	D-PCSH-45	2/12/2006 BYLAWS	2259	2263
	D-PCSH-46	1/16/2011 BYLAWS	2259	2263
25	D-PCSH-47	2/5/2012 BYLAWS	2259	2263

1	NO.	DESCRIPTION	ID	EVD
2	D-PCSH-48	PLAN OF COMPLETE LIQUIDATION AND DISSOLUTION	2259	2263
3	D-PCSH-50	5/31/2011 ARTICLES OF DISSOLUTION	2259	2263
4	D-SJJI-7	10/18/2011 MINUTES	2263	2264
5	D-SJJI-10	5/14/1903 CERTIFICATE OF INCORPORATION	2263	2264
6	D-SJJI-11	3/18/1996 BYLAWS	2263	2264
6	D-SJJI-12	10/15/2001 BYLAWS	2263	2264
	D-SJJI-13	1/20/2013 BYLAWS	2263	2264
7	D-SJJI-23	1/13/1991 MINUTES	2263	2264
	D-SJJI-27	9/1990 MINUTES	2263	
8	D-SJJI-29	1995 MINUTES	2263	2264
	D-SJJI-30	2/19/1996 RESOLUTION	2263	2264
9	D-SJJI-33	5/15/2000 MINUTES	2263	2264
	D-SJJI-36	1993 CONSTITUTION	2263	2264
10	D-SJJI-37	1995 CONSTITUTION	2263	2264
	D-SJJI-38	2001 CONSTITUTION	2263	2264
11	D-SJJI-39	2010 CONSTITUTION	2263	2264
	D-SJJI-40	2013 CONSTITUTION	2263	2264
12	D-SJC-13	1/10/2012 MINUTES	2264	2264
	D-SJC-14	2/7/2012	2264	2264
13	D-SJC-21	9/5/2001 CONSTITUTION AND BYLAWS	2264	2264
14	D-SJC-25	12/10/1996 ARTICLES OF AMENDMENT	2264	2264
15	D-SJC-26	RESOLUTION	2264	2264
	D-SJC-30	1/3/2010 ARTICLES OF AMENDMENT	2264	2264
16	D-SJC-31	12/26/2009 CONSTITUTION AND BYLAWS	2264	2264
17	D-SJC-32	CONSTITUTION AND BYLAWS	2264	2264
	D-SJC-39	11/15/2011 QUITCLAIM DEED	2264	2264
18	D-SJC-40	11/15/2011 QUITCLAIM DEED EXHIBIT A	2264	2264
19	D-SJC-41	11/15/2011 QUITCLAIM DEED	2264	2264
	D-SJC-42	12/7/2012 QUITCLAIM DEED	2264	2265
20	D-SJC-43	12/7/2012 QUITCLAIM DEED EXHIBIT A	2264	2265
21	D-SJC-45	2/7/1999 LETTER	2264	2265
	D-SJ-20	3/11/2004 MINUTES	2265	2269
22	D-SJ-37	CONSTITUTION AND CANONS	2265	2269
	D-SJ-51	12/31/2009 DEED	2265	2269
23	D-SJ-58	8/21/1855 MINUTES	2265	2269
	D-SJ-59	1/31/1889 DEED	2265	2269
24	D-SJF-1	5/16/2006 MINUTES	2269	2272
	D-SJF-4	1/21/2008 MINUTES	2269	2272
25	D-SJF-6	12/19/2011 MINUTES	2269	2272

1	NO.	DESCRIPTION	ID	EVD
2	D-SJF-10	1919 BYLAWS	2269	2272
	D-SJF-55	11/23/2011 EMAIL EXCHANGE	2269	2272
3	D-SJF-56	11/2012 EMAIL EXCHANGE	2269	2272
	D-SJF-61	3/5/1990 DEED	2269	2272
4	D-SJF-64	2/20/1970 LETTER	2269	2272
	D-SJF-66	3/2/1970 LETTER	2269	2272
5	D-SJF-68	3/17/1970 LETTER	2269	2272
	D-SJF-69	6/17/2008 LETTER	2269	2272
6	D-SJF-70	6/9/1989 LETTER	2269	2272
	D-SJF-72	12/2/2012 MINUTES	2269	2272
7	D-SJF-73	9/30/1996 DEED	2269	2272
	D-SJF-82	9/8/1981 MINUTES	2269	2272
8	D-SJF-83	5/28/1997 MINUTES	2269	2272
	D-SJF-84	6/28/2000 MINUTES	2269	2272
9	D-SL-6	8/24/1970 DEED	2272	2273
	D-SL-12	6/30/2011 ACTION TAKEN BY	2272	2273
10		CONSENT		
	D-SL-13	6/30/2011 ARTICLES OF	2272	2273
11		INCORPORATION		
	D-SL-14	6/30/2011 CERTIFICATE OF	2272	2273
12		INCORPORATION		
	D-SL-15	6/30/2011 BYLAWS	2272	2273
13	D-SL-16	1/2009 BYLAWS	2272	2273
	D-SL-18	11/14/2012 NOTICE OF CONVEYANCE	2272	2273
14	D-SL-19	2/16/2010 TITLE	2272	2273
	D-SL-20	2/16/2010 EXHIBIT A TO TITLE	2272	2273
15	D-SL-21	7/11/2011 TITLE	2272	2273
	D-SL-22	EXHIBIT A TO TITLE	2272	2273
16	D-SL-32	11/17/2009 MINUTES	2272	2273
	D-SL-35	4/27/2010 MINUTES	2272	2273
17	D-SL-37	10/2/2012 COMMITMENT	2272	2273
	D-SL-38	10/23/2012 MINUTES	2272	2273
18	D-SL-42	PARISH HISTORY	2272	2273
	D-SL-48	7/2013 DEED	2272	2273
19	D-SL-55	2002 TITLE	2272	2273
	D-SL-59	1963 DEED	2272	2273
20	D-SLP-5	CONSTITUTION AND BYLAWS	2273	2275
	D-SLP-6	CONSTITUTION	2273	2275
21	D-SLP-7	1926 CONSTITUTION	2273	2275
	D-SLP-8	1950 CONSTITUTION	2273	2275
22	D-SLP-9	1958 CONSTITUTION	2273	2275
	D-SLP-13	1995 BYLAWS	2273	2275
23	D-SLP-15	2/4/1998 LETTER	2273	2275
	D-SLP-16	1/6/1988 LETTERS	2273	2275
24	D-SLP-17	12/30/1997 LETTERS	2273	2275
	D-SLP-22	5/14/1990 LETTER	2273	2275
25	D-SLP-24	5/14/1990 MINUTES	2273	2275

1	NO.	DESCRIPTION	ID	EVD
2	D-SM-1	10/4/2011 MEMORANDUM	2276	2276
	D-SM-6	HISTORY OF PARISH	2276	2276
3	D-SM-12	1/14/1989 ANNUAL REPORT	2276	2276
	D-SM-20	2/18/1989 MINUTES	2276	2276
4	D-SM-21	4/15/1986 MINUTES	2276	
	D-SM-24	2/19/1990 MINUTES	2276	2276
5	D-SM-25	9/1987 PARISH PROFILE	2276	2276
	D-SMFM-2	9/15/1986 CONSTITUTION AND	2276	2278
6		BYLAWS		
	D-SMFM-3	1/17/1982 BYLAWS	2276	2278
7	D-SMFM-4	CONSTITUTION	2276	2278
	D-SMFM-5	11/5/1986 APPLICATION FOR	2276	2278
8		AMENDMENT		
	D-SMFM-23	2005 AUDIT CERTIFICATE	2276	
9	D-SMFM-24	4/9/2007 LETTER	2276	
	D-SMFM-28	2009 AUDIT CERTIFICATE	2276	
10	D-SMFM-29	4/28/2010 LETTER	2276	
	D-SMT-3	8/15/2011 MINUTES	2278	
11	D-SMT-14	10/23/1995 MINUTES	2278	
	D-SMT-21	12/18/2000 MINUTES	2278	2279
12	D-SMT-22	10/29/2001 MINUTES	2278	
	D-SMI-13	11/3/1998 PUBLICATION	2279	
13	D-SMI-23	5/25/1989 BYLAWS	2279	2280
	D-SMI-27	4/6/1989 MEMORANDUM	2279	2280
14	D-SMI-28	BYLAWS	2279	2280
	D-SMI-32	10/6/2003 LETTER	2279	2280
15	D-SMI-35	11/26/2003 CORRESPONDENCE	2279	2280
	D-SPB-9	8/1977 MINUTES	2280	2281
16	D-SPB-10	6/25/1984 MINUTES	2280	2281
	D-SPB-17	1/31/1998 MINUTES	2280	2281
17	D-SPB-18	10/21/2002 MINUTES	2280	2281
	D-SPB-19	1/19/2004 MINUTES	2280	2281
18	D-SPB-24	7/6/2009 PROGRAM	2280	
	D-SPB-25	6/1/1898 SENTENCE OF	2280	
19		CONSECRATION		
	D-SPB-26	12/10/2005 PROGRAM	2280	
20	D-SPB-28	12/16/2002 BYLAWS	2280	2281
	D-SPB-38	12/4/2011	2280	2281
21	D-SPB-45	10/4/2011 QUITCLAIM DEED	2280	2281
	D-SPB-75	1/12/2003 MINUTES	2280	2281
22	D-SPB-76	1/18/2004 MINUTES	2280	2281
	D-SPB-77	RESOLUTION 1; 109TH ANNUAL	2280	2281
23		MEETING		
	D-SPC-1	11/16/2011 LETTER	2281	2282
24	D-SPC-2	1/18/2013 EMAIL	2281	2282
	D-SPC-3	ANTICIPATED QUESTIONNAIRE	2281	2282
25	D-SPC-5	11/13/2012 COMMITMENT	2281	2282

1	NO.	DESCRIPTION	ID	EVD
2	D-SPC-7	10/12/2011 EMAIL	2281	2282
	D-SPC-8	12/15/2011 EMAIL	2281	2282
3	D-SPC-17	3/2/1947 ARTICLES OF ASSOCIATION	2281	2282
4	D-SPC-18	11/1/1979 CERTIFICATE OF INCORPORATION	2281	2282
5	D-SPC-20	11/27/2012 LETTER	2281	2282
	D-SPC-22	11/1/2011 MINUTES	2281	2282
6	D-SPS-18	6/12/1979 LETTER	2282	2283
	D-SPS-34	2/14/1983 MINUTES	2282	2283
7	D-SPS-36	12/1/1986 MINUTES	2282	2283
	D-SPS-37	5/11/1987 MINUTES	2282	2283
8	D-SPS-43	12/18/1995 MINUTES	2282	2283
	D-SPS-44	5/15/1995 MINUTES	2282	2283
9	D-SPS-45	6/17/1996 MINUTES	2282	2283
	D-SPS-59	2/16/1996 PROGRAM	2282	
10	D-SPS-60	5/14/1983 ORDINATION CERTIFICATE	2282	
11	D-SPH-6	5/22/1941 SENTENCE OF CONSECRATION	2284	
12	D-SPH-26	LETTER	2284	2284
	D-SPH-27	LETTER	2284	2284
13	D-SPH-38	11/16/2011 QUITCLAIM DEED	2284	2284
	D-SPH-58	11/16/2011 MEMORANDUM	2284	2284
14	D-SPH-59	9/3/1996 LETTER	2284	2284
	D-SPH-60	9/11/1996 LETTER	2284	2284
15	D-SPH-61	9/3/96 LETTER	2284	2284
	D-SPH-62	9/4/1996 LETTER	2284	2284
16	D-SPH-63	11/6/2001 LETTER	2284	2284
	D-SPH-64	9/18/2001 LETTER	2284	2284
17	D-SPH-65	9/12/2001 LETTER	2284	2284
	D-SPH-67	12/18/2008 LETTER	2284	2284
18	D-SPH-68	11/6/2008 EMAIL	2284	2284
	D-SPH-73	9/14/2000 JUDICIAL ORDER	2284	2284
19	D-TED-1	4/16/2012 MINUTES	2285	2285
	D-TED-9	4/16/2012 MINUTES	2285	2285
20	D-TED-13	1/18/1998 BYLAWS	2285	2285
	D-TMB-1	10/6/2011 LETTER	2285	2287
21	D-TMB-2	10/1/2007 MINUTES	2285	2287
	D-TMB-9	11/25/1998 LETTER	2285	2287
22	D-TMB-26	1993 BYLAWS	2285	2287
	D-TMB-27	1972 BYLAWS	2285	2287
23	D-TMB-29	6/13/1939	2285	2287
	D-TMB-31	6/16/1939 NEWSPAPER ARTICLE	2285	2287
24	D-TMB-32	6/18/1939 BYLAWS	2285	2287
	D-TMB-34	1939 LETTER OF APPLICATION	2285	2287
25	D-TMB-35	10/1/1989 MINUTES	2285	2287

1	NO.	DESCRIPTION	ID	EVD
2	D-TMB-46	6/3/2002 MINUTES	2285	2287
	D-TMB-50	11/20/1991 CONSECRATION	2285	
3	D-TMB-51	1945 SENTENCE OF CONSECRATION	2285	
	D-TMB-61	DEED	2285	
4	D-TMB-64	DEED	2285	
	D-TP-19	2/24/1971 CERTIFICATE OF	2299	2300
5		INCORPORATION		
	D-TP-20	1992 BYLAWS	2299	2300
6	D-TP-21	1/10/2010 BYLAWS	2299	2300
	D-TP-24	11/21/1984 DEED	2299	2300
7	D-TP-25	10/6/2000 DEED	2299	2300
	D-TP-28	1/12/2012 DEED	2299	2300
8	D-TP-29	2/6/1987 LETTER	2299	2300
	D-TP-30	2/15/1985 LETTER	2299	2300
9	D-TP-31	10/23/1985 LETTER	2299	2300
	D-TP-44	5/26/2003 MINUTES	2299	2300
10	D-TP-49	5/23/1948 SENTENCE OF	2299	
		CONSECRATION		
11	D-R-2	6/3/2004 JUDGMENT	2301	2302
	D-R-3	10/2/2005 LETTER	2301	2302
12	D-R-10	11/4/1941 CHARTER	2301	2302
	D-R-11	8/31/1993 CHARTER	2301	2302
13	D-R-12	BYLAWS	2301	2302
	D-R-15	1859 HANDWRITTEN BYLAWS	2301	2302
14	D-R-17	1/15/1984 MINUTES	2301	2302
	D-R-22	9/27/2004 DEED	2301	2302
15	D-R-23	6/28/2002 DEED	2301	2302
	D-R-25	5/28/1993 DEED	2301	2302
16	D-R-27	7/14/1987 DEED	2301	2302
17	C-8	DEPOSITION TRANSCRIPT - CHARLES	2200	
18		VONROSENBERG		
19				
20		- - -		
21				
22				
23				
24				
25				

1 THE COURT: Yes, sir.

2 MR. TISDALE: Suggestion for proceeding, Your Honor.

3 THE COURT: All right.

4 MR. TISDALE: We have a witness to call, which we think  
5 will be our last witness on the stand.

6 THE COURT: Okay.

7 MR. TISDALE: And we're prepared to go ahead and present  
8 that testimony now --

9 THE COURT: Okay.

10 MR. TISDALE: -- if it would suit Your Honor.

11 THE COURT: It would.

12 MR. TISDALE: Then we have a lot of paperwork to deal  
13 with.

14 THE COURT: Great.

15 MR. TISDALE: We want to make a couple deposition  
16 submissions that will not require reading after this witness.

17 THE COURT: Very well. Sounds great. Call your  
18 witness.

19 MR. TISDALE: Bishop Charles vonRosenberg.

20 CHARLES VONROSENBERG,  
21 being first duly sworn, testified as follows:

22 THE COURT: All right. And if you would please state  
23 your full name again for us and spell your last name.

24 THE WITNESS: Charles Glenn, with two Ns, V-O-N,  
25 capital R-O-S-E-N-B-E-R-G.

1 THE COURT: Your witness, Mr. Tisdale.

2 MR. TISDALE: Thank you, Your Honor.

3 DIRECT EXAMINATION BY MR. TISDALE:

4 Q. Bishop vonRosenberg, what is your present position in  
5 the national church, Episcopal Church?

6 A. I'm the provisional bishop of The Episcopal Church in  
7 South Carolina.

8 Q. All right. Now, give us a little information about your  
9 background. When and where were you born?

10 A. I was born in 1947 in Fayetteville, North Carolina.

11 Q. And did you grow up in North Carolina or elsewhere?

12 A. I grew up in North Carolina, in Fayetteville, and  
13 graduated from high school there.

14 Q. And would you, for the benefit of the Court, just give  
15 us a brief outline of your education after high school.

16 A. I went to Sewanee, The University of the South, for two  
17 years. Then I transferred to the University of North  
18 Carolina in Chapel Hill, and I graduated there in 1969.

19 Q. After graduation from Chapel Hill, what was your  
20 educational track?

21 A. Well, I taught high school English for a couple of  
22 years, and then I went to Virginia Theological Seminary.

23 Q. That's in Alexandria?

24 A. In Alexandria.

25 Q. After seminary what was -- what did you do?

1 A. I was ordained deacon in 1974 and priest in 1975. I  
2 served parishes and missions in the Diocese of East Carolina,  
3 my home diocese, the Diocese of --

4 Q. Is that North Carolina?

5 A. Yeah, eastern North Carolina.

6 Q. Eastern North Carolina.

7 A. The Diocese of Atlanta and the Diocese of Upper South  
8 Carolina.

9 Q. And Upper South Carolina, as we've heard in prior  
10 testimony, is headquartered in Columbia?

11 A. Yes, sir.

12 Q. What parish or parishes did you serve in Upper South  
13 Carolina?

14 A. I was rector of Church of the Resurrection in Greenwood,  
15 and then I became canon to the ordinary when Bishop Beckham  
16 was the ordinary or bishop of Upper South Carolina.

17 Q. And at that time, did you live in Columbia?

18 A. Yes.

19 Q. All right, sir. Under what circumstances did you become  
20 a bishop of the church?

21 A. I was serving, at the time, as rector of St. James in  
22 Wilmington, North Carolina and was elected bishop in -- of  
23 the Diocese of East Tennessee in 1998. And after consents  
24 from bishops and standing committees, I was ordained and  
25 consecrated bishop of east Tennessee in 1999.

1 Q. How long did you serve then as bishop of east Tennessee?

2 A. I served until July 2011.

3 Q. Now, obviously it's east Tennessee, but what was the  
4 headquarter city for the Diocese of East Tennessee, where I  
5 presume you lived?

6 A. Yes. In Knoxville.

7 Q. Okay. Now, did you say you retired in 19 what?

8 A. In 2011.

9 Q. You retired in 2011?

10 A. I did. In July.

11 Q. Where have you lived since your retirement?

12 A. We moved to Charleston, where our both sons and six  
13 grandchildren live. And so we've lived in the Charleston  
14 area since moving in 2011.

15 Q. When and under what circumstances, Bishop vonRosenberg,  
16 did you become the provisional bishop of the defendant, The  
17 Episcopal Church in South Carolina?

18 A. I was nominated for that position and elected in -- I  
19 want to say -- January 26th, 2013.

20 Q. And who elected you to that position?

21 A. The convention of The Episcopal Church in South  
22 Carolina.

23 Q. Was that an annual convention or a special convention?

24 A. That was a special convention.

25 Q. Called for that purpose?

1 A. Yes, sir.

2 Q. Now, Bishop vonRosenberg, if you were elected, you were  
3 already a bishop, of course. Had been in east Tennessee.  
4 Did -- were any consents of the standing committees of the  
5 church and other bishops required for you to be serving in  
6 the capacity of provisional bishop of South Carolina?

7 A. No, sir.

8 Q. Is that because you were already a bishop?

9 A. That's correct.

10 Q. And already ordained?

11 A. That's correct, yes, sir.

12 Q. Now, when you were elected that day, then, on -- you  
13 said January 26, 2013, when were you actually installed?  
14 When did you take office?

15 A. At the same meeting after the election.

16 Q. Who conferred the office on you or installed you to that  
17 position -- in that position?

18 A. The presiding bishop, Katharine Jefferts Schori.

19 Q. Okay. Now, what is The Episcopal Church in South  
20 Carolina? If you would describe it. First of all, is it a  
21 diocese of the church using the name The Episcopal Church in  
22 South Carolina? Is it a diocese recognized by the Episcopal  
23 Church?

24 A. It is.

25 Q. And is any other diocese in its geographic area, roughly

1 half of South Carolina, recognized as a diocese of the  
2 Episcopal Church in that area?

3 A. No. We are the designated diocese of the Episcopal  
4 Church in that area.

5 Q. Is any other diocese in that area designated as a part  
6 of the Episcopal Church?

7 A. No, sir.

8 Q. Now, does The Episcopal Church in South Carolina have as  
9 a part of it parishes and missions?

10 A. Yes, sir.

11 Q. And have you served and worked in the diocese, The  
12 Episcopal Church in South Carolina, since the 26th of  
13 January '13 and continuing to today?

14 A. Yes, sir.

15 Q. And we hope in the future.

16 A. Perhaps for a while, yes, sir.

17 Q. All right. Describe for the Court, please, the makeup  
18 of The Episcopal Church in South Carolina in terms of  
19 parishes, missions and so forth?

20 A. There are currently 10 parishes, 17 missions and 3  
21 worshipping communities, which are congregations in formation  
22 but not yet organized as a mission in union with the diocese.

23 Q. So how many congregations does that add up to in total?

24 A. Thirty.

25 Q. Thirty. And in the Episcopal Church generally and in

1 The Episcopal Church in South Carolina, is a congregation  
2 status as a mission permanent, or would they ultimately be  
3 considered to be a parish?

4 A. Mission congregations are not self-supporting, and one  
5 would hope, I hope certainly, that those would develop into  
6 the point that they become self-supporting and, thereby,  
7 become parishes.

8 Q. And, in fact, since you've been bishop, have there been  
9 a large number of worshiping communities that you described  
10 awhile ago than there are now?

11 A. Yes, indeed. We've had -- we've had five worshiping  
12 communities formally who were recognized as missions of the  
13 diocese at the most recent convention. And at the prior  
14 convention, there was another one which was recognized as a  
15 mission of The Episcopal Church in South Carolina.

16 Q. Now, are those mission congregations, do they have a  
17 clerical -- how are they staffed for clergy?

18 A. For the most part, there is a priest in charge who is  
19 not full-time but, nevertheless, is there and is the  
20 recognized clergy responsible for that place.

21 Q. Now, is there a requirement that a priest in charge of a  
22 mission be a priest of the Episcopal Church?

23 A. Yes, sir.

24 Q. And the parishes, how are parishes staffed in terms of  
25 clergy?

1 A. Parishes must be in a position that they can afford a  
2 full-time Episcopal clergy person as their rector.

3 Q. When you say Episcopal clergy person, do you mean a  
4 priest of the Episcopal Church?

5 A. Yes, indeed.

6 Q. Okay. And what is the -- what is the head, the person  
7 in charge of a parish clergy-wise called, a title?

8 A. A rector.

9 Q. Rector, R-E-C-T-O-R?

10 A. Yes, sir.

11 Q. Bishop vonRosenberg, what are the fundamental governing  
12 documents for parishes and missions and congregations and,  
13 indeed, for the -- for The Episcopal Church in South  
14 Carolina, what are governing documents that govern it?

15 A. The general convention is the highest authority in the  
16 Episcopal Church.

17 MR. RUNYAN: Your Honor, I would object to his  
18 characterization, because that is an opinion. This is a lay  
19 witness. I have no problem with him describing what the  
20 governing documents are, but once he goes into trying to  
21 characterize which one is above the other, that is a lay  
22 opinion, and I object to that. Lack of foundation and lack  
23 of qualification.

24 THE COURT: Overruled. You may proceed.

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

1 Q. What did you just say?

2 A. I said the general convention is the highest authority  
3 in the Episcopal Church.

4 Q. Now, Bishop vonRosenberg, what are the sources of that  
5 authority, if you know?

6 A. There are additional authorities which are part of that  
7 primary authority, including the constitution and canons of  
8 the national church, the Book of Common Prayer of the  
9 Episcopal Church and the Bible.

10 Q. All right, sir. And does The Episcopal Church of South  
11 Carolina have its own constitution and canons?

12 A. Yes, sir.

13 Q. And are those documents, constitution and canons of The  
14 Episcopal Church in South Carolina, documents that were there  
15 when you became bishop in 2013?

16 MS. GOLDING: I'm going to object to that, Your Honor.  
17 This witness just testified that he was elected on  
18 January 23rd, and he never -- excuse me, January 26, 2013.

19 THE COURT: Right.

20 MR. TISDALE: Right.

21 MS. GOLDING: Prior to that time he has not testified  
22 that he had any association with the plaintiff diocese.

23 MR. TISDALE: Your Honor, I will -- I will withdraw my  
24 question and ask it another way.

25 THE COURT: Okay.

1 Q. Bishop vonRosenberg, is The Episcopal Church in South  
2 Carolina governed by a constitution and canons of the  
3 diocese?

4 A. Yes, sir.

5 Q. All right. And since you have been bishop, have those  
6 constitution and canons gone through a process of amendment?

7 A. Yes, sir.

8 Q. Okay. And a set of what we will call constitution and  
9 canons is now in existence governing the diocese?

10 A. Yes, sir.

11 Q. Okay. I want to ask you a question: You mentioned the  
12 Book of Common Prayer a few minutes ago, and I think it's in  
13 evidence as of yesterday, I believe. But what generally --  
14 how is the Book of Common Prayer used to direct the  
15 activities of a parish and other congregations?

16 A. The Book of Common Prayer lays out the various  
17 liturgies, the various services in regular use in the  
18 Episcopal Church, and there also are rubrics and other notes  
19 which have responsibility in governance as well.

20 Q. All right. And of course the Bible speaks for itself.

21 A. Indeed.

22 Q. Now, Bishop vonRosenberg, as bishop of a diocese and, in  
23 particular, this diocese, The Episcopal Church in South  
24 Carolina, what -- describe for the Court, please, your normal  
25 and canonical duties and responsibilities as you go about

1 your work in the diocese.

2 A. A big part of what I do is, is visit each of the  
3 churches of the diocese. And on those visits, I examine  
4 various records kept in the churches, which is mandated by  
5 canons of the church. I also lead worship on those visits,  
6 preach, meet with governing bodies of the churches, and  
7 occasionally have some pastoral responsibilities as well, as  
8 the clergy or lay leaders ask for.

9 Q. Now, are those responsibilities prescribed by the canons  
10 of the church?

11 A. Yes, sir.

12 Q. Bishop vonRosenberg, since you have been bishop of The  
13 Episcopal Church in South Carolina, have the people of the  
14 diocese that you lead had any access to the assets and  
15 institutions of the plaintiff, The Protestant Episcopal  
16 Church in South Carolina, such as this: Have you been able  
17 to use the assets of Camp St. Christopher?

18 A. No, sir.

19 Q. Have you been given access to any of the assets of the  
20 Trustees of the Protestant Episcopal Church in South Carolina  
21 for the benefit of the people in your diocese?

22 MS. GOLDING: Your Honor, I object that with respect to  
23 the benefit, if this witness -- if the counsel is attempting  
24 to establish a trust, I object to this question in that  
25 respect.

1 THE COURT: I understand. In other words, what do you  
2 mean by "benefits"?

3 MS. GOLDING: Yes, Your Honor.

4 MR. TISDALE: Well --

5 THE COURT: I would sustain it in terms of trust  
6 benefits, unless, of course, you can lay a foundation. But  
7 benefit can also mean the help of, the use of.

8 MR. TISDALE: Correct, and that's what I mean.

9 THE COURT: Very well.

10 Q. Has -- insofar as the use of assets of the Trustees of  
11 the Protestant Episcopal Church of South Carolina, has anyone  
12 that you know of in your diocese or your diocese received any  
13 of the benefits from those assets?

14 A. No, sir.

15 Q. All right. Now I want to ask you a few questions, if  
16 you can, to -- I want to ask you whether or not you have  
17 encountered any examples, a few examples of whether or not  
18 there has been any confusion between the Plaintiff Episcopal  
19 Church, Diocese in South Carolina, and The Episcopal Church  
20 in South Carolina among the people who you have encountered  
21 regarding such matters?

22 MR. RUNYAN: Your Honor, I would interpose an objection  
23 here on the relevance of confusion. The defense doesn't  
24 raise that as a basis in its -- and the issues of the marks  
25 are only in the Court according to prior rulings based on as

1 a defense to our marks, not as an infringement, which  
2 confusion would be relevant to.

3 MS. GOLDING: And hearsay, Your Honor, as well.

4 MR. RUNYAN: And hearsay.

5 MR. TISDALE: Excuse me just one second.

6 THE COURT: Sure.

7 MR. TISDALE: Your Honor, the question is whether the  
8 marks are theirs or not, and that is an issue in the case,  
9 and the confusion goes to that, the descriptive marks, and we  
10 think it is relevant testimony. Can I proffer it for the  
11 record?

12 THE COURT: Sure.

13 MR. TISDALE: I'll proffer it for the record, and then  
14 we can decide whether it should be considered by Your Honor.

15 THE COURT: That would be fine.

16 MR. TISDALE: It won't take me long.

17 THE COURT: Okay.

18 Q. With regard to confusion, Bishop vonRosenberg, have you  
19 encountered instances where there has been confusion  
20 concerning contributions of money to the plaintiff  
21 corporation as opposed to The Episcopal Church in South  
22 Carolina?

23 A. Yes, sir. I can think of two. There was a gentleman  
24 who intended to register for an event of The Episcopal Church  
25 in South Carolina. He sent in his registration fee. Somehow

1 that check made its way to the plaintiff diocese.

2 Q. Was that particular matter resolved in a --

3 A. Yes.

4 Q. -- proper way at some point after it happened?

5 A. Yes, indeed. The plaintiff diocese sent that to The  
6 Episcopal Church in South Carolina.

7 Q. All right. And you said you had encountered one other  
8 such incident?

9 A. Yes. A parish church of The Episcopal Church in South  
10 Carolina intended to fulfill its pledge towards the end of  
11 2013.

12 Q. Pledge to the diocese?

13 A. To the diocese, sorry.

14 Q. All right.

15 A. Towards the end of 2013. It was a significant amount of  
16 money. This particular parish has an outside payor of their  
17 checks, and this individual was confused about which place to  
18 send the money to, and it also was sent to the plaintiff  
19 diocese.

20 Q. And was that also, that issue ultimately resolved in a  
21 proper way so that the money was later properly allocated?

22 A. Yes, sir. That check, as I understand it, was returned  
23 to the parish, and a duplicate check, as I understand it, was  
24 then sent to The Episcopal Church in South Carolina.

25 Q. Bishop vonRosenberg, I think the word might have been

1 mentioned several times in this case, and there's testimony  
2 in this case, but just describe very briefly what the rite of  
3 confirmation is in the Episcopal Church.

4 A. I believe the --

5 Q. R-I-T-E.

6 A. I believe the rubric in the prayer book indicates that  
7 when a baptized member reaches a -- an appropriate age, that  
8 it is -- it is appropriate for that person to make a mature,  
9 public affirmation of faith and commitment in Jesus Christ.  
10 And so confirmation then is the time that that person appears  
11 before the bishop to be confirmed.

12 Q. Does that normally take place in a regular worship  
13 service?

14 A. Yes, sir, normally.

15 Q. And is anyone in the church authorized to confirm  
16 someone in that way other than a bishop?

17 A. No, sir.

18 Q. It has to be a bishop?

19 A. Yes, sir.

20 Q. All right. Have you encountered any instances where  
21 people were confirmed by confusion one place when they  
22 thought they were being confirmed in another place?

23 A. Yes, sir. There have been several cases of folks who  
24 were confirmed by Bishop Lawrence, following his restriction  
25 from that ministry as an Episcopal bishop. And these several

1 people have come to me and asked to be confirmed so that they  
2 could be confirmed Episcopalians.

3 Q. And did you, in those instances, perform the rite of  
4 confirmation?

5 A. I did.

6 MR. TISDALE: Okay. Answer any questions any other --  
7 any counsel have for you or the Court, please, Bishop. Thank  
8 you.

9 THE COURT: Thank you. Any -- oh, Mr. Beers has a  
10 question.

11 MS. GOLDING: Your Honor, just for the record, the last  
12 questions, those were all proffered is my understanding.

13 THE COURT: That's right.

14 MS. GOLDING: Okay. Thank you, Your Honor.

15 MR. TISDALE: And, of course, we'd move for the Court's  
16 consideration ultimately.

17 THE COURT: Okay.

18 MR. TISDALE: After we sort out whether it's admissible  
19 or not.

20 THE COURT: Very well. All right. Mr. Beers.

21 DIRECT EXAMINATION BY MR. BEERS:

22 Q. Bishop vonRosenberg, were you in the courtroom yesterday  
23 when the subject of Bishop John David Schofield came up?

24 A. Yes, sir.

25 Q. And he has died, has he not?

1 A. Yes, sir.

2 Q. And was he a bishop of the Episcopal Church at the time  
3 of his death?

4 A. No, sir.

5 Q. And did he leave the Episcopal Church?

6 A. Yes, sir.

7 Q. And what were the circumstances of his leaving?

8 MS. GOLDING: Your Honor, unless it's going to be  
9 established that this witness had personal knowledge of the  
10 circumstances, certainly he cannot testify.

11 MR. BEERS: Well --

12 MS. GOLDING: There's no foundation.

13 THE COURT: You need to lay adequate foundation.

14 MR. BEERS: We're just two questions ahead of that, Your  
15 Honor.

16 Q. Do you have --

17 THE COURT: I don't know what that means, Mr. Beers:  
18 "We're two questions ahead of that."

19 MR. BEERS: To me it means if she had waited two more  
20 questions, it would have naturally come up what his -- what  
21 his connection was. But let me ask it this way and go back.

22 Q. Did you have any personal involvement in the decision --  
23 in the decision regarding the bishop's leaving the church?

24 A. I had personal knowledge, as a member of the House of  
25 Bishops, when the case involving the deposition of John David

1 Schofield came to the House of Bishops.

2 Q. And was there action by the House of Bishops?

3 A. Yes, sir.

4 Q. And did you vote?

5 A. Yes.

6 MS. GOLDING: He can only testify as to what he -- what  
7 was in the House of Bishops and what the vote was. That's  
8 all he knows.

9 MR. BEERS: Well, let me proceed and see if I can deal  
10 with this.

11 THE COURT: Okay.

12 Q. Was there a matter pending before the House of Bishops  
13 regarding Bishop Schofield when you were a member of the  
14 House of Bishops?

15 A. Yes, sir.

16 Q. And what was that matter?

17 A. Whether Bishop Schofield had abandoned The Episcopal  
18 Church.

19 Q. And did the House of Bishops take some action in that  
20 regard?

21 A. The House of Bishops took action affirming that he had,  
22 indeed, abandoned The Episcopal Church.

23 Q. And did that abandonment relate in some way to the  
24 Diocese of San Joaquin where he was bishop?

25 MS. GOLDING: Your Honor, I think this is now going

1 beyond the foundation he established. He can only  
2 establish -- he can only testify as to his presence at the  
3 House of Bishops and what was presented at the House of  
4 Bishops and nothing beyond that.

5 MR. BEERS: But that was -- excuse me. I thought he was  
6 in the process of telling us what was before the House.

7 MS. GOLDING: Well, then he has to establish -- number  
8 one, the best evidence is the journal for that convention  
9 vote; and number two, he can't go beyond that convention  
10 vote. And I'm concerned with these questions that Mr. Beers  
11 is trying to go beyond the convention vote. It appears that  
12 way.

13 THE COURT: And I care why?

14 MR. BEERS: I'm sorry?

15 THE COURT: I mean, why do I care?

16 MR. BEERS: Well, I don't want to put words in the --

17 THE COURT: I mean, I really don't. I mean, I don't  
18 understand, I'm a little bit lost, because I -- two things,  
19 two things: If this witness knows that there was a  
20 gentleman, Mr. Schofield, who was deposed as a bishop, and he  
21 knows, of his own knowledge, that the highest order, if you  
22 will, in the Episcopal Church deposed him, you can tell me  
23 that, and I accept that. Pearson says I accept that, I don't  
24 go beyond that.

25 My question is, why? I don't understand the nexus

1 between this case and Mr. Schofield. See what I'm saying?

2 So hence my question: Why do I care?

3 MR. BEERS: Well, I can respond to that in the form of a  
4 proffer. How about that?

5 THE COURT: You don't even have to proffer it, because  
6 it very well may be relevant. I just want you to tell me why  
7 it's relevant. That's all.

8 MR. BEERS: The reason -- he's testified that  
9 Bishop Schofield was found to have abandoned The Episcopal  
10 Church.

11 THE COURT: Yes.

12 MR. BEERS: And the question is, on what grounds? Why?  
13 What did he do that constituted that abandonment?

14 THE COURT: Okay. Why do I care?

15 MR. BEERS: Because the abandonment -- he abandoned --  
16 the testimony would be that he abandoned the church because  
17 he attempted and succeeded in leading his diocese out of the  
18 Episcopal Church. That is -- it goes to the question  
19 about -- precisely the question: May a diocese leave the  
20 Episcopal Church.

21 He was deposed for leading his diocese out of the  
22 church, and he was -- and that demonstrated that that conduct  
23 was not permitted by our polity.

24 THE COURT: I don't want to try that case. I don't want  
25 to try that case. I really don't, because, you know, I don't

1 want to try that case. That's not this case; that's that  
2 case, because Pearson says I have to accept that he is no  
3 longer a bishop. He is deceased, no longer a bishop. I got  
4 that. And for whatever reason is the reason. I don't -- but  
5 you've got to give me a nexus why that matters in this case.  
6 See what I'm saying?

7 MR. BEERS: Well, the allegations that we're making in  
8 this case is that Bishop Lawrence violated the polity of the  
9 church by leading his diocese out of the Episcopal Church.

10 THE COURT: I got it.

11 MR. BEERS: That's our contention.

12 THE COURT: I figured that was coming.

13 MR. BEERS: Right.

14 THE COURT: And I figured that the highest body of the  
15 Episcopal Church, right, national Episcopal Church, I gather,  
16 deposed him, right? I mean, I don't know that.

17 MR. BEERS: No.

18 THE COURT: They didn't do that?

19 MR. RUNYAN: No.

20 MR. BEERS: No.

21 THE COURT: Okay.

22 MR. BEERS: No. There was a disciplinary process.

23 THE COURT: Well, they did whatever they did. I've got  
24 to accept that. Pearson says I have to accept that, and I'm  
25 going to accept that.

1 MR. BEERS: We're offering the testimony about  
2 John David Schofield and also a man named Bishop --  
3 Robert Duncan from Pittsburgh to show -- to demonstrate what  
4 the polity of the Episcopal Church is.

5 THE COURT: Okay.

6 MR. BEERS: Now, if it is conceded that the polity of  
7 the Episcopal Church is that dioceses may not leave and that  
8 bishops who attempt to take them out of the diocese get  
9 deposed, the evidence of what happened in Pittsburgh and San  
10 Joaquin is relevant to --

11 THE COURT: No, it's not, for this reason, for this  
12 reason, let me tell you why: I don't know what those states'  
13 position is with regards to the analysis of church disputes.  
14 I don't really care. What I do care about is the State of  
15 South Carolina, what my Supreme Court tells me I do when I  
16 analyze church disputes. See what I'm saying?

17 If, as I suspect, those are hierarchical states, you're  
18 right. Whatever the hierarchical church did then becomes  
19 very relevant and dictates very much the resolution of what  
20 the civil court can do. I'm not going there. I'm not going  
21 to the hierarchical part. I got that that's the position of  
22 the defendants, as it should be. It is your strongest --

23 MR. BEERS: I'm sorry, I missed the "that." Sorry.

24 THE COURT: Well, we keep going -- from the defendants'  
25 perspective, I can do nothing but notice that we keep going

1 back to the issue of the hierarchical nature of the  
2 defendants' position regarding the actions taken by the  
3 plaintiffs. I'm not going there. I'm not going down that  
4 path. I'm not.

5 Pearson says that whatever happened with regards to the  
6 national Episcopal Church, as it relates to whatever clerical  
7 member, I've got to accept. I'm going to accept that. I  
8 don't know what it is, but I'm going to accept it.

9 But in terms of whether or not the parishes in South  
10 Carolina and the diocese in South Carolina were allowed to  
11 leave the National Episcopal Church, I'm going to make that  
12 determination on the basis of neutral principles of law under  
13 South Carolina law.

14 I don't care what happened anywhere else. I care about  
15 our -- we've got law that handles it. We've got a nonprofit  
16 statute that talks about lots of things. We've got case law  
17 on All Saints. We've got Pearson. Our Supreme Court has  
18 pretty much set forth the position for me to follow and  
19 that's what I'm going to do.

20 So I don't really -- what happened to Bishop Schofield  
21 happened to Bishop Schofield in another state, and I don't --  
22 see, here's the difference: If the Episcopal Church says  
23 under the Episcopal Church's theory that no one can ever  
24 leave the church, and that differs from what South Carolina  
25 civil law says, South Carolina civil law is what I'm going to

1 follow.

2 MR. BEERS: That's helpful, Your Honor. So, in other  
3 words, in your view, it is not relevant that the polity of  
4 the Episcopal Church does not permit, under our rules, permit  
5 a diocese to leave.

6 THE COURT: I'm not sure that's your polity, and let me  
7 tell you why: I watched very carefully last week when  
8 Bishop -- help me.

9 MS. KOSTEL: Daniel.

10 THE WITNESS: Daniel.

11 THE COURT: Thank you. Testified and Mr. Runyan popped  
12 up some documents. And as I understand it, it was the  
13 constitution and the bylaws that were in existence at the  
14 time, yes?

15 MR. RUNYAN: Constitution and canons, yes, Your Honor.

16 THE COURT: Not bylaws but canons. There was nothing  
17 written that says, "You're here forever." Now -- and I  
18 really don't say that to be humorous because it is very --  
19 it's a very serious matter.

20 So you want to tell me that's the polity of the church.  
21 It's not written. It seems to me that it ought to be  
22 written, but it isn't. It obviously happened to some folks.  
23 I got that. But I'm not going to be bound by that. I'm just  
24 not. I'm going to be bound by South Carolina law because  
25 this row has been pretty well plowed. It's called All

1 Saints. And I know that you all differ with regards to the  
2 parishes vis-a-vis the diocese, and we'll hash that out.

3 But for your purposes, that's why what happened to  
4 Bishop Schofield in another state that I don't know that  
5 state's law, I don't know what their position is regarding  
6 whether or not they use neutrality or hierarchical decisions.  
7 I don't know. I don't want to know because I don't care. I  
8 don't think it's relevant. I've got enough to keep up with  
9 my law.

10 MR. BEERS: Just a minute. Ms. Kostel wants to say  
11 something and one more thing.

12 THE COURT: Sure.

13 MR. BEERS: So as I understand your view, with respect,  
14 of course, is that whether the polity of the Episcopal Church  
15 precludes dioceses from leaving, in your view, in this case  
16 is not relevant.

17 MS. KOSTEL: We just went through that.

18 MR. BEERS: Okay.

19 MR. RUNYAN: Yes, we just went through that.

20 THE COURT: I'm not going to try Bishop Schofield's  
21 case. I'm not going to try -- you mentioned some other  
22 bishop's case. I'm not going there. That means that I've  
23 got to go waltzing into ecclesiastic law. I'm not going  
24 there. I'm not going to do it.

25 MR. BEERS: I understand.

1 THE COURT: And let's talk about what Pearson said for a  
2 second. What Pearson said in South Carolina was -- and let's  
3 see if we can talk about that relationship. And what that  
4 relationship was about was it was about the Church of God.  
5 And the Church of God said that if you commit adultery, then  
6 under certain circumstances, you don't get pension benefits.

7 And what was for the Court to determine was whether or  
8 not Mr. Pearson was entitled to pension benefits. What the  
9 Court couldn't do was decide whether it was okay or not that  
10 the church had made a determination that he was no longer  
11 going to be a preacher because he committed adultery. That  
12 was where the Court couldn't go.

13 In other words, the Court had to accept the fact that he  
14 had committed adultery. Because he had committed adultery,  
15 that was against the rules of the church, and therefore he  
16 was no longer a minister. And the Court couldn't go decide  
17 whether that was copacetic or not. Had to accept it.

18 So I'm not going into whatever the church may or may not  
19 have done to Bishop Lawrence. They did what they did. It is  
20 what it is. It was what it was. His status is what it is.  
21 I'm not going behind that. What I am not going to do is I'm  
22 not going to try the issue that -- whatever got tried in  
23 Schofield's case and whatever got tried in anybody else's  
24 case.

25 What I now know is that there is certainly no written

1 canon or constitutional provision applicable to these times,  
2 at least according to Bishop Daniel, that says you can't  
3 separate from the church; and quite frankly, I'm not sure  
4 that that wouldn't be violative of the first amendment. But  
5 I kind of want to try this case, not Schofield's case or  
6 anybody else's case.

7 MS. KOSTEL: Your Honor, may I speak just to make some  
8 points.

9 THE COURT: Sure. Yes.

10 MS. KOSTEL: Just to point out to the Court that I think  
11 nearly all of our cases, and maybe all of them, but I don't  
12 want to overrepresent, have been in neutral principle states.  
13 So I just want to point that out to the Court.

14 And, secondly, this is relevant. Let me explain why we  
15 think that it's clearly relevant to the hierarchy part.

16 THE COURT: Right.

17 MS. KOSTEL: But why we also think it's relevant to the  
18 neutral principles, the Court's neutral principles  
19 consideration. Because the way I understand it, the Court is  
20 looking at the organic documents of the two entities to  
21 determine -- help to determine their relationship. And the  
22 Court, as you've just mentioned, has noted that the Episcopal  
23 Church's constitution and canons don't say one thing one way  
24 or the other whether a diocese can leave. It's silent on  
25 that subject precisely.

1           Now, testimony has come in that the church's  
2           constitution or canons, I can't recall which, does have a  
3           provision that certain other types of dioceses, missionary  
4           dioceses, can leave. So there's that provision. Does not  
5           speak to geographic dioceses in the United States.

6           So the question is the document is silent. The Diocese  
7           of South Carolina's document has been silent, and so what do  
8           the organic documents say about whether a diocese can leave?  
9           If the Court is going to go into the territory of deciding  
10          that, which we think is a polity issue, but if the Court is  
11          going to do that under neutral principles, and so if the  
12          documents don't say one way or the other, then typically one  
13          goes to parole evidence.

14          And we submit that the evidence of what the church's  
15          highest body thought in 2007, years before this particular  
16          situation unfolded. That evidence about what the church's  
17          highest bodies thought about whether a diocese could leave is  
18          relevant parole evidence to help the Court construe those  
19          documents. And that's our position on why it's relevant to  
20          the neutral principles analysis. Does that --

21          THE COURT: I got it. Thank you. That was very  
22          helpful.

23          Yes, sir, Mr. Runyan.

24          MR. RUNYAN: Before this case is over with, what the  
25          Court is going to be presented with at best -- at best -- is

1 an issue of uncertainty as to whether there is, in fact, a  
2 hierarchy in the Episcopal Church and, in fact, what the  
3 highest body might be in the Episcopal Church.

4 What Ms. Kostel has done with that argument is placed  
5 squarely before the Court what precisely the Court cannot do  
6 under the first amendment, and that is to search around  
7 through parole evidence to look for that kind of information.  
8 *Jones v. Wolf* makes that crystal clear: The only time a  
9 Court can make a decision about the locus of control is if it  
10 is expressed and very clear. And it is definitely not, by  
11 that admission, expressed and very clear; so it's off limits  
12 to the Court.

13 So our position is that very argument suggests that the  
14 very testimony that they propose is irrelevant and cannot be  
15 regarded anyway. If, on the other hand, as the Roman  
16 Catholic canon law book that I have, flip to the front page  
17 and it says, "The supreme pontiff is," and it has -- it's  
18 very clear, very easy, very undisputed locus of control. And  
19 that's a whole other matter.

20 And that's the difference. That's why this church  
21 cannot constitutionally say its hierarchical, because it's  
22 disputed and because it's not crystal clear.

23 MS. KOSTEL: I'm sorry. But --

24 MR. RUNYAN: I'm not -- excuse me.

25 MS. KOSTEL: Go ahead.

1 MR. RUNYAN: And so this whole wandering into this area  
2 of, well, we need parole evidence, that's an unconstitutional  
3 approach. It's not relevant for that very reason, because  
4 it's asking the Court to do what it cannot constitutionally  
5 do, and that is pick one side or the other in this kind of  
6 dispute when both sides have not picked it already, which is  
7 the case with the Roman Catholic church and other clear  
8 hierarchical institutions. So I don't think it's relevant  
9 for that reason as well.

10 MS. KOSTEL: Let me respond to that.

11 THE COURT: Okay.

12 MS. KOSTEL: What Mr. Runyan has argued is that it's  
13 not -- he thinks it goes too far if the Court is trying to  
14 decide if the church is hierarchical. But we just -- I just  
15 said to the Court, we're not talking about its relevance to  
16 the hierarchy issue. I'm talking about its relevance -- the  
17 relevance of this issue to the neutral principles inquiry  
18 that this Court has said that it is undertaking.

19 And if this Court -- I mean, Mr. Runyan wants to have it  
20 both ways. He wants to have in the constitution and canons  
21 and say what they say and what they don't say, but then he  
22 doesn't want the Court to take into account ordinary evidence  
23 that a Court would take into account to help construe those  
24 documents. I mean, it's one or the other.

25 THE COURT: No. No. No. Let me tell you, rightly or

1 wrongly, this is how I'm going to analyze the case --

2 Are you feeling really strange sitting over there while  
3 all this is going on?

4 THE WITNESS: This is a more comfortable chair than  
5 those benches.

6 MR. BEERS: Your Honor, I take it your ruling is going  
7 to be the same if I asked him the questions about the other  
8 bishop.

9 THE COURT: Yes, of course.

10 MR. BEERS: May he be excused? I'm done.

11 THE COURT: You're finished?

12 MR. BEERS: Yes. Well, I guess there would be cross.  
13 I'm sorry.

14 THE COURT: Let me tell you why that was important, why  
15 it was important to go through the constitution and the  
16 bylaws for each of the parishes, because they, the parishes,  
17 have to, in an orderly fashion, based upon their rules, do  
18 what they do, and that is, amend in accordance with their  
19 rules. And that's part of the examination that I do. And I  
20 don't go behind whether or not it's a good constitution and  
21 bylaws or a bad constitution and bylaws. That's where I  
22 don't go. But where I do go is make a determination whether  
23 or not they, in fact, followed the rules and amended their  
24 constitution in accordance with their rules and accordance  
25 with the statutes of the State of South Carolina.

1           And the statute with regards to nonprofit corporations  
2 pretty much dictates, unless, of course, it comes before  
3 1900, and those that came before 1900 didn't hop on board and  
4 say, we want to have a South Carolina corporation, which they  
5 basically give up their charters if those -- their  
6 corporations were done by the legislature historically. So  
7 we have those issues.

8           So that's why the plaintiffs had to put that information  
9 in, because they have to establish that the changes that they  
10 made were done in accordance with their own governance.

11           Now, and just as I've done a review as it occurs, they  
12 very well may have satisfied those requirements. If they  
13 have satisfied those requirements, then the question is, have  
14 they separated from the church. Yes, they have. I mean,  
15 they simply have. They had the right to do it under our law.  
16 If they've done it appropriately, then they've done it  
17 appropriately.

18           And so then the question then gets to be, as we've  
19 talked about, the ownership of property and the constructive  
20 trust. And we've sort of plowed that. We know where we are  
21 in terms of the property. And that's sort of where this case  
22 is.

23           So to what extent am I going to delve into ecclesiastic  
24 law? I'm not, just not, because Pearson says whatever  
25 determinations -- whatever final determinations have been

1 made have been made, and that's where it is.

2 MR. BEERS: May I make a proffer and end this  
3 discussion?

4 THE COURT: Sure.

5 MR. BEERS: What I would ask Bishop vonRosenberg is,  
6 what was the charge in the case of Bishop Schofield and in  
7 the case of Bishop Duncan in Pittsburgh that brought the  
8 matter to the House of Bishops, where the action was taken.  
9 And I proffer that the testimony would show that each bishop  
10 was accused of violating the polity of the church by leading  
11 and assisting the diocese, his diocese, in leaving the  
12 church.

13 THE COURT: Okay.

14 MR. BEERS: Thank you.

15 MR. HOLMES: Your Honor, will you indulge one quick  
16 thing on the issue of confusion?

17 THE COURT: Sure.

18 MR. HOLMES: There was an objection on hearsay, and  
19 there was no discussion of the rules. I just offer to the  
20 Court that under 803(3), the state of mind exception, and  
21 also 801(c), that it's not offered for proof of the matter  
22 asserted. And I cite a case, and there are many, but I'll  
23 cite this one, with Your Honor's permission, *Armco, Inc. v.*  
24 *Armco Burglary Alarm Company* 693 F. 2d 1155 at 1160 notes in  
25 5th Cir. 1982 saying that both of those exceptions to the

1 hearsay rule apply.

2 THE COURT: Okay. Thank you. Wonderful.

3 MR. TISDALE: We would move to include the testimony  
4 concerning the confusion that he gave. You accepted it.

5 THE COURT: Yes.

6 MR. TISDALE: As a proffer.

7 THE COURT: I gotcha. Okay.

8 MR. TISDALE: Thank you.

9 MR. HOLMES: Thank you, Your Honor.

10 MR. TISDALE: Are you saying it --

11 MR. HOLMES: No. I think what she said -- excuse me,  
12 but I think you said you were going to take it under  
13 advisement, and that's where it is.

14 THE COURT: Sure.

15 MR. HOLMES: Thank you.

16 THE COURT: Yeah. Absolutely.

17 MR. TISDALE: That's fine.

18 THE COURT: There was some confusion. Actually, while  
19 there was confusion, I guess what I want to say is that if  
20 there is a ray of hope in all of this, the fact that these  
21 folks cooperated in such a way as to say, "Excuse me, I think  
22 I have one of yours, excuse me, I think I have one of yours,"  
23 is pretty spectacular. But I certainly take it as evidence  
24 that I make that comment.

25 I think -- because typically and normally, as you all as

1 litigants -- the litigators in the room kind of know that  
2 doesn't ever happen. And it's pretty impressive, just from a  
3 human being standpoint, that these folks did that.

4 MR. HOLMES: Thank you, Your Honor.

5 THE COURT: Yes. I take it as evidence, but I just make  
6 that comment just --

7 MR. TISDALE: Thank you.

8 THE COURT: -- just think it's pretty remarkable,  
9 because that doesn't typically happen. It's like, "Nanny,  
10 nanny, boo, boo, I got your stuff."

11 If there is a ray of shining light for me, there it is.  
12 That's pretty impressive. All right.

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

14 THE COURT: Yes. So cross-examination.

15 MS. GOLDING: Thank you, Your Honor.

16 THE COURT: Yes.

17 CROSS-EXAMINATION BY MS. GOLDING:

18 Q. Bishop, my understanding is you retired in July of 2011;  
19 is that correct?

20 A. Correct.

21 Q. And from July of 2011 to January 26, 2013, you were  
22 unemployed?

23 A. Correct.

24 Q. Okay. And prior to July 11, you were never associated  
25 with the plaintiff diocese, were you?

1 A. Was associated as a member of the same Episcopal Church,  
2 national church, but not directly and personally, no, ma'am.

3 Q. And prior to January 2013, you'd never had any personal  
4 association with the plaintiff trustees, did you?

5 A. No, ma'am.

6 Q. And, in fact, that's true up to today; is that correct?

7 A. That's correct.

8 Q. Okay.

9 THE COURT: "Trustees," you're talking about the  
10 corporation, yes?

11 MS. GOLDING: That's right. The plaintiff trustees  
12 corporation.

13 THE WITNESS: Yes, ma'am.

14 Q. And with respect to the plaintiff diocese, that's also  
15 true up to today. You've never had any official association  
16 personally with the plaintiff diocese up to today?

17 A. Bishop Lawrence asked me on occasion to function on his  
18 behalf, but that was in isolated and individual cases.

19 Q. Okay. Thank you.

20 So it would be fair to state that you have never  
21 attended an annual convention of the plaintiff diocese, have  
22 you?

23 A. That's correct.

24 Q. Okay. Now, with respect to Mr. Tisdale, the first  
25 meeting you had with Mr. Tisdale was in the fall of 2012?

1 A. Yes, ma'am.

2 Q. And that was at the request of Mr. Tisdale?

3 A. Yes, ma'am.

4 Q. That was a luncheon meeting?

5 A. Yes, ma'am.

6 Q. And that luncheon meeting was before the plaintiff  
7 diocese withdrew its association with the national church; is  
8 that correct?

9 A. Yes, ma'am.

10 Q. Okay. And at that meeting with Mr. Tisdale, you  
11 understood that Mr. Tisdale represented the defendant the  
12 national church; is that correct?

13 A. Yes, ma'am.

14 Q. Okay. And at that meeting, Mr. Tisdale sought your  
15 assistance and advice; is that correct?

16 A. That may be a little more formal.

17 Q. Okay.

18 A. I would not necessarily characterize it quite that way.

19 Q. Okay. Well, subsequent to that meeting, then, you  
20 became involved in the formation of a steering committee; is  
21 that correct?

22 A. No, ma'am. Mr. Tisdale formed the steering committee,  
23 and he asked me to serve as an adviser to that committee.

24 Q. And, in fact, you served as an adviser to the steering  
25 committee?

1 A. Yes, ma'am.

2 Q. Okay. And the steering committee, I believe you  
3 attended a meeting on November 6, 2012 of the steering  
4 committee?

5 A. I believe that's the correct date, but I'm not sure  
6 exactly.

7 Q. Okay. And the name of the steering committee was the  
8 TEC steering committee. Do you recall that?

9 A. I do not recall, no, ma'am.

10 Q. The steering committee was composed of a number of  
11 individuals that have already testified in this trial; is  
12 that correct?

13 A. I believe some have, yes, ma'am.

14 Q. Well, for instance, like, Rebecca Lovelace was a member  
15 of that steering committee; is that correct?

16 A. Yes, ma'am.

17 Q. Okay. And even though she has not testified,  
18 Ms. Walpole was a member of that steering committee. Do you  
19 recall that?

20 A. I believe so.

21 Q. Okay. And the steering committee was the body that  
22 basically put together this special convention that was held  
23 on January 26, 2013?

24 A. They -- they were responsible for the organization, yes,  
25 ma'am.

1 Q. Okay. Now, the steering committee, to your knowledge,  
2 it regularly used the name of the plaintiff diocese and its  
3 seal; is that not correct?

4 A. I believe that is correct.

5 Q. Okay. And that usage was intentional by that steering  
6 committee, was it not?

7 A. I was not part of that decision; so I don't know if it  
8 was intentional or not.

9 Q. Let's go to your deposition, then.

10 MS. GOLDING: Your Honor, may I open this deposition.

11 THE COURT: Absolutely. Surely.

12 MS. GOLDING: Thank you, Your Honor.

13 Q. Bishop, may I hand you your deposition, which was taken  
14 on May 28, 2014.

15 A. Certainly.

16 Q. Thank you.

17 And I ask you to look at Page 34 of that deposition.

18 A. Yes, ma'am.

19 Q. To get the context of this question and answer, I'd ask  
20 you to go back to Page 33. And I'll start with Line 11. I'd  
21 like for you to read the answer after I read each question.

22 A. Okay.

23 Q. Line 11, question, "Don't remember. Okay. Would you  
24 agree with me, Bishop, that from sometime in the fall, after  
25 the Diocese of South Carolina announced its departure,

1 through the rest of the fall and into early 2013, that the  
2 people you were associated with, the steering committee, and  
3 yourself regularly" --

4 A. I'm sorry. I must be looking at the wrong document.

5 Did you say Page 33?

6 Q. Page 33. No. I wanted to start on Page 33, Line 11.

7 Do you have that, Page 33 of your deposition?

8 A. Well, Page 33, Line 11 is, "particular decision that  
9 way."

10 MS. GOLDING: May I approach the witness, Your Honor?

11 THE COURT: You may.

12 MS. GOLDING: Okay. Well, the original deposition, Your  
13 Honor, apparently they're --

14 THE WITNESS: I believe it's the same subject that's  
15 being considered, but the words are different.

16 Q. Okay. Let's go to --

17 A. Okay. That's it.

18 Q. -- Page 34.

19 A. Yes, ma'am.

20 Q. Line 11. Page 34, Line 11, question, "Don't remember.

21 Okay. Would you agree with me, Bishop, that from sometime in  
22 the fall, after the Diocese of South Carolina announced its  
23 departure, through the rest of the fall and into early 2013,  
24 that the people you were associated with, the steering  
25 committee, and you yourself, regularly used the name and seal

1 of the Diocese of South Carolina?"

2 A. "Yes."

3 Q. Okay. Question, "All right. And that was not an  
4 accidental use. It was an intentional use; is that correct?"

5 And then there are -- and then there are objections.

6 And then you go to the next page, 35.

7 A. "It had been the seal of the Episcopal Church, and so it  
8 continued to be used by the Episcopal Church."

9 Q. Question, "The seal of the diocese was the seal of the  
10 Episcopal Church?"

11 A. "The Episcopal Diocese in this part of the Episcopal  
12 Church."

13 Q. Question, "Okay. So whatever the reason was, the use of  
14 it was intentional."

15 Go to your answer on Line 11.

16 A. Line 11?

17 Q. Line 16, sorry.

18 A. "Yes."

19 Q. Okay. And that "yes" was in answer to the question that  
20 the use was intentional; is that correct?

21 A. I believe so.

22 Q. Okay. Then you were personally served with a temporary  
23 restraining order; is that correct?

24 A. Yes, ma'am.

25 Q. Okay. And that temporary restraining order specifically

1 stated that you, as well as others, could not use the name of  
2 the plaintiff diocese; is that correct?

3 A. Yes, ma'am.

4 Q. Could not use the mark of the plaintiff diocese; is that  
5 correct?

6 A. Yes, ma'am.

7 Q. Okay. And that temporary restraining order was issued  
8 as a -- with the final one being on January 31, 2013; is that  
9 correct? Do you recall?

10 A. I do not recall. The date I remember was the 23rd.

11 Q. Okay. And the temporary restraining order that was  
12 personally served upon you was at least by the end of  
13 January 2013, correct?

14 A. Yes, ma'am.

15 Q. And Mr. Tisdale had consented to that order, had he not?

16 A. I do not know.

17 Q. Your Honor, I apologize. I had a copy of the order --  
18 of the order with me, several copies, and now I cannot locate  
19 them.

20 THE COURT: I understand. And one is the original, and  
21 one is the 23rd?

22 MS. GOLDING: Yes.

23 THE COURT: And then the subsequent one, the 31st, was  
24 the one that was consented to; so there are two.

25 MS. GOLDING: Right.

1 Q. The 31st, the order of the 31st, let me hand you what I  
2 have as my copy. And let me get to -- there. I'll represent  
3 to you this is an accurate copy. Do you see on that page the  
4 signature of Mr. Tisdale?

5 A. I do, yes.

6 Q. Okay. And do you recall that this temporary order  
7 permitted a party to seek a modification?

8 A. I do not recall that, no, ma'am.

9 Q. I'll show that to you. Well, I read it just a few  
10 minutes ago, and I can't find it, but there was in this  
11 order -- excuse me. Here it is. Read this paragraph. Would  
12 you please start reading this paragraph.

13 A. "Any party may move this Court upon written notice  
14 served at least 14 days before the time specified for the  
15 hearing, unless the parties consent to a shorter time for an  
16 order modifying or dissolving this temporary injunction."

17 Q. And isn't it a fact that since this injunction was  
18 issued to today, neither defendant in this lawsuit has made a  
19 motion to amend or modify that temporary restraining order?

20 MR. TISDALE: Your Honor, we moved that it be vacated,  
21 and Your Honor denied it.

22 THE COURT: And I think the record speaks for itself,  
23 but that certainly is my -- one of the defendants moved.

24 MR. TISDALE: Yes.

25 THE COURT: It was the defendant -- it was the defendant

1 that it was not issued for, and I don't remember if it was  
2 the state.

3 MR. TISDALE: That would be us.

4 THE COURT: That was -- okay. The state.

5 MR. TISDALE: And we had a hearing in this courtroom.

6 THE COURT: Yes, I remember. You're correct.

7 MR. BEERS: Your Honor, on behalf of the church, we  
8 object on the grounds of relevance.

9 MS. GOLDING: I'll wrap this up.

10 Q. To your knowledge, has there been any attempt by either  
11 of the defendants in this case to modify or amend that order,  
12 the temporary restraining order?

13 A. I do not know the answer to that.

14 Q. Okay. Then you individually brought a lawsuit in  
15 federal court against the plaintiff diocese, did you not?

16 MR. TISDALE: Your Honor --

17 MS. GOLDING: Excuse me.

18 MR. TISDALE: -- we're going to object to this because  
19 another lawsuit in another court and another jurisdiction has  
20 nothing to do with this case; so we object to her question  
21 along those lines.

22 THE COURT: Yes. And I would just ask: The relevance  
23 is?

24 MS. GOLDING: The relevance is that the lawsuit he  
25 brought -- and it was against Mark Lawrence, not the

1 plaintiff diocese.

2 THE COURT: Okay.

3 MS. GOLDING: Is that he, the bishop individually, used  
4 the actual names, the actual name of the plaintiff diocese  
5 and held himself out as the bishop of the plaintiff diocese,  
6 in contravention to the court order.

7 MR. TISDALE: It would certainly be a privileged  
8 document in any case in litigation. I don't understand why  
9 Ms. Golding is laughing, Your Honor.

10 THE COURT: Even assuming that it occurred, it is a  
11 privilege; it's an absolute privilege.

12 MR. TISDALE: Absolute privilege. Thank you, Your  
13 Honor.

14 Q. Now, subsequently to your being elected as the  
15 provisional bishop, you then became an employee of the  
16 defendant; is that correct?

17 A. Yes, ma'am.

18 Q. Okay. And subsequently, there was an established clergy  
19 day that you attempted to have; is that correct?

20 A. I have had -- we have had several clergy days since I  
21 began serving in this capacity.

22 Q. And the first clergy day you attempted, I believe, was  
23 in February 2013. Do you recall that?

24 A. No, ma'am.

25 Q. I'll refresh your memory here. I'm going to refer to

1 Plaintiff's Exhibits 48, 49 and 50. Excuse me, that was in  
2 November. The clergy day was in November of 2012; is that  
3 correct?

4 A. I believe there was a clergy day then, yes.

5 Q. Okay. And in those attempts to have a clergy day, you  
6 utilized the plaintiff diocese as being the entity that was  
7 calling the clergy day; is that correct?

8 A. I -- the -- are you asking me my role in this?

9 Q. No, sir.

10 A. I'm not sure what your --

11 Q. No.

12 A. -- what your question means.

13 Q. I apologize, then.

14 With respect to the clergy day that occurred in or that  
15 you attempted to have in November of 2012, you were involved  
16 in organizing and announcing the clergy day, were you not?

17 A. I was an adviser to the steering committee. And the  
18 steering committee, I believe, invited clergy to a day.

19 Q. Okay. Do you remember being involved in a decision  
20 about the use of the name and seal of the plaintiff diocese?

21 A. I do not recall that, no, ma'am.

22 Q. Who would have had the authority to approve sending out,  
23 in November 2011, an announcement about a clergy day using  
24 the plaintiff diocese name and seal?

25 A. I believe the steering committee.

1 Q. Okay. And the steering committee, then, you believe,  
2 had the authority to send out that information?

3 A. Yes, ma'am.

4 Q. Okay. And you will agree that the steering committee  
5 was not associated directly with the plaintiff diocese?

6 A. That's correct.

7 Q. Okay. Now, with respect to the plaintiff parishes, you  
8 will agree that the plaintiff parishes are not associated  
9 with your defendant organization?

10 A. That has become clear, yes, ma'am.

11 Q. Okay. And even though that's the case, your defendant  
12 organization used the names of these 30-some plaintiff  
13 parishes in your website until June or July 2013?

14 A. I do not know the date, but originally the answer would  
15 be "yes" after the organization of The Episcopal Church in  
16 South Carolina.

17 Q. And I think I misspoke the year. That was in June or  
18 July of 2014 that those names were -- would that be accurate?

19 A. I do not know.

20 Q. Okay. But you're certainly not denying that your  
21 unincorporated association, the defendant, used the names of  
22 the plaintiff parishes for some -- for many months; is that  
23 correct?

24 A. For some time. No, I'm not denying that.

25 Q. Now, with respect to your association's general annual

1 conventions, before an individual or a delegate can attend an  
2 annual convention, you require a delegate to have a  
3 declaration of conformity; is that correct?

4 A. We did initially, as we were organizing The Episcopal  
5 Church in South Carolina.

6 Q. And let me hand you these documents. Is this -- are  
7 these documents blank copies of the delegation of conformity  
8 that you required of the lay delegates in January of 2013?

9 A. I cannot say for sure. I know there was a declaration  
10 of conformity. Whether it was precisely this, I do not know.  
11 I had nothing to do with putting this together, except as an  
12 advisor to the steering committee.

13 Q. Okay. And the declaration of conformity, to your  
14 knowledge, had never been, you have never had that utilized  
15 in any annual meeting you attended for any of your dioceses  
16 that you attended?

17 A. That would be true, yes.

18 Q. The clergy for your defendant organization also had to  
19 sign a declaration of conformity in January 2013; is that  
20 correct?

21 A. I believe -- yes, ma'am, that is correct.

22 Q. And it would be fair to state that with any diocese,  
23 diocesan annual convention or special convention prior to  
24 January 2013 in which you attended, there was never a  
25 requirement that a clergy sign a declaration of conformity?

1 A. I think that's correct.

2 Q. With respect to the annual conventions of a diocese that  
3 you attended before January 2013, to your knowledge, there  
4 was never any requirement that a delegate, whether a  
5 layperson or a clergy member, must attend with a power of  
6 attorney from the parish?

7 A. Not to my knowledge.

8 Q. To your knowledge, at every diocesan annual or special  
9 convention that you attended before January 2013, there was  
10 never any document passed out to the lay delegates or the  
11 clergy delegates that required them, the delegates, to convey  
12 any interest in property, to sign and convey any interest in  
13 property, was there?

14 A. No.

15 MS. GOLDING: Thank you, Bishop. I'll take those  
16 exhibits back. Thank you.

17 THE COURT: Yes, sir, Mr. Runyan.

18 MR. RUNYAN: Excuse me, Your Honor, while I find an  
19 exhibit.

20 CROSS-EXAMINATION BY MR. RUNYAN:

21 Q. Good morning, Bishop.

22 A. Good morning.

23 Q. I've got a couple questions for you. We won't be long.  
24 I promise you. Have you ever read any of the series known as  
25 the *Episcopal Church and Its Work* by Powel Mills Dawley?

1 A. I don't believe so. I may have. I don't -- I don't  
2 remember.

3 Q. Well, let me just hand it to you and see if you  
4 recognize it.

5 A. Okay. I'm not familiar with it, no, sir.

6 Q. Okay. That's one question down.

7 Bishop, I'm going to show you a part of Exhibit 203.  
8 It's an exhibit that's in evidence, and I believe you've  
9 testified a bit about the constitution and canons.

10 A. Yes, sir.

11 Q. Are you somewhat familiar with them or just a little  
12 bit?

13 A. Just a little bit.

14 Q. Okay.

15 A. I thought -- I thought for a while I was beyond this in  
16 my retirement, sir.

17 Q. Well, you will be soon.

18 A. I'll take you up on that.

19 Q. Have you ever read the so-called Dennis canon?

20 A. Yes, sir.

21 Q. Okay. Well, let's turn to that page, if we could,  
22 Page 155. And blow up that section at the top, please. No,  
23 no, that's not the page. Page 15 -- excuse me. I'm sorry.  
24 I gave you the wrong page number. It's the last number I  
25 gave you, 44 or something like that.

1 MS. KOSTEL: Which version of the canon?

2 MR. RUNYAN: '09, Exhibit 203. There we go. You've  
3 read that before?

4 THE WITNESS: Yes, sir.

5 Q. All right. Now, let me just ask you a couple of  
6 questions about that. And I'll read it, and then I'll ask  
7 you a question, part of it.

8 "All real and personal property held by or for the  
9 benefit of any parish, mission or congregation is held in  
10 trust for this church and the diocese thereof in which such  
11 parish, mission or congregation is located."

12 Would you agree with me that on the face of it, that  
13 does not apply to the property of a diocese?

14 A. It does not list diocese among those first entities, no,  
15 sir.

16 Q. Did you approve the filing of the counterclaim on behalf  
17 of the Episcopal Church in South Carolina?

18 A. On advice of counsel, yes, sir.

19 Q. All right. And are you aware that one of the claims in  
20 that counterclaim is a claim that this section applies to the  
21 property of parishes?

22 A. Yes, sir.

23 Q. You are aware that this claim is asking the Court to  
24 interpret this section as applicable to the parishes in this  
25 case?

1 A. Yes, sir.

2 Q. All right. And is that your position?

3 A. On advice of counsel.

4 Q. Okay. Did counsel talk to you about the propriety of a  
5 bishop of this church?

6 MR. TISDALE: Your Honor, I think that would be  
7 privileged.

8 MR. RUNYAN: Excuse me, I'll take that back.

9 Q. Did anyone suggest to you --

10 MR. TISDALE: Other than me.

11 Q. -- that bringing this action and asking this Court to  
12 interpret that section to apply to this property is or is not  
13 in violation of your own canons?

14 MR. TISDALE: Your Honor, I want to be certain that --

15 THE COURT: Other than counsel. Other than his lawyer.

16 MR. TISDALE: Right. Right.

17 THE COURT: Other than his attorney.

18 Q. Other than your attorney.

19 A. I don't remember that conversation, no, sir.

20 Q. So coming in here today, did you have any understanding,  
21 Bishop, that pursuing, asking a court to interpret this  
22 canon, asking a secular court to apply this canon to secular  
23 property would violate your canons?

24 A. I do not have that knowledge, no, sir.

25 Q. Turn to Page 155, please, Section 2. I'm going to

1 publish part of this, Bishop, then I'm going to ask you a  
2 question. "No member of the church, whether lay or ordained,  
3 may seek to have the constitution and canons of the church  
4 interpreted by a secular court or resort to a secular court  
5 to address a dispute arising under the constitution and  
6 canons."

7 Bishop vonRosenberg, before today did you know about  
8 this paragraph?

9 A. No, sir.

10 MR. RUNYAN: Thank you, sir.

11 THE COURT: Anyone else on behalf of the plaintiffs have  
12 cross-examination? Very well. Redirect.

13 REDIRECT EXAMINATION BY MR. BEERS:

14 Q. Bishop vonRosenberg --

15 MR. BEERS: Could you put that last exhibit up, please.

16 MS. KOSTEL: We have the book.

17 Q. Do you know where in the constitution and canons that  
18 canon appears?

19 MR. RUNYAN: Lack of foundation. He said he didn't even  
20 know it was there before today.

21 MR. BEERS: No. I'm sorry. No further questions.

22 THE COURT: Very well.

23 MR. TISDALE: No further questions.

24 THE COURT: Very well. Yes, sir, you may come down.

25 Thank you.

1 Call your next witness, if you have one.

2 MR. TISDALE: Your Honor, at this time we don't plan to  
3 call any further witness to the witness stand.

4 THE COURT: Okay.

5 MR. TISDALE: We want to introduce a couple depositions  
6 that will not require reading.

7 MS. KOSTEL: Your Honor, let me just say that the caveat  
8 to that is, of course, if we can't resolve it. I think we're  
9 going to get through all the authenticity issues, but yes.

10 THE COURT: Sure.

11 MR. TISDALE: And we want to leave the record open to  
12 get all the documents straightened out.

13 THE COURT: Yes. Which we will do right after our  
14 break. We'll take 15. Thank you all.

15 (The Court's Exhibit 8 marked for identification.)

16 (Recess held.)

17 MR. TISDALE: Your Honor, just two quick items, and  
18 we'll be through, except for the document thing that, I  
19 guess, we'll be working on for quite awhile. We would like  
20 simply to introduce the deposition of a party plaintiff,  
21 Nancy Armstrong, who's assistant treasurer of the  
22 corporation, the plaintiff corporation, Protestant Episcopal  
23 Church in the Diocese of South Carolina, Nancy Armstrong's  
24 depo.

25 THE COURT: All right. Any objection?

1 MR. RUNYAN: First I knew about it. Are you going to  
2 introduce the whole thing?

3 MR. TISDALE: Yes, just in toto.

4 MR. RUNYAN: I might need a moment to look at it and see  
5 if we have any objection.

6 MR. TISDALE: Well, of course. And we would obviously  
7 agree that any objections that are made in it could be  
8 addressed, if you wish to do that at an appropriate time.  
9 Alan, the record's going to be open for a good while until we  
10 get these other documents straightened out anyway.

11 MR. RUNYAN: Tom, for what purpose is this?

12 MR. TISDALE: It's just -- as the Judge said yesterday  
13 under the rules, it's for any purpose. We are introducing  
14 this as part of our case, her testimony.

15 MR. RUNYAN: But this is just of a witness?

16 MR. TISDALE: Of a witness, just of a witness.

17 MR. RUNYAN: This is not a 30(b)(6) deposition?

18 MR. TISDALE: No, it's a witness deposition.

19 MR. RUNYAN: All right.

20 MR. TISDALE: May I open this, Your Honor.

21 THE COURT: Yes.

22 MS. GOLDING: This is just a witness's deposition?

23 MR. TISDALE: Just a witness's deposition.

24 MS. GOLDING: They haven't shown that she's unavailable  
25 in any respect.

1 MR. TISDALE: Well, it's a witness of a party -- I mean  
2 a deposition of a party.

3 MS. GOLDING: It wasn't a 30(b)(6) deposition, Your  
4 Honor.

5 MR. TISDALE: It's not a 30(b)(6) deposition.

6 THE COURT: Well, here's the question, the question is,  
7 is she the diocese? Is she a managing --

8 MR. TISDALE: Agent or an officer?

9 THE COURT: -- agent or an officer? Is she someone who  
10 is in, in fact, the diocese? And I don't know the answer to  
11 that.

12 MR. TISDALE: She said in her deposition that she --  
13 well, it's advertised that she's assistant treasurer of the  
14 corporation.

15 THE COURT: Uh-huh.

16 MR. TISDALE: And it also says in her deposition that  
17 she's chief financial officer, CFO. So I think -- what's the  
18 rule? The Judge just quoted from the rule, Rule 32(a)(2).

19 MS. GOLDING: Your Honor, we just -- this is the first  
20 time we've heard of that, and we didn't have any knowledge.

21 MR. TISDALE: It came out yesterday afternoon.

22 MR. RUNYAN: No, this is the first time this issue's  
23 been disclosed.

24 MR. TISDALE: I thought it had been discussed yesterday  
25 afternoon. The Judge read the rule, I believe.

1 MR. HOLMES: Your Honor, might I suggest that they have  
2 the opportunity to object or strike, just like under the rule  
3 where you can submit the deposition, portions marked, and  
4 then they have a day to respond.

5 MR. TISDALE: They certainly have a right to stand on  
6 the objections made in the deposition.

7 THE COURT: And I don't know whether or not -- I don't  
8 know if you reserved any objections when the deposition was  
9 taken or not. I mean, I --

10 MR. TISDALE: If they made any, they're entitled to be  
11 heard on them.

12 THE COURT: That's exactly right. And the rule is  
13 Rule 32(a)(2).

14 MR. TISDALE: Correct. 32(a)(2), I think.

15 THE COURT: Yes, that is correct.

16 MR. TISDALE: Should we put an exhibit stamp on it?

17 THE COURT: Yes, you should. So you all just take some  
18 time. Let me know if you have any objections.

19 MR. TISDALE: Well, we've got one more.

20 THE COURT: Okay.

21 MR. RUNYAN: Your Honor, just a very quick review of  
22 this, there will be some relevance objections.

23 THE COURT: Sure. Absolutely. Just let me know.

24 MR. TISDALE: Your Honor, I'll just hand this to the  
25 court reporter, Exhibit 23, deposition of Nancy Armstrong. I

1 have one more.

2 THE COURT: Okay.

3 MR. TISDALE: And this is a deposition of  
4 Mark J. Lawrence. And he, of course, we don't know exactly  
5 maybe what officer, but we know they say he's chief financial  
6 officer, but he signed at least a charter amendment as  
7 president of the corporation. So I would propose to enter it  
8 as Exhibit 24.

9 MR. RUNYAN: Well, I think our position on that, they're  
10 going to have to take a position on whether he is an officer  
11 or not before we even cross that bridge.

12 THE COURT: They just did.

13 MR. RUNYAN: Okay.

14 THE COURT: They said he was president.

15 MR. TISDALE: He said he was president. He signed a  
16 document as president, which is in evidence.

17 THE COURT: Yes.

18 MR. TISDALE: May I open it.

19 MR. RUNYAN: And they're offering it in his capacity as  
20 president.

21 THE COURT: Yes.

22 MR. TISDALE: As an officer or managing agent of the  
23 corporation.

24 THE COURT: Yes.

25 MR. RUNYAN: There may be some relevance issues, but --

1 MR. TISDALE: May I open it, Your Honor?

2 THE COURT: You may.

3 MR. TISDALE: Your Honor, this would be deposition of  
4 Mark J. Lawrence taken June 3rd, 2014 as Exhibit 24.

5 (Defendant's Exhibits 23-24 marked for identification.)

6 THE COURT: Okay.

7 MR. TISDALE: Thank you. And, Your Honor, except for  
8 the other documents that we've got to wrestle with during the  
9 day, we'd be ready to close the case after that.

10 THE COURT: Okay. All right.

11 MR. TISDALE: Thank you very much.

12 THE COURT: Thank you so much, Mr. Tisdale. All right.

13 Yes, ma'am. I think -- and let me just ask this  
14 question, but it seems to me that the best way to proceed is  
15 to go with the parishes, because we sort of gave out last  
16 night -- let's just pick a parish, and let's just go down the  
17 parishes and handle their issues. I think the lawyers would  
18 probably appreciate it instead of them having to jump up and  
19 down. Isn't that fair, you all would rather just get done  
20 and do it and be done?

21 MS. KOSTEL: So no more -- you'd rather not do it by  
22 categories?

23 THE COURT: We'll do the categories, but we'll do the  
24 categories per parish.

25 MS. KOSTEL: Okay.

1 THE COURT: In other words, pick a parish, and we'll do  
2 all their stuff.

3 MS. KOSTEL: Okay.

4 THE COURT: And then they can go to have lunch or  
5 whatever.

6 MS. KOSTEL: Okay. Let me get that.

7 So perhaps, Your Honor, the best way for -- if we're  
8 going to do it parish by parish, if I could move into  
9 evidence all the numbers for that parish. And then if they  
10 have an objection, we could deal with them one by one. Would  
11 that make sense? And then we'd be clear about what number  
12 we're talking about.

13 THE COURT: I need the parish folks to tell me that,  
14 because you all are living in that world better than I. If  
15 everybody that says that's fine that Ms. Kostel would just  
16 move in your exhibits for your parish, and then you let her  
17 know which of the exhibits you have a problem, everybody  
18 that's cool with that, raise your hand.

19 Everybody that's uncool with that, raise your other  
20 hand. Okay.

21 MR. BRYAN: The loyal opposition, Your Honor.

22 THE COURT: I know. Well, do you want to do -- you want  
23 to do yours different.

24 MR. BRYAN: I may have misunderstood your question,  
25 Judge. I'll do it however you say do it.

1 THE COURT: You're so wonderful. In other words,  
2 Ms. Kostel's just going to call the parish, say, "I move in  
3 their documents, these are the numbers." If you have  
4 concerns, then you say, "Uh-uh, uh-uh, not Exhibit No. 2," or  
5 whatever.

6 MR. BRYAN: I agree. That's perfect.

7 THE COURT: Is that cool?

8 MR. BRYAN: That's perfect. I'm sorry. I  
9 misunderstood. I apologize.

10 THE COURT: Don't.

11 MS. KOSTEL: And to keep things shorter, I think, as I  
12 go through, shall I note if it's an organic document that  
13 Your Honor has already said should come in and note that  
14 that's --

15 THE COURT: We've already dealt with organic.

16 MS. KOSTEL: But I'm going to call them out so that the  
17 court reporter knows what numbers are in. And then if it's  
18 the consecration ones, I'll say this is for ID only.

19 THE COURT: Okay.

20 MS. KOSTEL: Is that okay?

21 THE COURT: Yes.

22 MS. KOSTEL: Great. Okay.

23 THE COURT: Works for me.

24 (Defendant's Exhibits D-AS-1 through D-AS-61 premarked  
25 for identification.)

1 MS. KOSTEL: All right. So let's start with -- this is  
2 roughly alphabetical, roughly. All Saints. So the  
3 defendants move into evidence D-AS-4, which is an organic  
4 document that I believe was admitted, D-AS-5, D-AS-6, D-AS-7,  
5 D-AS-8, D-AS-9, D-AS-10 -- how about if I just give you the  
6 numbers and stop saying D-AS?

7 THE COURT: Yes.

8 MS. KOSTEL: Okay. 11, 12, 13, 14 the Court has decided  
9 is for identification only, 16, 17, 18, 19, 23, 24, that's an  
10 organic document that the Court has decided is in evidence.  
11 27, 32, 33, 36, 44, 45, 46, 48, 49, 51, 54 and 55.

12 THE COURT: Mr. Campbell, you are up.

13 MR. CAMPBELL: Thank you, Your Honor. All right. May  
14 it please the Court, Pierce Campbell for All Saints Parish.  
15 I'm going to work down this list, Your Honor, and try to lump  
16 what I can together as best I can. We do not have a problem  
17 with --

18 THE COURT: Don't need to know the ones that you don't  
19 have a problem, just the ones that you do have a problem.

20 MR. CAMPBELL: All right, Your Honor. The ones we've  
21 got a problem with are All Saints 5, 6, 9, 10, 17. All of  
22 those go to admission into the Diocese of South Carolina. We  
23 would object to those on relevance grounds. I don't believe  
24 there's any question about whether All Saints was admitted  
25 into union with the diocese. The testimony -- everything

1 that's been in evidence so far is that they are still in the  
2 diocese.

3 Any reference in there to national church constitution  
4 and canons, if any, would simply be cumulative. All the  
5 bylaws went in. Your Honor, we went through this for three  
6 days. I mean, that's already in if it's there; if it's not,  
7 it's not.

8 And so we take the position that there's no relevance to  
9 how we got to be a member of the Diocese of South Carolina as  
10 to those particular documents. There are various kinds.  
11 Some are letters, some are corporate-type documents, but for  
12 the diocese instead of actual corporate documents. They look  
13 kind of like a corporate document.

14 So that would be our position on the ones related to the  
15 admission to the diocese.

16 THE COURT: Okay. All right.

17 MS. KOSTEL: We think it's relevant. For example, the  
18 articles of association that the parish submitted as  
19 Exhibit 6 in order to be admitted into union with the diocese  
20 stated, I believe in direct accord with the diocesan  
21 canons, "We the undersigned" -- states that it adopts the  
22 constitution and canons of the Episcopal Church. So -- and  
23 this is a document that they make in order to come into union  
24 with the diocese.

25 THE COURT: Okay. All right. So 6 is in. What else?

1 MS. KOSTEL: All right. So I think we can -- if 6 is  
2 in, I think we can do without 5.

3 THE COURT: Okay.

4 MS. KOSTEL: And now 9. Well, this is a -- this is a  
5 response from the diocese saying, "We got that" -- what I  
6 just read -- "and you're in." It's probably undisputed that  
7 they're in.

8 THE COURT: It is undisputed that they are in.

9 MS. KOSTEL: Yes.

10 THE COURT: You can rely on that.

11 MS. KOSTEL: Yes. But what this document shows, I  
12 think, is that they're in because they made that  
13 representation.

14 THE COURT: I don't know that. I mean, I don't know  
15 that.

16 MS. KOSTEL: It says, "You have met the conditions."

17 THE COURT: They met the conditions.

18 MS. KOSTEL: Right.

19 THE COURT: Yes.

20 MS. KOSTEL: So that's why it's there.

21 THE COURT: Okay. For that purpose it's relevant. It's  
22 in.

23 MS. KOSTEL: Okay.

24 THE COURT: Okay? And that's No. 9.

25 MS. KOSTEL: That's No. 9.

1 THE COURT: All right.

2 MS. KOSTEL: No. 10 is -- again, this is a letter from  
3 the church to, from the parish, sorry, to the bishop saying  
4 in accordance with this canon -- this is actually earlier in  
5 time. In accordance with the diocesan canon, here's that  
6 promise. Here's that -- so it is another layer of they were  
7 making that promise to be in accord with the canon so that  
8 they could be admitted in.

9 It predated this promise that I -- the first document.  
10 It didn't predate the promise. It predated it being -- the  
11 promise was adopted by the parish. They sent it to the  
12 bishop. The bishop says, "You're in." This is the second  
13 step. We send this to the bishop. "We're sending this to  
14 you in accordance with the diocesan canons so that we can be  
15 let in."

16 MR. CAMPBELL: Your Honor, if I may speak to that.

17 The problem with these documents and not putting them in  
18 through a witness with knowledge of this is that that's not  
19 true. This letter was two months after the last letter which  
20 Ms. Kostel said shows the bishop let you in. Then two months  
21 later she says the parish submitted the documents to get in.  
22 How can that be? It doesn't make sense. There's no way to  
23 explain it. Neither of us knows. We weren't there. It was  
24 60 years ago.

25 So there's just a problem with this mass entry of

1 documents like this with no explanation, because that does  
2 not make sense. This letter's dated February 6, 1960, and  
3 the last one which Your Honor let in which she said was the  
4 proof they got in under the rules was in December 1959.

5 MS. KOSTEL: I think Mr. Campbell's correct. This later  
6 letter, and I misspoke, looks like it's in accordance with  
7 the canon requiring them to send these documents to the  
8 diocese after they get in. Sorry. And it's probably, in  
9 that situation, not -- it's probably not relevant.

10 THE COURT: Okay.

11 MS. KOSTEL: Yes.

12 THE COURT: So it's out.

13 MS. KOSTEL: Yes.

14 THE COURT: So 10 is out. Then we're up to 16.

15 MS. KOSTEL: 17.

16 THE COURT: I'm sorry, 17. Tell me what your concern is  
17 about 17, Mr. Campbell.

18 MR. CAMPBELL: Sure. Yes, Your Honor. I'm flipping to  
19 it here.

20 THE COURT: Yes.

21 MS. KOSTEL: Oh, yes.

22 MR. CAMPBELL: This is another letter with a different  
23 date, dealing with the same topics, supposedly from the  
24 church, unsigned by anyone. It's in our records. I don't  
25 deny that. But as far as I know, Reverend Diraddo is about

1 90-plus years old now. Saw him at a homecoming service a few  
2 years back. And I believe George Tyson and John A. Chase,  
3 Jr., are both dead.

4 I have no idea if this was sent. I have no idea why  
5 they sent this and then another letter later. It's just not  
6 reliable, Your Honor, to depend on all this, and I don't know  
7 what it has to do with the national church anyway, but --

8 THE COURT: Okay.

9 MS. KOSTEL: Yes. I do think that given that the  
10 articles are in and the bishop's response is in, this does  
11 predate the bishop's response; so I take issue with  
12 Mr. Campbell's representation that we can't tell what's  
13 happening. I think it's because I misspoke before about the  
14 February letter, but this letter's dated December 22, 1959,  
15 and it's essentially saying, you know, we'd like in, and we'd  
16 like to lay before you a statement of our condition.

17 And then after that, shortly after that, you get the  
18 bishop's letter saying you're in, which is dated. So --

19 MR. CAMPBELL: Your Honor, if I may --

20 MS. KOSTEL: I think it's relevant.

21 MR. CAMPBELL: -- speak to the date issue again. The  
22 document she keeps referring to that's in, All Saints 6, I  
23 was negligent in noting that it, in fact, although unsigned,  
24 was in our records, but it is dated January 27th, 1960. So  
25 the document that they are purporting to say is what we

1 submitted to get in came 30 days after the bishop said,  
2 "You're in."

3 The whole, that's why I listed the whole set of them.  
4 It just -- there's no way without testimony to explain all  
5 this. It's just --

6 THE COURT: I thought that there was no -- I thought  
7 that there was no objection regarding authenticity.

8 MR. CAMPBELL: It was in our records, Your Honor. I  
9 mean, it is, and we have no way to challenge whether or not  
10 it was sent. I assume the diocese might have some file on  
11 this, though I don't know 60 years later if they would even  
12 have that.

13 We don't have anything else except this. We do not  
14 challenge that this is in our records, and I don't challenge  
15 that there was correspondence back and forth.

16 THE COURT: Okay.

17 MR. CAMPBELL: What I'm saying is it is very hard for me  
18 to just say it is relevant when there is no testimony  
19 explaining all of this, the dates are inconsistent and  
20 there's nobody to say what really happened, what happened  
21 first, why did they do the next step, who wrote the next  
22 letter. That's my problem --

23 THE COURT: I gotcha.

24 MR. CAMPBELL: -- with the whole series of admission to  
25 the -- and I imagine this applies to other parishes who have

1 admission documents too, in similar ways. I would guess, but  
2 I don't know that.

3 THE COURT: Okay. Other than the fact that -- is there  
4 anything of note of this particular document, other than it  
5 is further evidence that the parish was accepted into the  
6 diocese.

7 MS. KOSTEL: I think the promise of the statement that  
8 it will conform to the rules of the Episcopal Church.

9 THE COURT: Is that in Exhibit 17? Because that's why I  
10 allowed in 6.

11 MS. KOSTEL: No.

12 THE COURT: It's not in 17?

13 MS. KOSTEL: Correct. It's in 6, yes.

14 THE COURT: It's in 6. And 9 is evidence that they were  
15 admitted into the diocese, right?

16 MS. KOSTEL: Correct.

17 THE COURT: 17 then is duplicative. Out.

18 MS. KOSTEL: Thank you.

19 THE COURT: Okay. Then you're done, right? Isn't that  
20 it for you?

21 MR. CAMPBELL: Unfortunately, Your Honor, I wish it was  
22 that simple.

23 THE COURT: Okay.

24 MR. CAMPBELL: That's all the admission documents. The  
25 other ones that we have some concern about are, we talked

1 about consecration yesterday, and I just want to clarify. I  
2 believe the Court's ruling was that's out unless Ms. Kostel  
3 gave us some new notice today that something was in; is that  
4 right?

5 THE COURT: Yes, that is correct.

6 MR. CAMPBELL: Okay.

7 MS. KOSTEL: Well, they're marked for identification,  
8 and I haven't responded to that yet.

9 MR. CAMPBELL: Okay. Well, I'll go ahead and deal with  
10 that. We have one of those that's marked for identification,  
11 if Your Honor may allow us.

12 THE COURT: Yes. You need to put your argument on the  
13 record.

14 MR. CAMPBELL: It's AS-14. It is a document that looks  
15 to be a program for a service, and it is entitled,  
16 "Dedication Service and Order of Confirmation."  
17 Bishop vonRosenberg already testified confirmation deals with  
18 an individual person. That has nothing to do with  
19 consecration.

20 So dedication service presumably is why they think this  
21 means consecration, but it does not use the word  
22 "consecration" anywhere herein, and, in fact, uses the word  
23 "dedication" a couple of times. It mentions they're glad to  
24 have the bishop there to confirm people.

25 There is no evidence of consecration, which I believe

1 that all the clergy in the room would probably say is a  
2 specific act of a religious nature that is not the same as a  
3 simple dedication. And so even if consecration came in, this  
4 document shows no consecration; so I believe it should be  
5 kept out for that purpose.

6 THE COURT: It is. It already is out. That's why it's  
7 marked for ID purposes only, but you need to put your  
8 argument on the record so that it is preserved.

9 MR. CAMPBELL: Thank you, your Honor.

10 THE COURT: You got it. It's out.

11 MR. CAMPBELL: Thank you.

12 THE COURT: What else?

13 MS. KOSTEL: I'm going to -- just give me a minute,  
14 because I'm finding it's easier to go -- believe it or not --

15 THE COURT: Sure.

16 MS. KOSTEL: So if you can just give me a minute. Okay.  
17 Thank you.

18 THE COURT: Now what else? What other number?

19 MR. CAMPBELL: This may simplify things. I believe Your  
20 Honor said something a minute ago, I want to make sure I  
21 understood your ruling. Is it your position that if one of  
22 these documents in these categories shows a requirement to  
23 comply with national church canons that you're going to at  
24 least let it in on relevance grounds? Is that --

25 THE COURT: Yes.

1 MR. CAMPBELL: Okay. The last category I have on this  
2 one, Your Honor, is consent. This would go to AS-54.

3 MS. KOSTEL: And 36 and --

4 MR. CAMPBELL: I'm sorry, say it again?

5 MS. KOSTEL: 32 and 36. I think it's 32 --

6 MR. CAMPBELL: Right. Okay.

7 MS. KOSTEL: -- 36 and 54. Unless you've spotted  
8 others, I don't think that -- oh, and 16, Pierce.

9 MR. CAMPBELL: These, Your Honor, go to basically  
10 discussions that anyone at the parish may have ever had with  
11 a bishop or a standing committee or some other diocesan  
12 entity about selling, buying or mortgaging property. They  
13 come in varying ways. Sometimes they come as a request.  
14 Sometimes it comes as information. Sometimes it says  
15 somebody said that's a good idea. Sometimes it's more formal  
16 than that.

17 And so, Your Honor, we believe that simply because  
18 somebody in a parish speaks with the diocesan bishop about  
19 real property, that's not relevant. And it certainly doesn't  
20 somehow incorporate the canons into their corporate  
21 structure, as I believe is the position that the national  
22 church has taken.

23 MS. KOSTEL: Yeah, I think we may have to take these one  
24 by one because there may be some -- I don't know that there's  
25 any one -- any document here that's just a person speaking to

1 someone else. There are definitely -- by the way, this is  
2 compliance, because this is a national canon; so it really  
3 falls under the compliance category, as I mentioned  
4 yesterday.

5 But I think what this category was trying to capture is  
6 statements by the vestry or persons with managing agents,  
7 persons with authority saying, "Well, we can't do that until  
8 we get consent from the diocese," or sending a letter to the  
9 diocese saying, "Can we have consent," or the diocese saying,  
10 "Thanks for that letter, and yes, you have consent." This is  
11 what it's trying to capture. If it's anything beyond that, I  
12 will talk with Mr. Campbell and pull it out.

13 THE COURT: I gotcha. Okay. Let me see them.

14 And just as a note for everybody, as you guys -- as you  
15 folks are waiting, just know this is going to be the same  
16 procedure; so get your documents out that you don't agree  
17 with and get them handy, please. It will make this go so  
18 much faster.

19 MR. CAMPBELL: May I approach, Your Honor.

20 THE COURT: Uh-huh.

21 MS. KOSTEL: Pierce, do they have Exhibit numbers on  
22 them?

23 MR. CAMPBELL: I wrote them at the top.

24 (Brief pause.)

25 THE COURT: All right. Let me just say that 16 is in.

1 36 is in. 32 is in. I have no idea why 54 is offered.

2 MS. KOSTEL: Yes. And we withdraw it, Your Honor.

3 THE COURT: Okay. Great. Thank you.

4 MR. CAMPBELL: Thank you, Your Honor. If I may  
5 approach. The last thing, and I'm going to sit down for Your  
6 Honor --

7 THE COURT: Okay.

8 MR. CAMPBELL: -- there are a number of exhibits that  
9 deal with aid. That's the category Ms. Kostel's used.  
10 Typically, it is a loan or grant of some kind from the  
11 diocese. On occasion there are references to some loan or  
12 grant from the national church.

13 THE COURT: Yes.

14 MR. CAMPBELL: And so, Your Honor, we object on  
15 relevance grounds, but just obviously --

16 THE COURT: It's coming in. Money's coming in.

17 MR. CAMPBELL: Thank you, Your Honor.

18 (Defendant's Exhibits D-AS-4, D-AS-6, D-AS-7, D-AS-8,  
19 D-AS-9, D-AS-11, D-AS-12, D-AS-13, D-AS-16, D-AS-18, D-AS-19,  
20 D-AS-23, D-AS-24, D-AS-27, D-AS-32, D-AS-33, D-AS-36,  
21 D-AS-44, D-AS-45, D-AS-46, D-AS-48, D-AS-49, D-AS-51, D-AS-55  
22 admitted into evidence.)

23 THE COURT: Yes. Okay. Great. Who is next? We'll do  
24 one more, and then we'll go to lunch.

25 MS. KOSTEL: Oh, I'm sorry. You're asking me.

1 THE COURT: Pick a number, any number.

2 MS. KOSTEL: Christ Church.

3 THE COURT: Great.

4 MR. SLOAN: Your Honor, Chip Sloan for Christ Church,  
5 Mount Pleasant.

6 MS. KOSTEL: I think I need to move them in first --

7 MR. SLOAN: Okay.

8 MS. KOSTEL: -- by number. Does that make sense, Your  
9 Honor?

10 THE COURT: Uh-huh.

11 (Defendant's Exhibits D-CC-1 through D-CC-72 premarked  
12 for identification.)

13 MS. KOSTEL: Okay. This is D-CC-6, 7, 47, 48, 54, 56,  
14 57, 58, 59, 60, and 62.

15 MR. SLOAN: Your Honor, Chip Sloan for Christ Church,  
16 Mount Pleasant. I think your rulings will make this go  
17 quicker, but I just want to put my objections on the record.

18 THE COURT: Thank you, Mr. Sloan.

19 MR. SLOAN: You're welcome.

20 THE COURT: And please know I'm willing to look at any  
21 one you want me to look at.

22 MR. SLOAN: I will, Your Honor.

23 6 and 7 have to do with admission to the diocese as a  
24 parish. We would object on the grounds of relevance and that  
25 it's cumulative. There is a reference to the national

1 church, which my understanding is if that's there, you're  
2 going to let that in, but I just want to make my objection  
3 for the record on those grounds.

4 THE COURT: Okay. Thank you.

5 MR. SLOAN: Also with regard to aid, those would be  
6 Exhibits 54, 56 and 58. Those are all having to do with aid  
7 coming from the diocese, and we would object to that on the  
8 grounds of relevance. I understand your ruling, Your Honor,  
9 that anything having to do with money is coming in, but I  
10 just want our objection on the record.

11 With regard to compliance, they have listed three  
12 documents: 57, 59 and 60. Those are letters from a member  
13 of the audit committee that say that they did an audit that  
14 was in conformance with some TEC guidelines on an audit. I  
15 would object to those, that they are not relevant as to  
16 whether we own our property, whether we had bylaws, whether  
17 we left properly; so those would be the basis for that  
18 objection --

19 THE COURT: They fall under the guidelines of the  
20 diocese or the national church?

21 MR. SLOAN: Actually, it says, "National church."

22 THE COURT: Okay. Thank you. They're in.

23 MR. SLOAN: All right. And there are two deeds, Your  
24 Honor, which I'm not sure this has come up yet, No. 47 and  
25 48, where property was sold. And they do not mention the

1 national church; so I would object to those under relevance.

2 MS. KOSTEL: Is that property sold by the parish?

3 MR. SLOAN: Yes.

4 MS. KOSTEL: Okay. That's a mistake. I'll strike  
5 those.

6 MR. SLOAN: All right.

7 THE COURT: So those are out.

8 MR. SLOAN: So 47 and 48 are out?

9 THE COURT: Yes.

10 MR. SLOAN: All right. And then I think the last one is  
11 labeled as "consent," which is No. 62, which was, I think,  
12 consent for a -- it was from a vestry meeting minute saying  
13 that they would get consent from the diocese to mortgage  
14 property. We'd object to that just on relevance.

15 THE COURT: Thank you. Very well. Thank you.

16 MR. SLOAN: Thank you, Your Honor.

17 THE COURT: Okay. The only two that would then be  
18 excluded would be 47 and 48.

19 MR. SLOAN: Yes.

20 (Defendant's Exhibits D-CC-6, D-CC-7, D-CC-54, D-CC-56,  
21 D-CC-57, D-CC-58, D-CC-59, D-CC-60, D-CC-62 admitted into  
22 evidence.)

23 MS. KOSTEL: Yes. Okay. We've got time for one more  
24 maybe.

25 MS. GOLDING: Do you want to do St. Luke's?

1 MS. KOSTEL: Christ St. Paul's. It's D-CSP-2. That's  
2 an organic document -- actually should I do that now?

3 MR. MCCARTY: It's already been admitted.

4 MS. KOSTEL: It's already been admitted. Okay.

5 MR. MCCARTY: Yes.

6 (Defendant's Exhibits CSP-1 through CSP-56 premarked for  
7 identification.)

8 MS. KOSTEL: But I still need to give you the numbers so  
9 you know what's in. So D-CSP-2, 4, 6, 8, 9, 12, 17, 22, 54  
10 and 55.

11 THE COURT: Before we start this, I know people have got  
12 to be getting hungry. We're going to start back at 2:15.  
13 2:15. So this is going to be the last one we're going to do  
14 for an hour and 15 minutes. So if you all want to run and go  
15 get some lunch, that gives you just a few minutes, if you'd  
16 like. We're going to go ahead and start, but if you quietly  
17 want to leave, please feel free.

18 Okay. All right. Tell me which ones you're concerned  
19 about.

20 MR. MCCARTY: Okay. I'd like to start with the -- let  
21 me get over to it, Judge -- the one I mentioned yesterday  
22 briefly.

23 THE COURT: Yes.

24 MR. MCCARTY: Which is the parish handbook.

25 THE COURT: Okay.

1 MR. MCCARTY: That is 17.

2 THE COURT: Yes.

3 MR. MCCARTY: That's the one testimony was elicited from  
4 my client at his 30(b)(6) deposition and from -- and while he  
5 testified here in Court. That was in our documents, but  
6 nobody had ever used it, seen it, applied it, don't know how  
7 it got to the church or anything. It's a 2006 vestry  
8 handbook from the Episcopal Diocese of South Carolina.

9 THE COURT: I'll tell you what. Here's what I think:  
10 I'm going to admit it. If you want to call somebody to say,  
11 "We don't know a thing about this" --

12 MR. MCCARTY: He testified to that already.

13 THE COURT: Then you're done.

14 MR. MCCARTY: You're going to let that in?

15 THE COURT: Yes, it's in.

16 MR. MCCARTY: Okay. Based on that, the only other --  
17 the only other ones I have, Your Honor, were already talked  
18 about by Mr. Campbell, which include aid. And they are  
19 Document No. 4, Document No. 22, and Document No. 55. Those  
20 are basically letters regarding aid that the church got from  
21 the diocese, and I object to those. I don't think they're  
22 relevant. I don't think they comment to anything, but you've  
23 already testified -- you've already said they're coming in;  
24 is that correct? I just want to note my objection on the  
25 record.

1 THE COURT: I think they're relevant. They're not  
2 necessarily relevant for the reasons that they are being  
3 offered, but they're relevant, yes, sir.

4 MR. MCCARTY: Okay. The last one was -- that I had a  
5 question about was Document No. 56. That has to do with the  
6 consecration. I'll just note my objection on the record to  
7 that. I think you had already said it's not --

8 THE COURT: Yes --

9 MS. KOSTEL: I withdrew that.

10 MR. MCCARTY: Okay. Never mind. That's it.

11 (Defendant's Exhibits D-CSP-2, D-CSP-4, D-CSP-6,  
12 D-CSP-8, D-CSP-9, D-CSP-12, D-CSP-17, D-CSP-22, D-CSP-54,  
13 D-CSP-55 admitted into evidence.)

14 THE COURT: Great. Have a good lunch. I'll see  
15 everybody at 2:15.

16 (Lunch recess held.)

17 THE COURT: All right. Who is next?

18 MR. BEERS: Preliminary matter, Your Honor.

19 THE COURT: All right.

20 MR. BEERS: We circulated to the plaintiffs the proposed  
21 page and line designations for the 30(b)(6) depositions, and  
22 we have heard back from about two thirds of the group.

23 THE COURT: Okay.

24 MR. BEERS: There's -- I think there are nine that are  
25 ready to be admitted without objection.

1 THE COURT: Okay.

2 MR. BEERS: The rest all have objections. The  
3 categories sound similar to the ones that you all have been  
4 dealing with. And I would propose that -- ask the Court -- I  
5 think a lot of the objections are being made for the record,  
6 to preserve the record, which is fine. We can note that in  
7 the designation, but I will be here after we break up today  
8 and tell you -- and ask how serious some of these people are  
9 as to certain categories that we think you've already ruled  
10 on.

11 THE COURT: Okay.

12 MR. BEERS: And maybe by tomorrow noon we'll have it in  
13 good shape.

14 THE COURT: Okay. Suits me fine. The only thing is  
15 that once we finish this part of it, if we have time, and if  
16 there is any rebuttal reply, and I don't know that there will  
17 be, but if there is, I certainly don't want to delay the  
18 testimonial part of that.

19 MS. GOLDING: Your Honor, I've reached an agreement with  
20 Ms. Kostel and Mr. Tisdale that at 4:00, I can present  
21 Father Kronz, a rebuttal witness. He should be short, and he  
22 will be taken out of turn, and they've agreed.

23 THE COURT: Okay. All right.

24 MS. KOSTEL: We probably could all use a break from the  
25 documents at that point.

1 THE COURT: Yes. All right.

2 MS. KOSTEL: Okay. Shall I proceed, Your Honor.

3 THE COURT: Please.

4 (Defendant's Exhibits D-CTK-1 through D-CTK-22 premarked  
5 for identification.)

6 MS. KOSTEL: Okay. So on behalf of the defendants,  
7 I'm -- for Christ the King -- I'm moving into evidence  
8 D-CTK-1, 17, and that's it.

9 MR. OXNER: And you're withdrawing 3? Do you have 3?

10 MS. KOSTEL: Yes.

11 MR. OXNER: Okay. May it please the Court, Harry Oxner  
12 for Christ the King, Waccamaw. As to No. 1, that is the  
13 program of institution of Christopher Scott Royer as rector  
14 of Christ the King. So they basically got a program, and it  
15 doesn't mention the national church, doesn't mention the  
16 national canons or constitution. It only mentions the  
17 diocese canons and constitution in their program, and we  
18 don't think it's relevant.

19 THE COURT: Okay. And I have been admitting things that  
20 talk about the diocese; so I would allow it because just, if  
21 for no other reason, for consistency.

22 MR. OXNER: All right. And No. 17 you've already ruled  
23 on. This is a letter between the diocese and the church  
24 asking permission, and we just note the objection.

25 THE COURT: Great. Thanks so much.

1 MR. OXNER: Thank you.

2 (Defendant's Exhibits D-CTK-1 and D-CTK-17 admitted into  
3 evidence.)

4 (Defendant's Exhibits D-TC-1 through D-TC-42 premarked  
5 for identification.)

6 MS. KOSTEL: Next turning to Church of the Cross. So  
7 this is -- move the admission of D-TC-1 -- I'm sorry,  
8 withdrawing 1. 8, 14, 33, 34, 35, 36, 38, 40, 42.

9 THE COURT: Okay.

10 MR. PLATTE: Your Honor, Andrew Platte on behalf of  
11 Church of the Cross. Let me go through my list. Noting the  
12 Court's prior ruling of some of these documents, TC-8, we  
13 would object to relevance, approval of the diocese, knowing  
14 you've been letting those in, just for the record.

15 THE COURT: And which numbers are those?

16 MR. PLATTE: TC-8.

17 THE COURT: Oh, 8. Okay.

18 MR. PLATTE: TC-14.

19 THE COURT: Yes.

20 MR. PLATTE: Again, another diocesan reference. TC-33,  
21 34, 35, 36, again, only references the diocese, relevance.  
22 And then 42, only reference to the diocese and relevance.

23 THE COURT: Got it. And again, for the sake of  
24 consistency, I would admit them.

25 MR. PLATTE: Thank you, Your Honor.

1 (Defendant's Exhibits D-TC-8, D-TC-14, D-TC-33, D-TC-34,  
2 D-TC-35, D-TC-36, D-TC-38, D-TC-40, D-TC-42 admitted into  
3 evidence.)

4 THE COURT: All right. Who is next?

5 MS. KOSTEL: And, Your Honor, so where there's no  
6 objection, they're admitted, correct?

7 THE COURT: 38 and 40 is --

8 MS. KOSTEL: In.

9 THE COURT: Smooth sailing.

10 MS. KOSTEL: Okay. Just making sure it's clear.

11 THE COURT: Okay.

12 (Defendant's Exhibits D-E-1 through D-E-23 premarked for  
13 identification.)

14 MS. KOSTEL: Next is Epiphany.

15 THE COURT: Okay.

16 MS. KOSTEL: On behalf of defendants move into evidence  
17 D-E-8, 11, 14, and 21.

18 THE COURT: Okay.

19 MR. PLATTE: We object on the basis of relevance to 8,  
20 11. No. 8, I'm not quite sure where the compliance is in  
21 that document. And then for 11, it just references diocesan  
22 bylaws and object to relevance.

23 THE COURT: Got it. 11 is okay. Let me see 8.

24 MR. PLATTE: I've got it electronically.

25 MS. KOSTEL: I think I can -- I think I can get it, Your

1 Honor.

2 THE COURT: Okay.

3 MS. KOSTEL: In hard copy, I mean.

4 THE COURT: Sure.

5 MS. KOSTEL: I'm going to try to find the reference  
6 while I'm on my way.

7 MR. PLATTE: That would be useful for me too.

8 MS. KOSTEL: Okay. Here we go. So at the very bottom  
9 of the first page, "pending retirement of the rector." May I  
10 approach?

11 THE COURT: Yes. Thanks.

12 MS. KOSTEL: At the very bottom of the first page, where  
13 it says "retirement is mandatory, age 72," that's actually a  
14 national church rule.

15 THE COURT: All right. And I gather that the -- where  
16 it says that his retirement is mandatory, but it says he can  
17 serve at the permission of the bishop; so I gather it is a  
18 diocesan rule?

19 MS. KOSTEL: The age 72 rule is a national church rule.

20 THE COURT: Okay.

21 MS. KOSTEL: And then serving -- yes. Then the bishop  
22 has the discretion after retirement to let people do things  
23 after retirement, but the mandatory retirement age comes from  
24 the national church. That's for bishops and clergy.

25 THE COURT: Okay. All right. Very well, over the

1 objection, it's in.

2 MS. KOSTEL: Thank you.

3 MR. PLATTE: Thank you, Your Honor.

4 (Defendant's Exhibits D-E-8, D-E-11, D-E-14, D-E-21  
5 admitted into evidence.)

6 THE COURT: Next.

7 MS. KOSTEL: That's finished with Epiphany, Your Honor?

8 THE COURT: It is.

9 (Defendant's Exhibits D-GS-1 through D-GS-39 premarked  
10 for identification.)

11 MS. KOSTEL: Good Shepherd? Good Shepherd. Mr. Wall.

12 THE COURT: What numbers?

13 MS. KOSTEL: Yes. This is D-GS-1, 7, 10, 11, 13, 14,  
14 15, 21, 36, which I believe is already in because it's an  
15 organic document; 37, which is already in because it's an  
16 organic document; and 39.

17 THE COURT: All right.

18 MR. WALL: Your Honor, John Wall for Good Shepherd.

19 THE COURT: Yes.

20 MR. WALL: Just a general objection with respect to the  
21 general classifications of aid and compliance, her  
22 categories. They reference not only the national church but  
23 the diocese as well, and pretty much all those documents only  
24 reference the diocese; so I don't want to give any inference  
25 that we agree to accede to the national church in those

1 documents. The only ones I would call into relevance would  
2 be No. 7, 13, 14 and 15.

3 THE COURT: And the basis is just as you mentioned?

4 MR. WALL: Correct.

5 THE COURT: Although it refers both to the diocese as  
6 well as the national church, it really is about the diocese?

7 MR. WALL: Correct.

8 THE COURT: Very well. And, again, for consistency  
9 reasons I would admit them over the objection.

10 MR. WALL: Thank you, Your Honor.

11 THE COURT: It may have some relevance beyond even what  
12 they're offered for.

13 MR. WALL: Thank you.

14 THE COURT: Thank you so much.

15 (Defendant's Exhibits D-GS-1, D-GS-7, D-GS-10, D-GS-11,  
16 D-GS-13, D-GS-14, D-GS-15, D-GS-21, D-GS-36, D-GS-37, D-GS-39  
17 admitted into evidence.)

18 MS. KOSTEL: Holy Comforter. Can I confer with Bess for  
19 one second?

20 THE COURT: Sure.

21 (Attorneys confer.)

22 (Defendant's Exhibits D-HC-1 through D-HC-51 premarked  
23 for identification.)

24 MS. KOSTEL: Okay. So for Holy Comforter defendants  
25 move the admission of D-HC-6, D-HC-8, D-HC-13, 14, 15, 16,

1 18, 19, 20, 21, 29, 33, 34, 35 and 36. And I'm sorry, I  
2 should have said for D-HC-6, that's an organic document that  
3 I believe is already in.

4 THE COURT: Got it.

5 MS. DURANT: Bess Durant for Holy Comforter, and just  
6 for the record, Your Honor, yesterday I raised the issue over  
7 D-HC-6, and I believe you admitted it over my objection. I  
8 just want to confirm that for the record.

9 The other documents that I have objections on I think  
10 are going to be smaller dismissed are D-HC-13, D-HC-14,  
11 D-HC-15, D-HC-16, D-HC-18, D-HC-19, D-HC-20, D-HC-29. Your  
12 Honor, these are all -- they go to consent. They're letters  
13 to and from the bishop over the alienation of property and  
14 also vestry resolution and a consent from the bishop  
15 regarding alienation.

16 I understand you've already made a ruling on this, but I  
17 also would just like to enter my objection to the relevancy  
18 and also -- just basically relevancy, Your Honor.

19 THE COURT: I understand. But the point is that the  
20 mention is not to the national church but to the diocese.

21 MS. DURANT: Yes, Your Honor, these are all references  
22 with the diocese.

23 THE COURT: Got it. Okay. Over the objection it's in.  
24 Got it.

25 MS. KOSTEL: To be clear, it's a national canon. That's

1 why we're offering it.

2 THE COURT: I understand.

3 MS. KOSTEL: Yes.

4 MS. DURANT: And then I've got two other groups of  
5 documents, Your Honor, that I have an objection with.

6 THE COURT: Okay.

7 MS. DURANT: The next objection is to D-HC-21. Also,  
8 this is a certification that the diocese sent to our church,  
9 Holy Comforter, over accounting principles. It does  
10 reference the national church. Again, I just argue, Your  
11 Honor, that it's irrelevant and doesn't go to the matters at  
12 hand. And I think you've already ruled on that.

13 THE COURT: Yes, it goes to weight rather than  
14 admissibility, yes. Okay. It's in.

15 MS. DURANT: And then finally, Your Honor, I object to  
16 D-HC-33, D-HC-34, D-HC-35 and D-HC-36. Your Honor, these are  
17 all deeds that are from 1982, '84, 1994 and 1995. We've  
18 already admitted all the deeds that reflect our title. I  
19 just think these deeds are irrelevant and cumulative, Your  
20 Honor.

21 THE COURT: Do they have any mention of the national  
22 church?

23 MS. DURANT: A few of the deeds have Episcopal in  
24 parentheses.

25 THE COURT: Okay.

1 MS. DURANT: But no specific references to the national  
2 church, Your Honor.

3 THE COURT: Okay. They're in over the objection.  
4 Thanks.

5 MS. DURANT: Thank you, Your Honor.

6 (Defendant's Exhibits D-HC-6, D-HC-8, D-HC-13, D-HC-14,  
7 D-HC-15, D-HC-16, D-HC-18, D-HC-19, D-HC-20, D-HC-21,  
8 D-HC-29, D-HC-33, D-HC-34, D-HC-35, D-HC-36 admitted into  
9 evidence.)

10 THE COURT: Okay. All right. Thank you so much. Who's  
11 next?

12 (Defendant's Exhibits D-HCS-1 through D-HCS-43 premarked  
13 for identification.)

14 MS. KOSTEL: Holy Cross, Stateburg.

15 THE COURT: Okay. And the numbers are?

16 MS. KOSTEL: Yes. D-HCS-9, 29, 30, 31. That's it.

17 THE COURT: Mr. Campbell.

18 MR. CAMPBELL: There were a few reduced; so I think I'm  
19 making this even shorter than we had it.

20 THE COURT: Okay.

21 MR. CAMPBELL: Quickly, Your Honor, 29, 30 and 31 go to  
22 the issue of consent for something from the diocese or the  
23 bishop of the diocese; so we'd object on relevance grounds.  
24 And I understand your ruling.

25 THE COURT: That's right.

1 MR. CAMPBELL: And then No. 9 deals with compliance with  
2 diocesan rules or canons; so we would object on relevance  
3 grounds there as well.

4 THE COURT: Thank you so kindly.

5 MR. CAMPBELL: Thank you.

6 THE COURT: In over the objection.

7 MR. CAMPBELL: Thank you.

8 THE COURT: Just as before.

9 (Defendant's Exhibits D-HCS-9, D-HCS-29, D-HCS-30,  
10 D-HCS-31 admitted into evidence.)

11 (Defendant's Exhibits D-HT-1 through D-HT-46 premarked  
12 for identification.)

13 MS. KOSTEL: Holy Trinity. Defendants move into  
14 evidence D-HT-30, which is an organic document already  
15 admitted.

16 THE COURT: Okay.

17 MS. KOSTEL: 31, an organic document that's already  
18 admitted; 33, organic, admitted; 34, organic, admitted; 35,  
19 organic, admitted; 36, organic, admitted; 38, organic,  
20 admitted; 40, organic, admitted; 43, 44 and 45.

21 THE COURT: So talk to me about 43, 44 and 45.

22 MR. SOWINSKI: Your Honor, Dane Sowinski for Holy  
23 Trinity. We do object to 43, 44 and 45. Those are basically  
24 programs for the institution of a new rector. We just object  
25 on relevance grounds to those.

1 THE COURT: All right. Do you want me to look at them?  
2 What do they make reference to?

3 MS. KOSTEL: They make reference to needing to obey  
4 these canons and the persons being ordained pursuant to the  
5 canons of the national church and the diocese.

6 THE COURT: Okay. Very well. It goes to the  
7 weight rather --

8 MR. SOWINSKI: Okay.

9 THE COURT: -- I think, than the admissibility.

10 MR. SOWINSKI: Thank you, Your Honor.

11 THE COURT: Over objection. Thanks so much.

12 MR. SOWINSKI: Thank you.

13 (Defendant's Exhibits D-HT-30, D-HT-31, D-HT-33,  
14 D-HT-34, D-HT-35, D-HT-36, D-HT-38, D-HT-40, D-HT-43,  
15 D-HT-44, D-HT-45 admitted into evidence.)

16 (Defendant's Exhibits D-OSA-1 through D-OSA-62 premarked  
17 for identification.)

18 MS. KOSTEL: Old St. Andrew's. We move the admission of  
19 D-OSA-2, which is organic. To be clear, this is vestry  
20 meeting minutes showing the adoption of an organic -- of the  
21 first parish constitution and canons. It's not the actual  
22 constitution and canons, which, I believe, is the next  
23 document, to be clear. 3, organic; 6, organic; 7, organic;  
24 8, organic; 9, 10, 11, organic; 17, 19, 21 -- I'm sorry, 20,  
25 21, 28, 31, 32, 33, 34, 36, 37, 38, 41, 43. 44 is a

1 consecration document that's right at this point marked for  
2 identification only; 45, also a consecration document marked  
3 for identification only; 46, consecration document marked for  
4 identification only; 53 and 62, that's an organic document.

5 THE COURT: Okay. Mr. Platte.

6 MR. PLATTE: Where do I begin? OSA-2, they've entered  
7 in the constitution and canons that are referenced. I would  
8 object just as best evidence. It's the constitution and  
9 canons. It's cumulative.

10 THE COURT: It's the vestry minutes. They're adopting  
11 it. It goes to the weight.

12 MR. PLATTE: No. OSA-9 and 10, they were -- I believe  
13 they were originally designated as compliance, and she just  
14 changed and said they're organic.

15 MS. KOSTEL: Oh, I didn't mean to.

16 MR. PLATTE: Well, they're -- both of these are -- one's  
17 a letter from the chancellor of the parish to the chancellor  
18 of the diocese, and then the other letter is a return letter  
19 from the chancellor of the diocese to the chancellor of the  
20 parish. My objections would be hearsay, relevance. They're  
21 seeking conclusions and opinions, and, I mean, it's just I  
22 don't see where the relevance is.

23 THE COURT: Got it.

24 MS. KOSTEL: Can I speak to those too?

25 THE COURT: Yes.

1 MS. KOSTEL: If I said they were organic, I misspoke. I  
2 did not mean to represent that 9 was organic. I have them  
3 down as compliance documents here.

4 This correspondence, I agree with Mr. Platte, is between  
5 chancellor from parish to diocese and chancellor from diocese  
6 to parish, seeking to ascertain whether the amendments to the  
7 parish constitution comply with the national and the diocesan  
8 canons.

9 THE COURT: Got it. Okay. It's in; they're in. Now  
10 you're down to 17, 19.

11 MR. PLATTE: I'm even further down. 31 -- I'll just do  
12 a whole batch of these. 31, 32, 33, 38, all are documents  
13 where there was approval or -- approval of some sort sought  
14 from the diocese that we'd just object on relevance --

15 THE COURT: I understand. I understand. And I'm  
16 admitting those. Again, they may have additional relevance  
17 for the Court.

18 MR. PLATTE: Thank you, Your Honor. No. 41, it's a  
19 compliance document, and it was -- they were discussing  
20 applying for donations or applying how donations may go.  
21 It's not a mandatory or -- it was more of a "this is where it  
22 may go," so I would just object to relevance.

23 THE COURT: Meaning may go what?

24 MR. PLATTE: There was a -- I believe this one is a --  
25 there may have been a national church canon that said -- that

1 suggests donations at certain -- certain donations can go  
2 certain places. May go, not it must. So our objection of  
3 relevance is --

4 THE COURT: Got it.

5 MR. PLATTE: -- it's just a suggestion rather than  
6 anything else.

7 THE COURT: Got it. Okay. Over the objection it would  
8 be admitted.

9 MR. PLATTE: We've covered consecration documents. And  
10 then finally, 53, it's seeking diocesan approval, obviously  
11 noting the Court's prior rulings.

12 THE COURT: Got it. Thank you, thank you.

13 (Defendant's Exhibits D-OSA-2, D-OSA-3, D-OSA-6,  
14 D-OSA-7, D-OSA-8, D-OSA-9, D-OSA-10, D-OSA-11, D-OSA-17,  
15 D-OSA-19, D-OSA-20, D-OSA-21, D-OSA-28, D-OSA-31, D-OSA-32,  
16 D-OSA-33, D-OSA-34, D-OSA-36, D-OSA-37, D-OSA-38, D-OSA-41,  
17 D-OSA-43, D-OSA-53, D-OSA-62 admitted into evidence.)

18 THE COURT: All right. Who is next?

19 MR. BEERS: Excuse me, Your Honor. May I be excused for  
20 a few minutes?

21 THE COURT: Sure.

22 (Defendant's Exhibits D-OS-1 through D-OS-73 premarked  
23 for identification.)

24 MS. KOSTEL: Church of Our Saviour, moving the admission  
25 of D-OS-1, 2, 13, 14, 16, 17, 18, 22, 24, 25, 32, 34, 43, 45,

1 47, 51, 52, 53, 54, 63, which is organic; 64, organic; 65,  
2 organic; 66, organic; 67, not organic; 68, organic; 72 and  
3 73.

4 MR. PLATTE: Andrew Platte on behalf of Church of Our  
5 Saviour. We object to OS-1 and 2. It discusses the  
6 admission of the parish and the mission into the diocese  
7 only. Object to relevance.

8 THE COURT: Got it. In.

9 MR. PLATTE: I'll go through another list, long list.

10 THE COURT: Great.

11 MR. PLATTE: 13, 14, 16, 17, 18, all reference --  
12 they're all letters to and from the diocese, seeking their  
13 consent. No reference to the national church.

14 THE COURT: Got it.

15 MR. PLATTE: We just object to relevance.

16 THE COURT: Got it. In over the objection.

17 MR. PLATTE: 22, 24, 25. 22 and 24, we object to  
18 relevance.

19 THE COURT: Because?

20 MR. PLATTE: They discuss -- actually, I'll withdraw  
21 those.

22 THE COURT: Okay.

23 MR. PLATTE: No. OS-25, I just have a question --

24 THE COURT: Yes.

25 MR. PLATTE: -- where -- we just object to relevance

1 because I wasn't able to --

2 MS. KOSTEL: Something to do with getting licenses for  
3 chalice bearers.

4 THE COURT: Okay.

5 MS. KOSTEL: Which is a national rule. So let me see if  
6 I can find it.

7 THE COURT: A license?

8 MS. KOSTEL: Yes. The national rules require lay people  
9 to be licensed by the bishop before they can be chalices, cup  
10 of wine.

11 MR. PLATTE: And we would just object that it's the  
12 diocese doing something, not the national church.

13 THE COURT: Right.

14 MR. PLATTE: Object to relevance.

15 THE COURT: Hold up, because if that's what it is, then  
16 it comes in.

17 MS. KOSTEL: I agree. We should withdraw this one.

18 THE COURT: 36?

19 MS. KOSTEL: Yes -- no, 25.

20 MR. PLATTE: 25.

21 THE COURT: 25, okay.

22 MR. PLATTE: And while -- 32, I have the same  
23 objection --

24 THE COURT: Concern?

25 MR. PLATTE: -- relevance.

1 THE COURT: Okay. That it involves the diocese?

2 MR. PLATTE: Well, I'm not sure what she's --

3 MS. KOSTEL: The other one I'm not withdrawing because  
4 it involved the diocese; I'm withdrawing it because it really  
5 didn't say much of anything.

6 THE COURT: Got it.

7 MS. KOSTEL: And I apologize if we've wasted our time  
8 with it.

9 THE COURT: Okay.

10 MS. KOSTEL: I think we should withdraw that one as  
11 well.

12 THE COURT: Okay.

13 MS. KOSTEL: I apologize.

14 THE COURT: That's 32?

15 MS. KOSTEL: Yes.

16 THE COURT: Okay. Keep going.

17 MR. PLATTE: 43 and 45.

18 THE COURT: Yes?

19 MR. PLATTE: They have the same objection to relevance.  
20 It's talking about some certain grant, but -- or applying,  
21 potentially applying for a grant or something of that nature.  
22 Defendants have no foundation to show who controls that grant  
23 or who even gives that; so I would just object to that on  
24 lack of foundation under relevance.

25 THE COURT: In other words, the source of the grant has

1 not been mentioned in this litigation so far?

2 MR. PLATTE: Correct.

3 THE COURT: Got it.

4 MS. KOSTEL: I think I can pull up the document.

5 THE COURT: Okay. Sure. Go ahead.

6 MS. KOSTEL: There we go. It's in other business. It  
7 refers to someone explaining how Church of Our Saviour  
8 already qualifies because of our outreach program for  
9 recognition as a jubilee center; therefore, Ray Johnson  
10 proposed that we apply to the national Episcopal Church for  
11 formal recognition as a jubilee center, which is a  
12 designation in the Episcopal Church.

13 THE COURT: I understand. So it isn't the grant; it  
14 just has to do with the relationship.

15 MR. PLATTE: I believe there were --

16 THE COURT: It would go to the weight rather than the  
17 admissibility.

18 MR. PLATTE: Thank you, Your Honor.

19 THE COURT: Yes. So that's 43 and 45. Okay.

20 MR. PLATTE: Yes. 47, I just object to relevance  
21 regarding use of the national church symbols on signs, which  
22 we no longer --

23 THE COURT: Do?

24 MR. PLATTE: -- do.

25 THE COURT: Okay. But you did; so there you go. It's

1 in.

2 MR. PLATTE: 51, 52, same objection to relevance, noting  
3 the Court's prior rulings on those documents.

4 THE COURT: Got it, yes. And that's?

5 MR. PLATTE: 51 and 52.

6 THE COURT: Uh-huh.

7 MR. PLATTE: That's all. Thank you.

8 THE COURT: That's it. Great.

9 (Defendant's Exhibits D-OS-1, D-OS-2, D-OS-13, D-OS-14,  
10 D-OS-16, D-OS-17, D-OS-18, D-OS-22, D-OS-24, D-OS-34,  
11 D-OS-43, D-OS-45, D-OS-47, D-OS-51, D-OS-52, D-OS-53,  
12 D-OS-54, D-OS-63, D-OS-64, D-OS-65, D-OS-66, D-OS-67,  
13 D-OS-68, D-OS-72, D-OS-73 admitted into evidence.)

14 MS. KOSTEL: Prince George, Winyah.

15 THE COURT: Okay.

16 (Defendant's Exhibits D-PG-1 through D-PG-28 premarked  
17 for identification.)

18 MS. KOSTEL: For Prince George, Winyah, moving into  
19 admission, this one's D-PG-4, which is an organic document;  
20 6, 7, 14, 15, 16, 20, 21.

21 MR. OXNER: No. 6 and 7 are similar letters back and  
22 forth about the sale of property that you've already ruled  
23 on.

24 THE COURT: Over the objection.

25 MR. OXNER: 14, 15, 16 are compliance issues with vestry

1 minutes about the same type of stuff that you've done.

2 THE COURT: Yes.

3 MR. OXNER: And 20 and 21 are ordination, which you've  
4 already ruled on, that which I object to as well.

5 THE COURT: Thank you so much.

6 MR. OXNER: Thank you.

7 THE COURT: And that's ordination, not consecration?

8 MR. OXNER: Correct.

9 THE COURT: Got it. Thank you. Over the objection  
10 they're in.

11 (Defendant's Exhibits D-PG-4, D-PG-6, D-PG-7, D-PG-14,  
12 D-PG-15, D-PG-16 admitted into evidence.)

13 MS. KOSTEL: Redeemer.

14 MR. PLATTE: Your Honor, Bob Horger. He was going to be  
15 here at some point this afternoon.

16 MS. KOSTEL: So we can wait.

17 MR. PLATTE: So we can address that when he arrives.

18 THE COURT: Sure.

19 MS. KOSTEL: Church of the Resurrection, Mr. Bryan.

20 THE COURT: Here we go. Ready. And the numbers are?

21 MS. KOSTEL: D-RS-28, 29, 30 is a -- I'm sorry, 32 is a  
22 consecration document marked for identification only at this  
23 point. 33, 34, 36, 53, 54 and 55.

24 MR. BRYAN: You said 54 and 55?

25 MS. KOSTEL: Yes. 53, 54, 55.

1 MR. BRYAN: Can I read those back --

2 MS. KOSTEL: Sure.

3 MR. BRYAN: -- just to make sure I've got them right?

4 MS. KOSTEL: Yes.

5 MR. BRYAN: 28.

6 MS. KOSTEL: Yeah.

7 MR. BRYAN: 29.

8 MS. KOSTEL: Uh-huh.

9 MR. BRYAN: 33.

10 MS. KOSTEL: Yes.

11 MR. BRYAN: 34.

12 MS. KOSTEL: Uh-huh.

13 MR. BRYAN: 36.

14 MS. KOSTEL: Yeah.

15 MR. BRYAN: 53.

16 MS. KOSTEL: Correct.

17 MR. BRYAN: 54 and 55.

18 MS. KOSTEL: Yes.

19 MR. BRYAN: Okay. The 28 and 29, Judge, are documents,  
20 just correspondence between myself and the standing committee  
21 president about the quitclaim deeds. That's the first --  
22 that's 28. It's a one-page letter.

23 The second, 29, is a letter from Mr. Lewis, the canon,  
24 to me, regarding permission to refinance the rectory for  
25 improvements. I object to them on the grounds of relevance,

1 but also, if you recall, last night I went through and sort  
2 of showed you my discovery requests both in requests to  
3 admit -- not requests to admit, requests for production of  
4 documents.

5 THE COURT: And you wanted to know which ones had  
6 anything to do at with title, claim to title.

7 MR. BRYAN: I had several questions, several questions.

8 THE COURT: Yes.

9 MR. BRYAN: Show me the trust, show me anything that  
10 relates to my parish, give me the trial exhibits, none of  
11 that. Didn't get any of it identified.

12 THE COURT: Got it.

13 MR. BRYAN: So I think on that basis, Your Honor --

14 THE COURT: Yes, yes.

15 MR. BRYAN: -- should not allow any of it. And this  
16 applies to all these.

17 THE COURT: I understand.

18 MR. BRYAN: So I -- I object on the grounds --

19 THE COURT: Of a failure to comply with the discovery  
20 requests.

21 MR. BRYAN: Exactly. And I made a motion to compel, and  
22 we had correspondence back and forth. They supplemented. I  
23 wrote a letter back about that. It never came.

24 THE COURT: Got it. And the first time -- just to be  
25 clear, the first time that you heard about these documents

1 was when we began to specifically discuss them a couple days  
2 ago --

3 MR. BRYAN: Yes, ma'am.

4 THE COURT: -- intertrial.

5 MR. BRYAN: When they gave the list out a couple days  
6 back.

7 THE COURT: Got it.

8 MR. BRYAN: I began to look at it.

9 THE COURT: I understand.

10 MR. BRYAN: That would be the basis of my objection.

11 THE COURT: I understand. I got it.

12 MR. BRYAN: I don't think I need to go into the details.

13 THE COURT: I understand.

14 MS. KOSTEL: Yes. So Mr. Bryan is correct; we did not  
15 supplement our discovery with this. And as Your Honor knows  
16 from our motions, you know, during the months when there was  
17 the stay, we have -- as I think Your Honor has gleaned, and  
18 as everyone agrees, there are tens of thousands of pages of  
19 documents that have been produced by either side in this  
20 case.

21 And we have -- we've spent that time figuring out what  
22 was relevant to each parish, and that has been an ongoing  
23 project. It is, in fact, ongoing to this day, and I have  
24 hardcopies of things that I'm still figuring out. I couldn't  
25 get into this electronic thing that I'm going to move into

1 evidence as hard copies because we're still going through  
2 what was produced.

3 The first time I had any -- first time we really could  
4 put together what we would use in our case against  
5 Mr. Bryan's client was when we put them on that hard drive.

6 THE COURT: Got it. Thank you. I understand  
7 completely, and they would be excluded on that basis.

8 MR. BRYAN: Thank you.

9 THE COURT: Thank you so much.

10 MR. BRYAN: Thank you.

11 MS. KOSTEL: They will be excluded?

12 THE COURT: Yes, ma'am, noting the exception of the  
13 defendants to the exclusion.

14 Okay. Who is next?

15 MS. KOSTEL: Just a moment, Your Honor.

16 THE COURT: Okay.

17 MS. KOSTEL: St. Andrew's, Mount Pleasant.

18 (Defendant's Exhibits D-SAMP-1 through D-SAMP-60  
19 premarked for identification.)

20 MS. JOHNSON: I'm Oana Johnson for St. Andrew's, Mount  
21 Pleasant.

22 THE COURT: All right.

23 MS. KOSTEL: So these are D-SAMP. Move the admission of  
24 No. 1, No. 31, No. 38, No. 40 and No. 57.

25 MS. JOHNSON: You withdrew 36?

1 MS. KOSTEL: Yes. Yes, and the other one we talked  
2 about.

3 MS. JOHNSON: Okay. All right, Your Honor, I'm going to  
4 start with 57, if you don't mind.

5 THE COURT: Okay.

6 MS. JOHNSON: Because it is dated -- it's a document.  
7 It's vestry minutes, but they're dated September 6, 1977,  
8 which is prior to the adoption of the Dennis canon; so I  
9 don't really see the relevance of this document. And then  
10 the other two: 36 and 40.

11 MS. KOSTEL: 36 is not one.

12 MS. JOHNSON: I'm sorry, 38 and 40. I understand your  
13 ruling, but I'm going to put the same objection: They  
14 mention the diocese.

15 THE COURT: All right. Very well. Tell me about 57.  
16 What does it have in there?

17 MS. KOSTEL: Okay.

18 THE COURT: I haven't limited any admissibility with  
19 regards to the Dennis canon.

20 MS. KOSTEL: Right.

21 THE COURT: I don't understand that connection.

22 MS. KOSTEL: I didn't understand that objection, Your  
23 Honor.

24 THE COURT: But I don't know anything about the  
25 document.

1 MS. KOSTEL: Right. So let me --

2 THE COURT: Okay. Pull it up.

3 MS. KOSTEL: Thank you.

4 Okay. This is a meeting minutes of the vestry on  
5 September 6, 1977. And on the first page there's a  
6 subheading that says, "Rector's discretionary fund." And it  
7 says, "in accordance with title 3" -- I'm sorry, I'm reading  
8 it.

9 It refers to the general church's canons. It says we're  
10 doing this with that -- with some loose offering which gets  
11 put in the collection plate with regards to the rector's  
12 discretionary fund in accordance with, and it cites the  
13 national canon.

14 THE COURT: Got it. Very well.

15 MS. JOHNSON: Thank you.

16 THE COURT: Thank you so much.

17 (Defendant's Exhibits D-SAMP-1, D-SAMP-31, D-SAMP-38,  
18 D-SAMP-40, D-SAMP-57 admitted into evidence.)

19 THE COURT: All right. Next.

20 (Defendant's Exhibits D-SB-1 through D-SB-64 premarked  
21 for identification.)

22 MS. KOSTEL: St. Bartholomew's. So this one is D-SB-8,  
23 9, 12, which is organic; 14, organic; 25, 44, and that's all.

24 THE COURT: Okay.

25 MR. CAMPBELL: Couple things real quick, Your Honor.

1 14, we've discussed it, and once I can see what they're  
2 actually admitting into evidence, we've agreed that the last  
3 two pages from what they had originally called No. 14 would  
4 be removed.

5 THE COURT: Okay.

6 MR. CAMPBELL: So I just want to put that on the record  
7 so that if somehow that doesn't happen.

8 MS. KOSTEL: We've agreed to that, yes.

9 THE COURT: Okay.

10 MR. CAMPBELL: And then No. 44, same problem, the two  
11 pages in that set Bates numbered 803 and 806, we agree to  
12 take those out. They had some handwritten notes, but the  
13 remainder of the document would stay in. And I believe we've  
14 agreed on that part also.

15 THE COURT: Okay.

16 MS. KOSTEL: I can't remember. Are we taking out just  
17 the notes or -- the pages that are left has the stuff.

18 MR. CAMPBELL: It was two annual meetings minutes.

19 MS. KOSTEL: Right.

20 MR. CAMPBELL: And then the front was an agenda with  
21 some notes.

22 MS. KOSTEL: Oh, yeah. Okay.

23 MR. CAMPBELL: And we were taking the two agendas off.

24 MS. KOSTEL: Got it.

25 THE COURT: Okay.

1 MR. CAMPBELL: No. 25 dealt with compliance. Here's the  
2 problem: It's a little different in this one than the rest,  
3 Your Honor.

4 THE COURT: Okay.

5 MR. CAMPBELL: It's some vestry minutes, and it  
6 references that the rector reviewed proposed changes in  
7 bylaws in which language would be consistent. And then it  
8 says that the congregation, at future meetings, would  
9 consider those bylaws, not that they were passed, not that  
10 they became the bylaws.

11 THE COURT: Well, I think it's relevant.

12 MR. CAMPBELL: Okay. And then the last one is No. 43 --  
13 so in over objection?

14 THE COURT: Absolutely.

15 MR. CAMPBELL: Okay.

16 THE COURT: Yes.

17 MR. CAMPBELL: Thank you, Your Honor.

18 THE COURT: I mean, I could go into more detail if you  
19 need it, but --

20 MR. CAMPBELL: That will be just fine. Thank you.

21 THE COURT: Our state statute's very important.

22 MS. KOSTEL: Pierce, I'm not offering 43.

23 MR. CAMPBELL: Okay. Thank you. That's all.

24 THE COURT: Thank you.

25 (Defendant's Exhibits D-SB-8, D-SB-9, D-SB-12, D-SB-14,

1 D-SB-25, D-SB-44 admitted into evidence.)

2 (Defendant's Exhibits D-SD-1 through D-SD-21 premarked  
3 for identification.)

4 MS. KOSTEL: Next is St. David's. Now, St. David's is  
5 the one I didn't have on a hard drive, but I do have hard  
6 copies, which I'll mark. Actually, we're going to have all  
7 hard copies at the end; so I guess that's an irrelevant  
8 speech, but here they are.

9 THE COURT: All right.

10 MR. EASTERLING: Harry Easterling, St. David's.

11 MS. KOSTEL: These will be D-SD-3, which is organic; 4,  
12 which is organic; 5 is a consecration. It relates to  
13 consecration; so it's marked for identification only. 6, 7,  
14 10, 11, 12, 13, 14. That's it.

15 THE COURT: Okay.

16 MR. EASTERLING: Your Honor please, with regard to SD-5,  
17 that is not the actual consecration document itself. It  
18 contains excerpts from it.

19 THE COURT: You do realize it's not in evidence.

20 MR. EASTERLING: Yes, ma'am. But should that change, my  
21 primary objection is that it's not the document.

22 THE COURT: I'm not understanding.

23 MR. EASTERLING: It's basically somebody has taken and  
24 written an excerpt of the document in a memorandum that is  
25 the opinion of one individual.

1 THE COURT: Better let me see it.

2 MS. KOSTEL: Approach, Your Honor.

3 THE COURT: Thank you.

4 MS. KOSTEL: It's on about the third page, I think.

5 THE COURT: All right. This is Exhibit No. 5.

6 MS. KOSTEL: Yes.

7 THE COURT: You're right. This is clearly not the  
8 consecration document.

9 MS. KOSTEL: Right.

10 THE COURT: It is a memorandum, a report dated  
11 November the 24th, 2012 that purports to be to Bill Oldland  
12 by Lane Brown, the senior warden. And you think this is not  
13 relevant for what reason?

14 MR. EASTERLING: Well, it's being offered for proof of  
15 consecration.

16 THE COURT: I gotcha. She withdraws that. She just  
17 thinks it's relevant for a whole bunch of reasons.

18 MS. KOSTEL: Right. I mean, and one thing I should say,  
19 Your Honor, is that with some of these documents, for  
20 example, that one Mr. Brown actually testified, I believe, as  
21 the 30(b)(6) witness, and, I believe, that -- testified that  
22 the parish had no connection with the Episcopal Church. So I  
23 think we would offer for impeachment too, if it weren't  
24 offered for any other reason.

25 THE COURT: I think this document maybe is, like, real

1 relevant, like -- and I would admit it over the objection.

2 You're right. It's not about consecration. It mentions

3 consecration, but it mentions -- it's like the gambit.

4 MR. EASTERLING: Yes, Your Honor.

5 THE COURT: Yes, it's definitely admissible and

6 relevant, yes. And that was No. 5, right?

7 MS. KOSTEL: Yes, Your Honor.

8 THE COURT: Okay. What's next?

9 MR. EASTERLING: Your Honor, please, you've already  
10 ruled on the other matters. Thank you.

11 THE COURT: Thank you so much.

12 MR. EASTERLING: Yes, ma'am.

13 THE COURT: Are we clear that 5 is not identification;  
14 that's in, right?

15 MS. KOSTEL: Yes, I understood that.

16 THE COURT: Okay.

17 MS. KOSTEL: So yes, I understand that. So when I say  
18 for identification only, I'm doing the best I can to keep  
19 these categories straight.

20 THE COURT: Right. That one's in.

21 (Defendant's Exhibits D-SD-3, D-SD-4, D-SD-5, D-SD-6,  
22 D-SD-7, D-SD-10, D-SD-11, D-SD-12, D-SD-13, D-SD-14 admitted  
23 into evidence.)

24 THE COURT: Okay. Who's next?

25 MS. KOSTEL: St. Helena's.

1 (Defendant's Exhibits PCSH-1 through PCSH-70 premarked  
2 for identification.)

3 MR. RUNYAN: Your Honor, we might split this one up. I  
4 wanted to argue on one of these. Go ahead.

5 MS. KOSTEL: Okay.

6 MR. RUNYAN: Do you want to offer them?

7 MS. KOSTEL: Yes. This one is D-PCSH-2, which is an  
8 organic document; 6; 35, which is organic; 36, which is  
9 organic. Actually, the rest of these are organic; so I'm  
10 just going to read the numbers: 39, 40, 42, 44, 45, 46, 47,  
11 48, 50. That's it.

12 THE COURT: Okay.

13 MS. KOSTEL: Thank you.

14 MR. RUNYAN: The first document that she said is organic  
15 is actually an organic draft. It's draft No. 5. It's  
16 unsigned; therefore, inadequate foundation. It's just not  
17 admissible. It should not be admissible. Plus, it is a  
18 document of another entity that I do not represent and that  
19 is not represented in this courtroom.

20 THE COURT: That's the --

21 MR. RUNYAN: That's the --

22 MS. KOSTEL: Right.

23 MR. RUNYAN: -- Preservation Trust for Historic  
24 St. Helena's Episcopal Church. I'm not sure what draft No.  
25 5, unsigned, for an unrepresented corporation has to do with

1 this case.

2 THE COURT: Yet it was found within the documents of  
3 your client, correct?

4 MR. RUNYAN: That's correct.

5 THE COURT: Okay. You know, I will admit it for what  
6 it's worth, understanding that it is merely a document that  
7 was found within the documents of your client. Okay.

8 MS. KOSTEL: Thank you.

9 THE COURT: I think it goes to the weight, not to the  
10 admissibility.

11 MR. RUNYAN: I'll speak to this, Your Honor.

12 THE COURT: Sure.

13 MR. RUNYAN: There's the P-CSH-6 minutes of a vestry  
14 meeting of the Parish Church of St. Helena in 1988. I think  
15 the only thing that is possibly asserted to be relevant, and  
16 correct me if I'm wrong, is the following statement:  
17 "Sandy Yearly informed that any parish in the diocese that  
18 sells church property must obtain permission from the  
19 bishop." Did I get that right?

20 MS. KOSTEL: I think that's right.

21 MR. RUNYAN: Okay. Well --

22 MS. KOSTEL: Let me just say that having -- given what  
23 just transpired a moment ago, I'm not sure I'd want to be  
24 wedded to the fact that that's the only thing that's  
25 relevant, but that is certainly what I cite it for here, yes.

1 MR. RUNYAN: There are many issues like this and I  
2 really don't want to burden the Court with this. The problem  
3 is, in a 50,000-page record, when there are snippets from 40  
4 vestries of opinions of lay people about what rules apply and  
5 don't apply, unless there's an en masse ruling by the Court  
6 as to relevance, at some point in time, these issues will be  
7 used as if they are an admission or have some probative value  
8 on the merits of that issue. And I just -- I make a note as  
9 to relevance.

10 THE COURT: But I think they do, and let me tell you  
11 what I think they do, I think that -- and I think they have  
12 relevance beyond -- I understand why they're being offered by  
13 the defendants, but I must tell you, as I look at them, they  
14 have relevance beyond that. They have relevance that also  
15 shows a relationship, a very close relationship between  
16 parish and diocese, to be honest with you.

17 And how many times did I hear the testimony, "We want to  
18 stay with this diocese. This diocese is important to us.  
19 This diocese is important to us. We want to stay with the  
20 diocese."

21 And so this -- I think, from my perspective, while I  
22 understand that they're also being offered because of what  
23 the defendants maintain is the relationship between the  
24 diocese and the national church, I heard time and time again  
25 from these parishes that their relationship, for them, the

1 end of the road is the diocese. That's -- if you will,  
2 that's their mother church. We want to stay with Bishop  
3 Lawrence. That is our -- if you will, that's our connection.  
4 That's our hold.

5 So I must tell you that while I understand why they're  
6 being offered, I must also tell you I sat and listened to  
7 them, and it also has that relevance. This history of,  
8 "That's my relationship. That's who I'm bound to. That's  
9 who I want to remain with."

10 And when I begin to look, I know that the parish under  
11 All Saints has the right to change its affiliation, I know  
12 that because of All Saints. When I begin to look at the  
13 diocese, that's why there's dual relevance. So I can't -- so  
14 that's why I see this relevance.

15 And I understand that from the defendants' perspective  
16 they also -- and I will -- they want me to look at this also  
17 from the relationship of the national church. But when I  
18 hear parish after parish after parish say, "We want to stay  
19 with Bishop Lawrence. That is who we see as our," if you  
20 will, "our religious leader," what do I do? How do I exclude  
21 it? It's relevant.

22 MR. RUNYAN: Understand. Thank you, Your Honor.

23 MS. KOSTEL: Is that it?

24 MR. RUNYAN: Yes.

25 MS. KOSTEL: Okay. Thank you.

1 THE COURT: Uh-huh.

2 (Defendant's Exhibits PCSH-2, PCSH-6, PCSH-35, PCSH-36,  
3 PCSH-39, PCSH-40, PCSH-42, PCSH-44, PCSH-45, PCSH-46,  
4 PCSH-47, PCSH-48, PCSH-50 admitted into evidence.)

5 (Defendant's Exhibits SJJI-1 through SJJI-40 premarked  
6 for identification.)

7 MS. KOSTEL: St. James, James Island. Moving in  
8 D-SJJI-7; 10, which is organic; 11, organic; 12, organic; 13,  
9 organic; 20 is a consecration related document for  
10 identification only; 23, organic, congregational meeting  
11 minutes showing the adoption of an organic document; 27; 29;  
12 30 and 33. Plus, we will be moving into evidence -- and I've  
13 spoken with Mr. Evans about this. There will be a 36, these  
14 will be a -- they will all be hard copies. 36, 37, 38, 39  
15 and 40, documents that were produced recently that didn't  
16 make it into the hard drive, and they are all organic  
17 documents, the constitution 1993, '95, 2001, 2010 and 2013.

18 THE COURT: And tell me, organic beginning with  
19 number --

20 MS. KOSTEL: 36. I'm sorry, yes.

21 THE COURT: Got it. All right. Mr. Evans.

22 MR. EVANS: Thank you, Your Honor. Mark Evans for  
23 St. James. Based on the paring down of the exhibits, in  
24 fact, most of them are organic, and our arguments go mostly  
25 to weight, not admissibility.

1 THE COURT: Yes.

2 MR. EVANS: St. James doesn't have any further  
3 objections to those exhibits.

4 THE COURT: Thank you. Got it. All right.

5 (Defendant's Exhibits SJJI-7, SJJI-10, SJJI-11, SJJI-12,  
6 SJJI-13, SJJI-23, SJJI-27, SJJI-29, SJJI-30, SJJI-33,  
7 SJJI-36, SJJI-37, SJJI-38, SJJI-39, SJJI-40 admitted into  
8 evidence.)

9 MS. KOSTEL: May I have one moment to make some notes.

10 THE COURT: Sure.

11 MS. KOSTEL: St. John's Charleston or John's Island.

12 THE COURT: Got it.

13 (Defendant's Exhibits SJC-1 through SJC-59 premarked for  
14 identification.)

15 MS. KOSTEL: Okay. Moving into evidence D-SJC-13; 14;  
16 21, which is organic; 25, which is organic; 26, organic; 30,  
17 organic; 31, organic; 32, organic; 39; 40; 41; 42; 43; 45;  
18 and that's it.

19 MR. PLATTE: Your Honor, Andrew Platte on behalf of  
20 St. John's, Charleston County. 45, relevance, noting how the  
21 Court has prior -- previously ruled regarding that.

22 THE COURT: Okay. Got it. Thank you. Over the  
23 objection.

24 (Defendant's Exhibits SJC-13, SJC-14, SJC-21, SJC-25,  
25 SJC-26, SJC-30, SJC-31, SJC-32, SJC-39, SJC-40, SJC-41,

1 SJC-42, SJC-43, SJC-45 admitted into evidence.)

2 MS. KOSTEL: I think we're about two thirds of the way.

3 THE COURT: Got it. We might make it by 4:00.

4 (Defendant's Exhibits SJ-1 through SJ-63 premarked for  
5 identification.)

6 MS. KOSTEL: St. Jude's D-SJ-30 -- I'm sorry, 20; 37,  
7 organic; 51; 58; 59.

8 THE COURT: Okay.

9 MR. PLATTE: Your Honor, Andrew Platte on behalf of  
10 St. Jude's. One question for Mary.

11 MS. KOSTEL: Yes.

12 MR. PLATTE: I can give this to you now, and then I can  
13 go through a couple more. SJ-20, I just have a question mark  
14 where in terms of compliance.

15 MS. KOSTEL: Okay. Let me see.

16 MR. PLATTE: And then finally, No. 58, it's some vestry  
17 minutes.

18 THE COURT: Yes.

19 MR. PLATTE: And our objection would be relevance that  
20 the deed document would speak for itself in terms of any  
21 reference to creating any sort of trust. We would say that  
22 the best evidence would be the deed itself rather than  
23 minutes discussing what they might do.

24 MS. KOSTEL: Your Honor, could I start with the first  
25 one first?

1 THE COURT: Sure.

2 MS. KOSTEL: Okay.

3 MR. PLATTE: Your Honor, I think I see where the --

4 MS. KOSTEL: Oh, do you see it? "The national church  
5 requires."

6 MR. PLATTE: For parochial reports.

7 MS. KOSTEL: Yes.

8 MR. PLATTE: Obviously, we make objection to relevance,  
9 noting the Court's prior rulings regarding those.

10 MS. KOSTEL: Okay.

11 MR. PLATTE: Now we're back to 58.

12 MS. KOSTEL: Yes, 58.

13 THE COURT: Okay.

14 MS. KOSTEL: These are -- this appears to be vestry  
15 minutes dated from 1855. And there's a resolved clause that,  
16 without reading it, to summarize says that the property and  
17 funds of the parish -- this is where the parish is being  
18 divided into two. And it says that the property, in both  
19 parts, that get divided in two shall be held in trust for the  
20 Episcopal Church by the vestry of St. Bartholomew's parish.

21 MR. PLATTE: Your Honor, in response to that --

22 MS. KOSTEL: Oh, I'm sorry, and the other half shall be  
23 held in trust for the Episcopal Church by the vestry of  
24 St. Jude's church. It was divided into two churches, and  
25 this is a resolution from 1855.

1 MR. PLATTE: Just to speak to that, it appears that  
2 these are vestry minutes for St. Bartholomew's; so it's not  
3 the party St. Jude's. And then also, the deeds were issued,  
4 and it did not include this language. So we would just say  
5 the best evidence would be to look at the deeds, whether they  
6 intended -- and follow through with any sort of trust  
7 interests when they actually issued those deeds.

8 MS. KOSTEL: I agree with Mr. Platte that this -- I  
9 think St. Jude's produced this, but it was --  
10 St. Bartholomew's was its predecessor, and then it divided  
11 into two is my understanding of the history. So that's  
12 accurate.

13 MR. CAMPBELL: Your Honor, Pierce Campbell. I represent  
14 St. Bartholomew's in Hartsville, which is a different  
15 corporation, different parish, no relation to the old  
16 St. Bartholomew's in Colleton County, I believe it is. So I  
17 just want to make that clear on the record. Different  
18 St. Bartholomew's, nothing to do with us.

19 MS. KOSTEL: That's been one of the pleasures of this is  
20 figuring out the different same names used in different  
21 places.

22 THE COURT: Yes, that's what happens when you hang out  
23 with one of the original colonies. You've got to deal with  
24 some really old stuff.

25 MR. PLATTE: And one final point, Your Honor: There's

1 no foundation that the deed actually includes that language.

2 THE COURT: It actually what?

3 MR. PLATTE: There's no foundation that the deed  
4 actually includes the language that is referenced in these  
5 vestry minutes.

6 MS. KOSTEL: Well, I mean, I think it's --

7 THE COURT: It may have some relevance. You know,  
8 again, it goes to the weight. It might be that they thought  
9 about it and said, "We are not doing that, hm-mm." So --

10 MR. PLATTE: And then finally, I would just -- I would  
11 ask that it looks like this is an incomplete copy, and there  
12 may be some --

13 THE COURT: Well, that's a different issue. You've got  
14 to have the whole thing.

15 MR. PLATTE: Third and fourth. You know, if third and  
16 fourth resolves, we don't have --

17 THE COURT: Where's the first, second and third?

18 MR. PLATTE: We would ask that this is -- if this is  
19 admitted over our objection, we would ask that --

20 THE COURT: No, no, no. You've got to have the whole  
21 thing.

22 MS. KOSTEL: Well, this is all that was produced to us,  
23 Your Honor.

24 THE COURT: That's the way it was produced?

25 MS. KOSTEL: Yes.

1 THE COURT: Don't you just hate when that happens?

2 MS. KOSTEL: It has a date printed at the top, but I  
3 don't know -- yes, that's all that was produced.

4 THE COURT: Okay. And there's the whole document  
5 (indicating).

6 MR. PLATTE: Thank you, Your Honor.

7 (Defendant's Exhibits SJ-20, SJ-37, SJ-51, SJ-58, SJ-59  
8 admitted into evidence.)

9 (Defendant's Exhibits SJF-1 through SJF-97 premarked for  
10 identification.)

11 MS. KOSTEL: Okay. St. John's, Florence. This one is  
12 D-SJF-1, 4, 6, 10, 55, 56, 59 -- which is a consecration, ID  
13 only -- 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 72, 73, 82,  
14 83, 84. That's it. I'm sorry I'm moving more slowly on this  
15 one.

16 THE COURT: All right.

17 MS. KOSTEL: It's two different lists.

18 THE COURT: Not a problem at all.

19 MR. ORR: Your Honor please, Larry Orr on behalf of St.  
20 John's, Florence.

21 Ms. Kostel, is 61 for ID only?

22 MS. KOSTEL: No.

23 MR. ORR: No. As far as Exhibits 61 and 73, those are  
24 deeds pertaining to property which was given to St. John's at  
25 some time in the past and was sold before this matter ever

1 was conceived. And the property is no longer owned by  
2 St. John's and hasn't been for years, and I'm not sure what  
3 the relevance of that would be.

4 THE COURT: I gotcha. Is there any language in it that  
5 has importance?

6 MS. KOSTEL: Well, it's conveyance to St. John's  
7 Episcopal Church. And so --

8 THE COURT: Oh, that's the importance of it.

9 MS. KOSTEL: That's the importance.

10 MR. ORR: That was the name of the church.

11 THE COURT: Right. Right. I got it. Weight. It goes  
12 to the weight. Remember, Episcopal --

13 MR. ORR: Your Honor, I hope you're not going to  
14 physically weigh the evidence, because they're putting in a  
15 bunch of stuff.

16 THE COURT: Think about my guns (indicating).  
17 Michele Obama will have nothing on me.

18 MR. ORR: Exhibits 59 and 62 are programs of ordination  
19 of the rector, first as deacon, second as rector. Again,  
20 that's an ordination of the priest, not the parish itself.

21 MS. KOSTEL: Yes, 59 was an ID only.

22 MR. ORR: Both of them were ID only.

23 MS. KOSTEL: 59 was ID only, and 62 should also be ID  
24 only.

25 MR. ORR: Okay.

1 MS. KOSTEL: Yes, sorry about that.

2 MR. ORR: Exhibit No. 55 was some emails between a  
3 parishioner and our senior warden, who is also representing  
4 several parties here. And I just thought it was not  
5 appropriate to have his emails and opinions as an exhibit,  
6 but Mr. Campbell can speak to that. But anyway, there's  
7 nothing harmful, other than, you know, a party's lawyer  
8 should not be a witness in a case, and this would make him a  
9 witness.

10 THE COURT: Got it. I got it. If it's attorney-client,  
11 was it -- it's not attorney-client?

12 MR. ORR: No, ma'am. It was just information about  
13 recording the quitclaim deed. That's all.

14 THE COURT: I gotcha.

15 MR. ORR: Lastly, if you would look at Exhibits 63  
16 through 68, those were six letters between the church and the  
17 diocese about permission to sell some property. They were  
18 kind of duplicative. I didn't know whether she was going to  
19 narrow that down to one or two of those. I'm not sure if at  
20 this point it makes a difference whether there's two or six.  
21 They all relate to each other.

22 THE COURT: Doesn't to you, but it might to me.

23 MR. ORR: Well, then I certainly object to the --

24 THE COURT: Thank you. Just pick a couple.

25 MS. KOSTEL: Right now, Your Honor?

1 THE COURT: No.

2 MS. KOSTEL: Okay.

3 THE COURT: No. Just before we end, just pick a couple.

4 But if there really are four, you know --

5 MS. KOSTEL: Okay.

6 THE COURT: -- four will do what two will do.

7 MS. KOSTEL: Well, I think -- I agree that that is true  
8 because they're all in the same timeframe.

9 THE COURT: Sure. Sure.

10 MS. KOSTEL: Right.

11 THE COURT: Exactly. Exactly.

12 MR. ORR: I think they were trying to find out who was  
13 the person they were supposed to communicate with and they  
14 finally got it.

15 THE COURT: Sure. Got it. Got it. Which is the reason  
16 for the number. I understand. Okay.

17 (Defendant's Exhibits SJF-1, SJF-4, SJF-6, SJF-10,  
18 SJF-55, SJF-56, SJF-61, SJF-64, SJF-66, SJF-68, SJF-69,  
19 SJF-70, SJF-72, SJF-73, SJF-82, SJF-83, SJF-84 admitted into  
20 evidence.)

21 MS. KOSTEL: Okay. St. Luke's.

22 MS. GOLDING: Yes.

23 (Defendant's Exhibits SL-1 through SL-59 premarked for  
24 identification.)

25 THE COURT: All right. Yes.

1 MS. KOSTEL: This one is D-SL-6; 16 which is organic;  
2 18; 19; 20; 21; 22; 32, which is organic, which is vestry  
3 minutes reflecting a bylaw revision.

4 THE COURT: Okay.

5 MS. KOSTEL: 35, 37, 38, 42, 48, 55, and 59.

6 MS. GOLDING: No objection, Your Honor.

7 THE COURT: Very well.

8 (Defendant's Exhibits SL-6, SL-12, SL-13, SL-14, SL-15,  
9 SL-16, SL-18, SL-19, SL-20, SL-21, SL-22, SL-32, SL-35,  
10 SL-37, SL-38, SL-42, SL-48, SL-55, SL-59 admitted into  
11 evidence.)

12 MS. KOSTEL: The Cathedral, which is St. Luke and  
13 St. Paul.

14 (Defendant's Exhibits SLP-1 through SLP-48 premarked for  
15 identification.)

16 MR. MARVEL: Your Honor, David Marvel for St. Luke and  
17 St. Paul, Radcliffeboro.

18 THE COURT: Yes. You all had some conversation you  
19 needed to have, as I remember.

20 MS. KOSTEL: I think I've talked with everybody.

21 THE COURT: Yes.

22 MR. MARVEL: We've talked extensively, Your Honor.

23 THE COURT: Oh, good.

24 MS. KOSTEL: Okay. This one is D-SLP-5, that's organic;  
25 6, organic; 7, organic; 8, organic; 9, organic; 11, organic;

1 12, organic; 13, organic; 15; 16, and Mr. Marvel and I have  
2 agreed to reduce that to the first page of the document; 17;  
3 22; 24; that's it.

4 THE COURT: Okay.

5 MR. MARVEL: Your Honor, 5 through 8 are what we  
6 discussed yesterday, I don't have any better information for  
7 you than what we had yesterday, and nobody knows one way or  
8 the other. The only thing I can tell you is I've looked at  
9 the originals, and they're very old documents. I don't want  
10 to withdraw my objection for the record, but I do understand  
11 your ruling.

12 THE COURT: Okay.

13 MR. MARVEL: 11 and 12, I believe, are already in  
14 evidence as Plaintiff's Exhibits, correct?

15 MS. KOSTEL: Oh. When we talked, we did not strike that  
16 one.

17 MR. MARVEL: Okay.

18 MS. KOSTEL: I have to rely on you for that.

19 MR. MARVEL: Your Honor, what she's designated as 11 and  
20 12, which is the 2011 bylaws and 2012 bylaws, we have in  
21 evidence.

22 MS. KOSTEL: Okay. I'll withdraw those two.

23 THE COURT: Okay.

24 MR. MARVEL: As to 24, I have a hearsay within hearsay  
25 and a best evidence objection to that, only because 24 is a

1 set of minutes that refers to the letter that is Exhibit 22,  
2 and it seems cumulative.

3 Basically, the letter that's 22 is a letter from the  
4 bishop to the cathedral saying, "We need you to do your  
5 annual audit. This is what canons are that do it." The  
6 minutes simply say, "We got this letter from the bishop.  
7 Here it is." It refers to the canons, and that's it. We  
8 would say that the minutes themselves don't need to be in in  
9 addition to the letter itself.

10 THE COURT: Okay. Here's what I would do, 22 would then  
11 be in, and it would be redacted from 24.

12 MR. MARVEL: Okay.

13 THE COURT: In other words, here's the letter, and then  
14 you have the minutes that say, "We got the letter," and that  
15 would tie it up. And just redact the fact that here's the  
16 letter in 24, just redact it so that you've got the fact  
17 that -- here's the letter, and then the vestry that says, "We  
18 got it."

19 MR. MARVEL: Meaning that that would be the only portion  
20 of the minutes?

21 THE COURT: Uh-huh, uh-huh. Exactly.

22 MR. MARVEL: That's all we have. Thank you.

23 THE COURT: Very well.

24 (Defendant's Exhibits SLP-5, SLP-6, SLP-7, SLP-8, SLP-9,  
25 SLP-13, SLP-15, SLP-16, SLP-17, SLP-22, SLP-24 admitted into

1 evidence.)

2 (Defendant's Exhibits SM-1 through SM-31 premarked for  
3 identification.)

4 MS. KOSTEL: Okay. St. Matthew's, Darlington. This one  
5 is D-SM-1, 6, 10, that's a consecration.

6 THE COURT: Okay.

7 MS. KOSTEL: So for ID only.

8 THE COURT: Yes.

9 MS. KOSTEL: It's not a consecration; it's a program  
10 showing the consecration happened.

11 THE COURT: I understand.

12 MS. KOSTEL: 12, 20, 21, 24, 25. That's it.

13 MR. ORR: The only objections with respect to the one  
14 for identification is it was a program of --

15 THE COURT: It's not in.

16 MR. ORR: Okay. Then I'll be quiet.

17 THE COURT: You don't have to be quiet, but I'm glad you  
18 clarified. It's only in for identification purposes.

19 MR. ORR: It was the ordination.

20 THE COURT: For exactly that reason. Yes, okay.

21 (Defendant's Exhibits SM-1, SM-6, SM-12, SM-20, SM-21,  
22 SM-24, SM-25 admitted into evidence.)

23 (Defendant's Exhibits SMFM-1 through SMFM-43 premarked  
24 for identification.)

25 MS. KOSTEL: St. Matthew's, Fort Motte. Okay. This one

1 is D-SMFM-2, 3 -- oh, 2 is organic; 3 is organic; 4 is  
2 organic; 5 is organic, and we have agreed with Mr. Mack to  
3 add an additional page to that.

4 THE COURT: Okay.

5 MS. KOSTEL: 23, 24, 28 and 29.

6 MR. MACK: Your Honor, Frank Mack for St. Matthew's,  
7 Fort Motte. As to 23, 24, 28 and 29, we object on the basis  
8 of hearsay. This is a letter from the auditor who was  
9 examining the church's books. There is a reference to the  
10 canons of the national church, but it's hearsay, his  
11 opinions. It would be not admissible under hearsay, and  
12 because it contains opinions, it does not fall within the  
13 exceptions.

14 THE COURT: Got it. Yes, ma'am.

15 MS. KOSTEL: The auditor actually is the internal  
16 auditor for the diocese; so its relevance may be more to the  
17 diocese than to St. Matthew's, Fort Motte, but it's -- I  
18 think it's admissible.

19 MR. MACK: We would object as to the admissibility as to  
20 St. Matthew's, Fort Motte under the rules it may be  
21 admissible to another party as relevant to another party but  
22 not admissible as to --

23 THE COURT: We'll hold them in consideration for the  
24 diocese because of the hearsay objection. Just hang tight.

25 MR. MACK: Okay.

1 THE COURT: Because we're going to deal with you. It  
2 would be terrible to deal with you piecemeal fashion,  
3 Mr. Runyan. Okay. I got it.

4 (Defendant's Exhibits SMFM-2, SMFM-3, SMFM-4, SMFM-5  
5 admitted into evidence.)

6 MR. MACK: And, Your Honor, may I be excused for the  
7 rest of the day? We're having guests for dinner, and my wife  
8 suggested that I ask the indulgence of the Court if I could  
9 leave.

10 THE COURT: Let me tell you what, I would never cross a  
11 woman from Fort Motte ever, because your house is liable to  
12 be burned down otherwise.

13 MR. MACK: That's why I need to rush home, Your Honor.

14 THE COURT: Indeed.

15 MR. MACK: Thank you, Your Honor.

16 THE COURT: All right. Who is next?

17 MS. KOSTEL: St. Matthias.

18 (Defendant's Exhibits SMT-1 through SMT-30 premarked for  
19 identification.)

20 MR. CAMPBELL: Pierce Campbell, trying inadequately to  
21 fill in for Steve McKenzie, with his permission.

22 THE COURT: Wonderful. All right. Numbers are.

23 MS. KOSTEL: Numbers are D-SMT-3. Those are vestry  
24 meeting minutes that refer to a consecration; so marking for  
25 ID only.

1 THE COURT: Mm-hmm.

2 MS. KOSTEL: 14, 21, 22. That's it.

3 THE COURT: Okay.

4 MR. CAMPBELL: You pulled the rest?

5 MS. KOSTEL: Yes.

6 MR. CAMPBELL: Your Honor, just would note for the  
7 record 14, 21 and 22 deal with compliance issues. Your  
8 Honor's already ruled. Objection noted for the record.

9 THE COURT: Thank you.

10 MR. CAMPBELL: Thank you.

11 (Defendant's Exhibits SMT-14, SMT-21, SMT-22 admitted  
12 into evidence.)

13 (Defendant's Exhibits SMI-1 through SMI-42 premarked for  
14 identification.)

15 MS. KOSTEL: St. Michael's. This one is D-SMI-13. That  
16 may be technically a consecration.

17 MR. PLATTE: Well, it's ordination.

18 MS. KOSTEL: Yeah. I think that should be marked for ID  
19 only.

20 THE COURT: Okay.

21 MS. KOSTEL: Yeah. 23 is organic; 27; 28 is organic;  
22 32; 35; and that's it.

23 MR. PLATTE: Your Honor, Andrew Platte on behalf of  
24 St. Michael's. 27, 32 and 35, the first one's compliance --  
25 27's compliance. 32 and 35 is consent. Object to relevance,

1 noting the Court's prior ruling.

2 THE COURT: Thank you. Over the objection admitted.

3 (Defendant's Exhibits SMI-23, SMI-27, SMI-28, SMI-32,  
4 SMI-35 admitted into evidence.)

5 MS. KOSTEL: St. Paul's, Bennettsville.

6 (Defendant's Exhibits SPB-1 through SPB-77 premarked for  
7 identification.)

8 THE COURT: All right. And the numbers are?

9 MS. KOSTEL: The numbers are D-SPB-9; 10; 17; 18; 19;  
10 24; 25 is a sentence of consecration marked for ID only; 26;  
11 28 is an organic document; 38; 45. And then I would note  
12 that Mr. Easterling and I have agreed that we will --

13 MR. EASTERLING: 28.

14 MS. KOSTEL: Wait, can I have a moment?

15 (Attorneys confer.)

16 MS. KOSTEL: So I think by agreement, we will also  
17 have -- it's three, three additional exhibits, which will be  
18 numbered 75, 76 and 77.

19 THE COURT: Okay. Got it. All right, Mr. Easterling.

20 MR. EASTERLING: The Court's indulgence?

21 THE COURT: Yes, of course.

22 (Attorneys confer.)

23 MR. EASTERLING: Your Honor, please, with regard to 24  
24 and 26, these are programs of ordination. These are plans  
25 made by a specific individual and not necessarily the church.

1 I was thinking that with Mr. Orr, we'd mark those for  
2 identification only.

3 THE COURT: Yes.

4 MS. KOSTEL: I think that's right.

5 THE COURT: Yes.

6 MR. EASTERLING: Okay.

7 MS. KOSTEL: Are we talking about 24 and 26?

8 MR. EASTERLING: 24 and 26.

9 MS. KOSTEL: Yes, I agree with that.

10 THE COURT: Okay.

11 MR. EASTERLING: That's all. Thank you very much.

12 THE COURT: Thank you, Mr. Easterling.

13 MR. EASTERLING: Yes, ma'am.

14 (Defendant's Exhibits SPB-9, SPB-10, SPB-17, SPB-18,  
15 SPB-19, SPB-28, SPB-38, SPB-45, SPB-75, SPB-76, SPB-77  
16 admitted into evidence.)

17 THE COURT: Who is next?

18 MS. KOSTEL: St. Paul's, Conway.

19 (Defendant's Exhibits SPC-1 through SPC-23 premarked for  
20 identification.)

21 THE COURT: And the numbers are?

22 MS. MACDONALD: Your Honor, I spoke with Mr. Shelton  
23 earlier today, and he said that other than the standard  
24 objections, he was fine with everything else.

25 MS. KOSTEL: Okay. So those are D-SPC-1, 2, 3, 5, 7, 8,

1 17, 18, 20 and 22.

2 THE COURT: Okay.

3 (Defendant's Exhibits SPC-1, SPC-2, SPC-3, SPC-5, SPC-7,  
4 SPC-8, SPC-17, SPC-18, SPC-20, SPC-22 admitted into  
5 evidence.)

6 MS. KOSTEL: St. Paul's, Summerville.

7 (Defendant's Exhibits SPS-1 through SPS-69 premarked for  
8 identification.)

9 MS. KOSTEL: This one is D-SPS-18, 34, 36, 37, 43, 44,  
10 45, 59, and that's an ID only.

11 THE COURT: All right.

12 MS. KOSTEL: 60, an ID only.

13 THE COURT: Okay.

14 MS. KOSTEL: And that's it.

15 THE COURT: All right.

16 MS. LUMPKIN: Your Honor, Hope Lumpkin for St. Paul's,  
17 Summerville. In regards to D-SPS-18, we're objecting on the  
18 grounds of hearsay. It mentions another -- it's a letter  
19 from the bishop at the time to the minister of our parish at  
20 the time. It mentions another letter, but that other letter  
21 is -- was not in our records. We don't know what it said,  
22 and the whole purpose of this one letter is to say, "Pursuant  
23 to the terms of your letter, we agree." So we don't know  
24 what's being agreed to in this case; so we would object on  
25 those grounds.

1 THE COURT: I understand. Let me hear from Ms. Kostel.

2 MS. LUMPKIN: Okay.

3 MS. KOSTEL: Well, it's one sentence, which I could  
4 bring up and --

5 THE COURT: Just read it to me.

6 MS. KOSTEL: It's addressed to the Reverend Floyd  
7 William Finch, Jr., St. Paul's Episcopal church in  
8 Summerville. "Dear Floyd, the vestry of St. Paul's,  
9 Summerville has my permission to sell the rectory on the  
10 terms outlined in your letter of June 8, 1979."

11 So it's -- yes. It's just offered for the permission.

12 THE COURT: Very well. I'll admit it just for the sole  
13 purpose of showing that permission was given and for no other  
14 reasons, certainly not to dictate whatever terms may or may  
15 not have been included.

16 MS. LUMPKIN: Your Honor, as to the other exhibits  
17 listed, we object on the same grounds for compliance, aid and  
18 consent and recognize that you've already ruled on that but  
19 would like to preserve the objection.

20 THE COURT: Absolutely. Done. Thank you, ma'am. That  
21 takes care of that.

22 (Defendant's Exhibits SPS-18, SPS-34, SPS-36, SPS-37,  
23 SPS-43, SPS-44, SPS-45 admitted into evidence.)

24 MS. KOSTEL: St. Philip's.

25 (Defendant's Exhibits SPH-1 through SPH-97 premarked for

1 identification.)

2 THE COURT: And the numbers are?

3 MR. PHILLIPS: Yes, ma'am. Just one second. I think we  
4 have literally one thing to discuss.

5 MS. KOSTEL: Tell me when you're ready.

6 (Attorneys confer.)

7 MR. PHILLIPS: Ready.

8 MS. KOSTEL: Okay. This one is D-SPH-6, and that is ID  
9 only -- oh, I'm sorry. No, no, it's ID only, yes. 26, 27,  
10 38, 58, 59, 60, 61, 62, 63, 64, 65, 67, 68, 73, which is an  
11 organic document. And that's it.

12 MR. PHILLIPS: Your Honor, the one document that I'd  
13 love to discuss as briefly as I can is D-SPH-6. I'll hand  
14 you a copy.

15 THE COURT: 6 isn't in.

16 MR. PHILLIPS: It's not in?

17 THE COURT: Right. ID only.

18 MR. PHILLIPS: That's fine. Then we're done. That's  
19 good.

20 THE COURT: All right. Thank you.

21 (Defendant's Exhibits SPH-26, SPH-27, SPH-38, SPH-58,  
22 SPH-59, SPH-60, SPH-61, SPH-62, SPH-63, SPH-64, SPH-65,  
23 SPH-67, SPH-68, SPH-73 admitted into evidence.)

24 MS. KOSTEL: Trinity, Edisto. We're getting close.

25 THE COURT: Great.

1 MS. KOSTEL: When I hit the Trinities, I know we're  
2 almost done.

3 (Defendant's Exhibits TED-1 through TED-33 premarked for  
4 identification.)

5 MS. KOSTEL: Okay. This one is D-TED-1; 9; 13 is  
6 organic. I think that's it.

7 THE COURT: Okay.

8 MR. PLATTE: Your Honor, for the record, 1 and 9 both  
9 deal with consents, asking the diocese, so we object to  
10 relevance, noting the Court's prior ruling.

11 THE COURT: Okay. In over the objection.

12 (Defendant's Exhibits TED-1, TED-9, TED-13 admitted into  
13 evidence.)

14 (Defendant's Exhibits TMB-1 through TMB-66 premarked for  
15 identification.)

16 MS. KOSTEL: Trinity, Myrtle Beach. This one is  
17 D-TMB-1; 2; 9; 26 is organic; 27 is organic; 29; 31; 32; 34;  
18 35; 46; 50 is a consecration for ID only, as is 51, 61 and  
19 64.

20 MS. MACDONALD: Your Honor, Susan MacDonald for Trinity,  
21 Myrtle Beach. Just a couple: No. 2, No. 9 are both  
22 consents, and we'd make the same objection. We understand  
23 your ruling already. No. 10 you didn't move in. Okay.

24 MS. KOSTEL: Right.

25 MS. MACDONALD: Never mind then on that one. Okay.

1           And No. 35 would be a compliance, also we'd make the  
2 same objection.

3           THE COURT:   Okay.

4           MS. MACDONALD:   And then the only other -- we didn't do  
5 that one either.  Then the only other one is 46, which is a  
6 set of vestry meeting minutes from 2002, which she has --  
7 which is listed as compliance, but I'm not real sure.

8           MS. KOSTEL:   Okay.

9           MS. MACDONALD:   It's the one that has the bylaws for the  
10 foundation attached to it.  I don't know if that --

11          MS. KOSTEL:   I think -- I have -- this is what I have:  
12 Duty to deal with funds per the constitution and canons of  
13 the church.  Let me see if I can find the page.

14          MS. MACDONALD:   Okay.  I couldn't find it in there.  If  
15 it's in there, then I'm fine, but --

16          MS. KOSTEL:   Let me find the page for you.  Do you see  
17 it?

18          MS. MACDONALD:   I see it on the -- Your Honor, I would  
19 make an additional objection to it on the same grounds as  
20 St. Helena's trust.  These are bylaws dealing with the  
21 foundation that became a separate corporation, 501(c)(3); so  
22 it's technically not -- although it's for the benefit of the  
23 church, it's technically not part of the church and not  
24 technically the defendant in this case.

25          So I would just -- I understand your earlier ruling, but

1 I'd make that objection on those grounds.

2 THE COURT: All right. Very well. Thank you.

3 MS. MACDONALD: That's it, Your Honor.

4 THE COURT: Great.

5 (Defendant's Exhibits TMB-1, TMB-2, TMB-9, TMB-26,  
6 TMB-27, TMB-29, TMB-31, TMB-32, TMB-34, TMB-35, TMB-46  
7 admitted into evidence.)

8 MS. KOSTEL: Trinity, Pinopolis.

9 MR. PLATTE: Please skip that one for one second.

10 MS. KOSTEL: Well, that's the last one -- Redeemer and  
11 Pinopolis. Well, I mean, we can take those up when they get  
12 here.

13 THE COURT: That would be fine.

14 MS. KOSTEL: One thing that I'd like to go back to, Your  
15 Honor. We don't have -- it's almost 4:00. Maybe I'll wait.  
16 Yeah.

17 THE COURT: Absolutely. Thank you. All right. We have  
18 a witness. Do we need to take a break before the witness?  
19 Are we ready to go? I'm ready to go.

20 MS. GOLDING: I call Father Kronz.

21 THE COURT: Okay.

22 GREGORY J. KRONZ,  
23 being first duly sworn, testified as follows:

24 THE COURT: All right, sir. If you'll please state your  
25 full name for our record and spell your last name.

1 THE WITNESS: Gregory Joseph Kronz, K-R-O-N-Z.

2 THE COURT: Your witness.

3 DIRECT EXAMINATION BY MS. GOLDING:

4 Q. Hello, Father Kronz. Can you please tell us where you  
5 reside and for how long?

6 A. I've been in St. Luke's, Hilton Head Island, South  
7 Carolina, and I will have been there 22 years next month.

8 Q. Please give us the benefit of your educational  
9 background.

10 A. I went to grade school, high school and college in  
11 Pittsburgh, University of Pittsburgh, and then went to  
12 Trinity Episcopal School for Ministry, Trinity School For  
13 Ministry now.

14 Q. And when did you become an ordained minister?

15 A. In 1985.

16 Q. And currently, can you tell us your position in  
17 ministry?

18 A. I'm the rector of St. Luke's Church.

19 Q. And how long have you been its rector?

20 A. It'll be 22 years next month.

21 Q. Before that did you -- were you an associate rector, or  
22 what was your background?

23 A. Twice, once in Pittsburgh and once in San Antonio.

24 Q. With respect to a search committee that had been  
25 organized in 2005, can you tell us your role with that search

1 committee of the plaintiff diocese?

2 A. I was the chair of the search committee.

3 Q. And what was the purpose of the search committee for the  
4 plaintiff diocese?

5 A. To find a bishop to replace Bishop Salmon.

6 Q. And can you give us the benefit of the structure of the  
7 search committee, who constituted the members of the search  
8 committee and the process that the search committee adopted?

9 A. Well, we actually -- well, first of all, there were 12  
10 members, a mixture of clergy and lay. And we actually  
11 examined other processes throughout the church and just  
12 decided on our own course once we had heard of the different  
13 processes.

14 Q. The 12 members on the search committee, were they from  
15 various parishes within the plaintiff diocese?

16 A. Yes. And they were from various positions. Three were  
17 from the standing committee, three were from -- they were  
18 chosen at large. I don't remember the exact composition, but  
19 we had some kind of formula that we used at the time.

20 Q. Okay. And tell us the process that your search  
21 committee developed.

22 A. Well, the first thing we did was discern from the  
23 diocese who we were at that point and what type of bishop we  
24 were looking for. So we sent out questionnaires. We  
25 actually had meetings, and then we compiled a profile as well

1 as a questionnaire.

2 And when we were able to ascertain what the profile  
3 should contain and the questionnaire -- what questions were  
4 pertinent from our -- from our sense of what we needed to  
5 find out about the prospective bishop or the bishop  
6 candidates, then we embarked on getting the word out, if you  
7 will, that we were conducting a search. And it was  
8 international in scope.

9 Q. And how many candidates were there for the bishop's  
10 position?

11 A. I don't remember exactly. I want to say somewhere in  
12 the 30s or 40s.

13 Q. And would this be the 14th bishop of the plaintiff  
14 diocese, if you recall?

15 A. I don't recall. I don't pay attention to things like  
16 that.

17 Sorry, Mark. Nothing personal.

18 Q. Once there were candidates, was there a time period open  
19 for candidates being presented to the search committee?

20 A. Yes.

21 Q. Okay. And once that time period closed, what was the  
22 process they --

23 A. Well, we went through the various applicants, and then  
24 we whittled it down to I believe it was 10 or 12, and then we  
25 embarked on visiting those 10 or 12 until we arrived at 3.

1 And I have to add to that that we had some challenges in the  
2 diocese, and we were asked by the bishop and several other  
3 clergy in the diocese to revisit that.

4 So we actually had to go back, open up the search again,  
5 re-interview a couple of candidates, specifically in the  
6 diocese, and then came up with another finalist list.

7 Q. Did at any time you visit a Reverend Rickenbaker in  
8 Edenton, North Carolina?

9 A. Do I remember it?

10 Q. Yes.

11 A. Yes. I mean not in toto but yes.

12 Q. And who visited this Reverend Rickenbaker with you?

13 A. Paul Fuener.

14 Q. And what was the purpose of the visit?

15 A. Well, because he had made it to the list of whatever it  
16 was that we had gotten down to. I want to say it was about  
17 12 candidates. And so we decided that it was time to start  
18 visiting, and so we divided up the various potential  
19 finalists, and we visited those candidates.

20 Q. And when you say we divided up the potential finalists,  
21 divided up amongst the members of the search committee?

22 A. Correct.

23 Q. Okay.

24 A. Yeah. And there were two and sometimes three members of  
25 the search committee that visited the various candidates.

1 Q. With respect to the visitation with  
2 Reverend Rickenbaker, do you recall approximately when that  
3 occurred?

4 A. Not at all.

5 Q. Can you tell us what you recall about the visit?

6 A. Well, it was a nice place. I liked Edenton. And he was  
7 a nice guy. His wife was very pleasant.

8 Q. Did you meet with him on a certain day, have an initial  
9 meeting?

10 A. Yeah. I believe it was Saturday when we first met him,  
11 and we also met with he and his wife, and we went out to  
12 dinner together. I also remember that we met with a couple  
13 of members of his parish as well.

14 Q. Did you then, on the next day, on Sunday, attend any  
15 services?

16 A. Yes, two services.

17 Q. Okay. And then did you meet again after the services?

18 A. Very briefly.

19 Q. Now, in any of those meetings that you had or even the  
20 dinner with Reverend Rickenbaker, did you or Mr. Fuener -- or  
21 Father Fuener, excuse me, ever inquire as to whether or not  
22 Reverend Rickenbaker was inclined to leave a diocese or take  
23 a diocese away from the national church?

24 A. No.

25 Q. Okay. Were there any type of indirect questions in that

1 regard?

2 A. No, not that I can recall.

3 Q. Okay. Subsequent to your visit with

4 Reverend Rickenbaker, did he at any time withdraw his

5 candidacy for bishop?

6 A. He did not.

7 MS. GOLDING: Please answer any questions the defendants

8 may have.

9 THE COURT: Cross-examination.

10 THE WITNESS: Hi, Tom.

11 CROSS-EXAMINATION BY MR. TISDALE:

12 Q. Good afternoon, Father. Very briefly, very brief

13 questions, I think.

14 You, of course, have testified you visited

15 Father Rickenbaker --

16 A. Correct.

17 Q. -- in Edenton.

18 Now, of the 10 or 12 visits that you said were

19 scheduled, who else did you visit?

20 A. Well, we talked about this at the deposition.

21 Q. Well, I know, but I'm asking you now. I don't want to

22 interrupt you but --

23 A. It was either Steve Wood or Mark Robertson.

24 Q. Steve Woods?

25 A. Wood.

1 Q. Wood?

2 A. Right.

3 Q. Or Mark Robinson -- Robertson?

4 A. Correct.

5 Q. Is it Robertson?

6 A. Robertson.

7 Q. And I gather he is or was a priest?

8 A. Yes.

9 Q. And where was he living?

10 A. Savannah.

11 Q. Okay. And you interviewed him, or you can't remember?

12 A. I can't remember if we actually visited his parish,  
13 because, as I mentioned before, I've visited Mark's parish as  
14 well as Steve's parish on several occasions.

15 Q. Well, my question was -- is who did you interview for  
16 the bishop's job other than Father Rickenbaker?

17 A. Well, I remember that both Mark Robertson and Steve Wood  
18 came to Camp St. Christopher; so, in effect, I interviewed  
19 both of them.

20 Q. Well, you made a trip to Edenton. Did you make any --

21 A. Correct.

22 Q. -- trips to any other candidates to interview them one  
23 on one personally?

24 A. Well, not one on one but with Paul.

25 Q. Oh, Father Fuener?

1 A. Correct.

2 Q. Okay. But who was it that you interviewed in that  
3 setting, two of you together?

4 A. I don't remember.

5 Q. Okay. So the only one you can remember you interviewed  
6 was Father Rickenbaker?

7 A. Yes. Because it was quite a road trip.

8 Q. And you said you did not remember the date of that  
9 interview, of course?

10 A. No.

11 Q. Okay. The final -- there were three people finally  
12 selected to be considered; is that correct?

13 A. Twice, yes.

14 Q. Twice?

15 A. Twice.

16 Q. Well, there's only one the second time, wasn't there?

17 A. Yes.

18 Q. Okay. So there were three people the first election,  
19 right?

20 A. Yes.

21 Q. That would be Bishop Lawrence?

22 A. Correct.

23 Q. Steve Wood?

24 A. Yes.

25 Q. Rector of the parish in Mount Pleasant?

1 A. Mount Pleasant.

2 Q. But also he's a bishop in another denomination, isn't  
3 he?

4 A. Uh-huh. Yes. Sorry.

5 Q. No longer an Episcopal priest, right?

6 A. Yes.

7 Q. And the third one was a man named Ellis Brust, was it  
8 not?

9 A. Correct.

10 Q. Now, where did he live?

11 A. I don't remember.

12 Q. You obviously didn't interview him.

13 A. No. I interviewed him as a finalist but did not  
14 interview him wherever he was.

15 Q. Like the one you did with Father Rickenbaker?

16 A. Correct.

17 Q. And is Father -- is Ellis Brust a priest in the  
18 Episcopal Church right now?

19 A. I don't know.

20 Q. Don't know?

21 A. No.

22 Q. Okay. How many people did you say were on the search  
23 committee?

24 A. Twelve.

25 Q. And you were the chair of that committee, weren't you?

1 A. Correct.

2 Q. And so in the interview process, what your testimony is,  
3 as I understand it, is you don't know anyone that you  
4 interviewed one on one on the road except Father Rickenbaker?

5 A. Correct.

6 MR. TISDALE: Thank you.

7 THE COURT: All right. Mr. Beers.

8 CROSS-EXAMINATION BY MR. BEERS:

9 Q. Good afternoon, Father. My name is David Beers. I  
10 represent the Episcopal Church.

11 A. Nice to meet you.

12 Q. Do you know a man by the name of Clay Matthews?

13 A. I do.

14 Q. And who is he?

15 A. He's a bishop, at least as far as I knew back when I had  
16 met him.

17 Q. Did you meet him in connection with the search for a new  
18 bishop of South Carolina?

19 A. Correct.

20 Q. Do you remember that he is the director of the Office of  
21 Pastoral Development of the national church?

22 A. I didn't remember that.

23 Q. What role did he -- do you know whether he played any  
24 role in the national church?

25 A. He came down and instructed us on a bishop search.

1 Q. And you don't know who sent him or in what capacity he  
2 came?

3 A. Do not.

4 Q. Do you know what the Office of Pastoral Development is?

5 A. No, sir.

6 Q. Okay. Why did he come down to instruct you?

7 A. Bishop Salmon told me he was coming down to instruct us,  
8 and so I took Bishop Salmon and just said, "Okay."

9 Q. Okay. And what did he instruct you about?

10 A. How a bishop search might be conducted.

11 Q. Uh-huh. And anything beyond that?

12 A. Not that I can recall.

13 Q. Anything in connection with the actual election?

14 A. Not that I can recall.

15 Q. Did you talk to him -- he came down to meet you, and you  
16 met with him, you and the committee?

17 A. Yes. Correct.

18 Q. And did you ever talk to him after that?

19 A. No, I did not.

20 MR. BEERS: Thank you, Your Honor.

21 THE COURT: Thank you. Redirect.

22 REDIRECT EXAMINATION BY MS. GOLDING:

23 Q. Father Kronz, with respect to the individual by the name  
24 of -- I believe it was Bishop Matthews, at the meeting with  
25 the search committee, it's my understanding Mr. Matthews or

1 Bishop Matthews made suggestions?

2 A. Correct.

3 Q. They were not instructions or directives; is that  
4 correct?

5 A. Correct. That's correct.

6 MS. GOLDING: Thank you. Nothing further.

7 THE COURT: All right. Anyone else on behalf of the  
8 plaintiffs?

9 All right. Recross.

10 MR. TISDALE: None, Your Honor.

11 THE COURT: All right.

12 MR. BEERS: No, Your Honor.

13 THE COURT: Very well. Thank you, sir.

14 Now, documents. We were waiting on someone, as I  
15 recall, to go over the concluding docs.

16 MR. PLATTE: I can speak for Trinity, Pinopolis.

17 THE COURT: Okay. Good.

18 MR. PLATTE: I apparently spoke with Mr. Williams  
19 yesterday regarding the documents, which I had promptly  
20 forgotten until I refreshed my recollection on my email.

21 (Defendant's Exhibits TP-1 through TP-49 premarked for  
22 identification.)

23 MS. KOSTEL: So for Trinity, Pinopolis, Defendants moved  
24 in D-TP-19, which is organic; 20, organic; 21, organic; 24;  
25 25; 28; 29; 30; 31; 44; 49 is a consecration document marked

1 for identification only. That's it.

2 THE COURT: Okay.

3 MR. PLATTE: Your Honor, I'd ask the Court's  
4 indulgence --

5 THE COURT: Sure.

6 MR. PLATTE: -- just for one second.

7 THE COURT: Sure.

8 (Attorneys confer.)

9 MR. PLATTE: In regards to 29, 30, 31 and 44, we just  
10 object to relevance, noting the Court's prior ruling.

11 THE COURT: Very well. All right.

12 (Defendant's Exhibits TP-19, TP-20, TP-21, TP-24, TP-25,  
13 TP-28, TP-29, TP-30, TP-31, TP-44 admitted into evidence.)

14 MR. PLATTE: And with regard to Redeemer, as soon as we  
15 have a break, I will have a phone call with Bob Horger, and  
16 we can maybe resolve this as soon as I speak with him.

17 THE COURT: Got it. All right. Well, maybe we need to  
18 do that now.

19 MS. KOSTEL: There are other things I can do  
20 with document-related --

21 THE COURT: Matters.

22 MS. KOSTEL: -- that are not these, but we may have --  
23 if we're waiting, if Your Honor would like to take them up.

24 THE COURT: Okay. Sure. All right. So why don't we  
25 take a break now. We'll take a 15-minute break now.

1 (Recess held.)

2 THE COURT: All right. Mr. Platte, first of all, you  
3 were going to check on some documents.

4 MR. PLATTE: Right, Your Honor. I just spoke with  
5 Bob Horger on behalf of Church of the Redeemer, and  
6 Ms. Kostel has their agreement, and she'll put it on the  
7 record.

8 MS. KOSTEL: Right. I'll move them in with my agreement  
9 with Mr. Horger, and then you can raise his objections on the  
10 relevancy.

11 (Defendant's Exhibits D-R-1 through D-R-39 premarked for  
12 identification.)

13 MS. KOSTEL: So this is for Church of the Redeemer,  
14 moving in D-R-2; D-R-3; 10 is organic, 11 is organic; 12 is  
15 an organic document; and we have agreed with counsel for  
16 Redeemer to add a stipulation explaining the dissolution of  
17 that entity. And if it's okay with Your Honor, we will add  
18 that stipulation to the end of the exhibit list. And 15 is  
19 also an organic document and also another one where we have  
20 agreed with Mr. Horger to put in a stipulation about that,  
21 which will appear at the end of the exhibit list. 17, 22,  
22 23, 25 and 27.

23 THE COURT: Okay. Yes?

24 MR. PLATTE: That was my understanding.

25 THE COURT: Thank you so much. All right. Very well.

1 (Defendant's Exhibits R-2, R-3, R-10, R-11, R-12, R-15,  
2 R-17, R-22, R-23, R-25, R-27 admitted into evidence.)

3 THE COURT: Now, there were a couple other matters.

4 MS. KOSTEL: Yes.

5 THE COURT: Yes.

6 MS. KOSTEL: So Your Honor will recall that our exhibit  
7 list originally included the entire journals of the Diocese  
8 of South Carolina from the beginning to just about the  
9 present.

10 THE COURT: Yes.

11 MS. KOSTEL: And we -- it's clear that that's -- we  
12 should not move them all in in their entirety. And so what  
13 we are -- what we have done is already, with Mr. -- with  
14 Professor Edgar's testimony, we've moved into evidence  
15 sections that pertain to the diocese.

16 And then for sections in the journals that pertain to  
17 parishes -- so, for example, the journal said St. James made  
18 a petition to come in -- okay, we have, sometime in the last  
19 week, I can't remember when, provided a list, actually, two  
20 lists of journal years and page cites to the plaintiffs of  
21 the pages that we want to include.

22 And I think, in talking with Mr. Platte --

23 THE COURT: Okay.

24 MS. KOSTEL: -- what I'd like to be able to do is make a  
25 representation to the Court, which I can't do today, but I

1 will be able to do in the morning, that these are the general  
2 categories that these cover, because I believe they will be  
3 the same categories -- some of the same categories we've  
4 covered today.

5 And then I think the hope is that we'll be able to do it  
6 with a general objection and not go through parish by parish  
7 and say, "Well, I don't -- I object to Page 19 in  
8 Journal 1867." So that is the plan, if that suits Your  
9 Honor.

10 THE COURT: Sure. Absolutely.

11 MS. KOSTEL: Is that accurate?

12 MR. PLATTE: That's my understanding.

13 THE COURT: Okay.

14 MS. KOSTEL: In addition, what will be appended to those  
15 excerpts from the journals are at the end of many of the  
16 journals, although not all the journals, are the constitution  
17 and canons for the diocese of that year. And my  
18 understanding is those come in. Okay.

19 Secondly, we have in the courtroom now hard copies of  
20 the general convention's constitution and canons, but we're  
21 still putting stickers on, but that should be ready tomorrow.

22 THE COURT: Great.

23 MS. KOSTEL: Let's see. I'd like to ask the Court to  
24 take judicial notice of a couple of things. I think you  
25 noted some of them when we were going through testimony. One

1 is Exhibit 432. That's the IRS stuff, the IRS's  
2 publications. It's on your hard drive.

3 MR. RUNYAN: Could I just look at it?

4 MS. KOSTEL: Yes.

5 (Attorneys confer.)

6 MR. RUNYAN: I think 433 is a statute. I agree with  
7 her. The Court could judicially notice. 432, however --

8 MS. KOSTEL: Actually, wait. It's not a statute. It's  
9 a revenue procedure, which is like an administrative ruling,  
10 but it's the same.

11 MR. RUNYAN: It is whatever you said it was.

12 MS. KOSTEL: Right.

13 MR. RUNYAN: Excuse me. 432, however, is a Q & A from  
14 the IRS. It contains words in it that will be used for the  
15 purpose of arguing a meaning that the IRS does not attribute  
16 to it, and I cannot -- so I think there's a lack of  
17 foundation. I don't think it's a document that can be  
18 judicially noticed because it's just a Q & A to an agency  
19 that's on their website. That, however, has -- as a  
20 regulatory process, I don't have a problem with it.

21 THE COURT: Sure. I understand.

22 MS. KOSTEL: Yeah. I mean, 432 is a publication on the  
23 IRS website with the IRS insignia on it with a publication  
24 number, which is 4573 (Rev 6-2007), Catalog Number 49351Q.  
25 It's clearly a statement of IRS policy, and it's a -- it's

1 a -- actually, it's a friendlier version of the revenue  
2 procedure.

3 THE COURT: I understand what you're saying.

4 MS. KOSTEL: Right.

5 THE COURT: I don't get to do that, though,  
6 unfortunately --

7 MS. KOSTEL: That's fine.

8 THE COURT: That would be like asking me to take  
9 judicial notice of a law review article --

10 MS. KOSTEL: Well --

11 THE COURT: -- if you will. And I don't get to do that.

12 MS. KOSTEL: Well, it is a publication of the IRS; it's  
13 not someone commenting on the IRS.

14 THE COURT: Understanding that, I just recently went  
15 through a lot of regulations for the United States Postal  
16 Service and discovered for myself serendipitously that what  
17 the regulations say and what the comments say they say are  
18 not always on all fours.

19 MS. KOSTEL: Okay. Well, this document will do: 433.

20 THE COURT: So yeah. I appreciate you considering me  
21 and giving me the --

22 MS. KOSTEL: It's a lot easier to read.

23 THE COURT: -- dumbed down one.

24 MR. KOSTEL: No, I did not intend that, Your Honor.

25 433.

1 THE COURT: Thank you.

2 MS. KOSTEL: And we would also ask the Court to take  
3 judicial notice of the four marks of the Episcopal Church,  
4 which are available on the website. You know, they're  
5 official documents of the U.S. Patent and Trademark Office.  
6 I can read the registration numbers if they have an  
7 objection.

8 THE COURT: I'm hoping that those -- if they're not  
9 already in, that they'll go in.

10 MR. RUNYAN: I don't think they're relevant. There  
11 isn't a claim in this lawsuit for anything related to those  
12 marks. There's not an affirmative claim that they've been  
13 infringed. There's a defensive claim that our marks are --

14 THE COURT: Similar.

15 MR. RUNYAN: -- similar.

16 THE COURT: Right.

17 MR. RUNYAN: I believe --

18 THE COURT: Right.

19 MR. RUNYAN: -- to, I guess, their marks.

20 THE COURT: Right.

21 MR. RUNYAN: It doesn't really say, but that's what it  
22 sounds like.

23 THE COURT: Right.

24 MR. RUNYAN: And are these the Episcopal Church and the  
25 Protestant Episcopal Church?

1 MS. KOSTEL: Yes. And actually -- and one of them is  
2 the "Episcopal Church welcomes you."

3 MR. RUNYAN: That's not a mark you've plead. It's not  
4 in your pleading.

5 MS. KOSTEL: Is that right?

6 MR. RUNYAN: That's right.

7 MS. KOSTEL: That's fine. I don't need that one. We've  
8 got the Episcopal Church and the Protestant Episcopal Church  
9 in the United States of America, which are part of our  
10 defense.

11 THE COURT: I'm going to receive them. I'm going to  
12 receive them for the purposes of it's been raised in terms of  
13 the defense, and I've heard testimony about it, and I've  
14 heard a lot about it from Ms. Lott. And one's registered  
15 with the federal government, one's registered with the state  
16 government. They've got pretty substantially different  
17 names, but I want to be sure that I've looked at them fully;  
18 so I would receive them, over the objection of Plaintiffs.

19 MS. KOSTEL: So these are Exhibit Nos. 18. Is  
20 identifying them by number plenty?

21 THE COURT: Sure.

22 MS. KOSTEL: Okay. 18, 19 and 20.

23 THE COURT: Great.

24 I thought there were two federal ones. Were there three  
25 federal ones?

1 MS. KOSTEL: There's a fourth that I may have brought  
2 the wrong one --

3 THE COURT: Okay.

4 MS. KOSTEL: -- but I can fix that tomorrow.

5 MR. TISDALE: Your Honor, while we're on the subject of  
6 trademark infringement, we raised as a defense confusion to  
7 trademark infringement.

8 THE COURT: I know.

9 MR. TISDALE: And we proffered it in  
10 Bishop vonRosenberg's testimony, evidence of confusion.

11 THE COURT: Yes.

12 MR. TISDALE: I would like to move that it be admitted,  
13 his testimony, along with the lines of confusion be admitted  
14 as evidence from the proffer that we made. It's a defense to  
15 trademark infringement.

16 THE COURT: I'm trying to remember what part of his  
17 testimony, Mr. Tisdale.

18 MR. TISDALE: It was at the end, and he talked about the  
19 money being mixed up and redistributed, confusion, confusion  
20 about people getting confirmed in the church and things like  
21 that.

22 You said you were going to take it under advisement, I  
23 think, in light of the proffer. I just wanted to do whatever  
24 necessary to keep that before the Court as an issue to be  
25 decided.

1 THE COURT: I do understand. Sure. I'll consider it  
2 with regards to that because it's also been admitted for  
3 other purposes as well as I am -- with regards to whether or  
4 not during the period subsequent to the execution of the  
5 preliminary restraining order and the TRO whether or not they  
6 were complied with. It all goes in the mix.

7 MR. TISDALE: And so, then, I -- Judge, from what you --  
8 I gather from what you just said that it's admitted.

9 THE COURT: Yes.

10 MR. TISDALE: Thank you very much.

11 THE COURT: Thank you.

12 You understand, Mr. Runyan? I mean, it's in there.  
13 It's in there.

14 MR. RUNYAN: I understand.

15 THE COURT: You know, I don't know if his -- his  
16 testimony is in there, but there's a reason why that  
17 confusion may have existed other than --

18 MR. RUNYAN: I understand.

19 THE COURT: -- the trademark.

20 MR. RUNYAN: I understand.

21 THE COURT: As I understood, it's the position of the  
22 plaintiffs that it very well may have been trademark hijack,  
23 so to speak.

24 MR. RUNYAN: Yes. There is a flip side to that, yes,  
25 Your Honor.

1 THE COURT: Okay. All right. Now, where are we? Got  
2 documents?

3 MS. KOSTEL: I think everything -- oh, 30(b)(6)?

4 MR. BEERS: I would like to give a report on the --

5 THE COURT: Okay.

6 MR. BEERS: -- on the admission of the -- some 36 --

7 THE COURT: 30(b)(6).

8 MR. BEERS: -- depositions.

9 THE COURT: All right.

10 MR. BEERS: We're still -- I'm still waiting for 10 out  
11 of the 36.

12 THE COURT: Great.

13 MR. CAMPBELL: I've got four.

14 MR. TISDALE: So that brings it down to six.

15 THE COURT: Now you're down to six. See how good you're  
16 doing.

17 MR. BEERS: Fine. But I need to consider them right  
18 now. Can I keep going here? We have ten that we could  
19 introduce now. The first one is the -- is Redeemer, and we  
20 made, on behalf of the defendants, page and line marks. And  
21 counsel for Redeemer has responded that he would like to  
22 designate all the rest. If that's proper, I will agree to  
23 that, introduce it, if it's proper.

24 I've done page and line, and he would like to stipulate  
25 that the whole thing goes in.

1 THE COURT: How many of those do you have --

2 MR. BEERS: One.

3 THE COURT: -- Mr. Beers, that have responded in that  
4 fashion?

5 MR. BEERS: One.

6 THE COURT: Just the one?

7 MR. BEERS: So far.

8 THE COURT: And that is?

9 MR. BEERS: Redeemer.

10 THE COURT: And that would be Mr. Horger, who's not  
11 here?

12 MS. GOLDING: Correct.

13 THE COURT: Okay. Put that one aside.

14 MR. BEERS: Okay.

15 (Brief pause.)

16 THE COURT: Mr. Platte, I'm going to ask you to do  
17 something for me, only because you handled the documents for  
18 Mr. Horger and for no other reason. I would like you to  
19 deliver a message to Mr. Horger that every single solitary  
20 line and page better be relevant.

21 MR. PLATTE: Yes, Your Honor.

22 THE COURT: Because if it isn't, I'm going to be  
23 concerned.

24 MR. PLATTE: I'll pass along the message, Your Honor.

25 THE COURT: I'm going to give him another opportunity to

1 reconfirm that that's how he wants to handle the matters  
2 before this Court.

3 MR. PLATTE: Yes, Your Honor.

4 THE COURT: Thank you so much, Mr. Platte, for doing  
5 that for me.

6 Thank you, Mr. Beers. Consider that one not quite  
7 finalized.

8 MR. BEERS: The following -- I don't know -- nine, I  
9 guess, defendants have made marginal line -- page and line  
10 designations. The plaintiffs have done the same thing either  
11 next to it or highlighted it or across the page or whatever.  
12 It's good enough. And these all come from counsel who either  
13 had no objections or whose objections I was able to -- I just  
14 withdrew the -- those lines.

15 THE COURT: They're ready to go.

16 MR. BEERS: And they're ready to go. And they are, let  
17 me introduce them now --

18 THE COURT: Yes.

19 MR. BEERS: -- St. Andrew's, Mount Pleasant; Good  
20 Shepherd; St. John's, Florence; St. Matthew's, Fort Motte;  
21 St. Luke's, Hilton Head; Holy Trinity; Christ St. Paul's;  
22 St. Paul's, Conway; and you won't believe it, St. Philip's.

23 THE COURT: Thank you kindly.

24 MR. BEERS: Your Honor, let me ask you this: We're  
25 going to obviously need to get these into the record.

1 Because of the mass, what we've elected to do is to make it  
2 easy on everybody by actually drawing the lines in pen or  
3 pencil along the side of the page.

4 If the Court believes it would be more appropriate to  
5 have typed-up page, line, page, line --

6 THE COURT: Absolutely not.

7 MR. BEERS: Great.

8 THE COURT: Absolutely not.

9 MR. BEERS: Great.

10 THE COURT: They're going to be part of the record.

11 MR. BEERS: All right.

12 THE COURT: And they'll be passed up. And do they have  
13 stickers on them currently?

14 MR. BEERS: No. But we'll take care of that.

15 THE COURT: That would be --

16 MR. BEERS: Oh, do they need stickers? They're not  
17 exhibits, are they?

18 THE COURT: If you put them in, here's what I would  
19 propose, and since they're being offered, that we mark them  
20 as a Court's exhibit.

21 MR. BEERS: Court exhibits?

22 THE COURT: Yes.

23 MR. BEERS: Do we have a number to start -- do we have a  
24 number to start with?

25 THE COURT: My reporter takes care of my stickers.

1 MR. BEERS: Now, I have about 15 -- yeah -- where there  
2 are objections, and they fall into categories. And I'm  
3 confident that some counsel had put them in really to protect  
4 the record --

5 THE COURT: Yes.

6 MR. BEERS: -- on matters on which you've already ruled.  
7 And we've proposed -- what I propose to do with that is to  
8 invite counsel, after this meeting or tomorrow morning, to  
9 try to tell me which categories those fall into.

10 And I would propose to write in the margins "sustained"  
11 or "overruled," depending upon -- and then -- and let them  
12 look at them to make sure that they're each -- counsel is  
13 prepared to -- you know, is comfortable that they're going in  
14 in the proper form.

15 THE COURT: We can't do that under our rules. I do  
16 appreciate the meeting, and I appreciate the categories, just  
17 so you all can be prepared and crisp to get through them.

18 MR. BEERS: Okay.

19 THE COURT: Unfortunately, what I'm going to have to do  
20 is --

21 MR. BEERS: Rule on the record.

22 THE COURT: -- just as we did, it has to be ruled on on  
23 the record, yes.

24 MR. BEERS: Okay.

25 THE COURT: Yes.

1 MR. BEERS: All right. But I think -- I guess I'm  
2 trying to separate out the objections that they don't really  
3 want to argue because you ruled.

4 THE COURT: And I think that a meeting, just as you  
5 suggest, would be marvelous to do that, because then the  
6 attorneys can know that. They can make a notation of that,  
7 and as you offer it, be prepared to say, "I object on this  
8 basis," "I understand you ruled," or, "I have this  
9 objection," and then you all argue it. I think if you had a  
10 few minutes to sort of tease that out, it will make things go  
11 much quicker.

12 MR. BEERS: I agree with that except for the part about  
13 the few minutes.

14 THE COURT: Sorry.

15 MR. BEERS: But we'll do it.

16 THE COURT: It will be what it is.

17 MR. BEERS: Yes, ma'am. Thank you.

18 THE COURT: All right. Now, Mr. Campbell, you're  
19 prepared -- are there objections in those, or just simply  
20 pages and lines?

21 MR. CAMPBELL: Your Honor, these would fall under the  
22 last category he described. There are objections. I believe  
23 they're all ones that Your Honor has ruled upon, and they --

24 THE COURT: Well, you all can check on that.

25 MR. CAMPBELL: The four I have fall under that category.

1 THE COURT: Wonderful. Yes.

2 MS. KOSTEL: I just remembered that there are four  
3 documents that came up in the documents with St. Matthew's,  
4 Fort Motte that are really relevant to the diocese.

5 THE COURT: Right.

6 MS. KOSTEL: What I will do is get hard copies of those  
7 and maybe move them in tomorrow. Is that acceptable?

8 THE COURT: Or at least we'll have a conversation with  
9 them with regards to the diocese tomorrow, yes.

10 MR. TISDALE: Mr. Mack went home for dinner.

11 MS. KOSTEL: Yes, but he won't be -- I think Mr. Runyan  
12 will be arguing them. And do you know which they are?

13 MR. RUNYAN: No.

14 MS. KOSTEL: Okay. I'll --

15 MR. RUNYAN: Your Honor, we have Ms. Armstrong's  
16 deposition that was offered a while ago. I went through it  
17 and made some markings about objections and flagged them, and  
18 I'd like to just offer that with the original, however the  
19 Court seeks to do that.

20 THE COURT: Okay.

21 MR. TISDALE: And we've agreed to his objections.

22 THE COURT: Okay. Great.

23 MR. TISDALE: We're in accord with his objections.

24 THE COURT: All right. Very well.

25 Okay. So just to recap, I'm awaiting 30(b)(6) --

1 MR. BEERS: Yes.

2 THE COURT: -- objections, pages and lines on the 15  
3 that remain, or whatever number remain, and then we have the  
4 diocese documents that we will deal with. And then we will  
5 then turn -- then, as I understand it, that will conclude the  
6 defense. Yes?

7 MR. TISDALE: We don't have any more testimony that I  
8 know of.

9 MS. KOSTEL: I think that's it, Your Honor.

10 THE COURT: And if there's one or two, I know we're all  
11 getting a little tired, if there's a few more documents,  
12 we'll handle that. I have absolutely no problem with that at  
13 all. And then we will turn -- and my question would be, I  
14 know we've had one reply or rebuttal witness. Should I  
15 anticipate more?

16 MR. RUNYAN: Yes, Your Honor. We have four  
17 less-than-lengthy witnesses.

18 THE COURT: Thank you.

19 MR. RUNYAN: Very less than lengthy.

20 THE COURT: Got that, Mr. Tisdale? Less than lengthy.

21 MR. TISDALE: Yes, I did, indeed, Your Honor.

22 MR. RUNYAN: And then we have possibly three more. I  
23 still haven't decided on all of that.

24 THE COURT: Okay.

25 MR. RUNYAN: But no more than -- no more than three.

1 THE COURT: Okay.

2 MR. RUNYAN: And not very lengthy.

3 THE COURT: Wonderful. It is now 5:00, and we will  
4 begin that process tomorrow.

5 MS. KOSTEL: Could we get that list of the witnesses?

6 MR. RUNYAN: You can.

7 MS. KOSTEL: Thank you.

8 MR. HOLMES: I have one question I'll direct to the  
9 Court, but, really, the answer would come from counsel.  
10 They're trying to schedule a TRO hearing for me in Charleston  
11 on Friday morning. My client wants me to be here. I just  
12 want to get an idea, are we going to be through tomorrow, do  
13 you think, or is it going to go into Friday morning? Just to  
14 get an idea.

15 THE COURT: Going into Friday morning.

16 MR. HOLMES: Okay. That's great. That's fine.

17 THE COURT: It's going into Friday morning. And I ask,  
18 Mr. Holmes, is there -- I mean, do you need me to assist you  
19 in any regard? Because I'm happy to do that.

20 MR. HOLMES: No, thank you. The Court's been very nice.  
21 I just keep telling them, "Maybe tomorrow, maybe not." But I  
22 told them that I didn't think there was any possibility  
23 before Friday, and Friday was a possibility. Now I can tell  
24 them Friday's not a possibility.

25 MR. TISDALE: That's a good way to avoid a TRO.

1 THE COURT: Very well.

2 MR. HOLMES: Yes, ma'am. Thank you.

3 MR. BRYAN: I didn't know whether it's an appropriate  
4 time to ask, Your Honor, but I've got some procedural problem  
5 with my deposition, my 30(b)(6). First of all, when I saw it  
6 last Thursday, it had that my client had waived the reading  
7 and signing. And I contacted the reporter, and the reporter  
8 sent out a new 30(b)(6) transcript, which showed -- just  
9 deleted that stipulation, because there was no waiver of the  
10 reading and signing.

11 I took Saturday off. I sent it to my client on Sunday.  
12 She was gone. She's gone to the Cayman Islands. I've tried  
13 to reach her by email, and I have gotten a response that she  
14 wanted to make two changes. I'm not sure, and I don't think  
15 she got the errata sheet, as best I can tell, because I  
16 didn't get it. I sent a note back to the reporter and asked  
17 about that. I haven't -- if I've heard back, I don't recall,  
18 but I wasn't sure what to do to protect my client and my  
19 witness.

20 I looked at the rules, and it looked like, in order to  
21 sort of stay in compliance with the rules, I should move to  
22 suppress based on Rule 32, I believe it's (b)(4), based on  
23 the technical problems of getting this thing read and signed  
24 and back in with her changes, my witness's changes.

25 And when I looked at the text I got from the defendants,

1 one of those things coincided, one of the changes she wanted  
2 to make. I don't know if that's a big deal or not, to be  
3 honest with you, but she said she wanted to actually change  
4 the answer in her response.

5 So having said all that, I'm trying not to sandbag and  
6 say I don't know quite what to do, whether to -- how to  
7 handle that. And I've sort of not marked up this thing yet.  
8 I started writing on the top trying to explain this thing,  
9 and I -- that's why I'm talking to you.

10 THE COURT: I understand. Here's what I think is  
11 appropriate: First of all, your client is anticipated to  
12 return probably over the weekend.

13 MR. BRYAN: My understanding is, I don't know if it's  
14 Saturday or Sunday, yes.

15 THE COURT: All right. But you are able to communicate  
16 with your client in some form or fashion?

17 MR. BRYAN: She has responded --

18 THE COURT: By email?

19 MR. BRYAN: -- twice.

20 THE COURT: All right.

21 MR. BRYAN: Yes. She says -- she's sort of like I am:  
22 She's trying to read the thing on a telephone, and she's on  
23 her vacation. And anyhow, yes, she has responded, but it's  
24 sort of unusual communication. And where I am in  
25 Summerville, my phone doesn't work very well.

1           So it seems to be a delay in me getting things. But  
2   anyhow, yes, I have heard from her. I tried to send her a  
3   generic, "Here's your deposition. You know, you can review  
4   it." I think I forwarded her the letter that I got from the  
5   court reporter. I know -- I must have. But in any event,  
6   yes, in answer to your question, yes.

7           THE COURT: Let me ask you this question: Where she's  
8   located in Cayman Islands, does the place where she is  
9   staying have the capacity to receive a facsimile?

10          MR. BRYAN: I don't know.

11          THE COURT: Okay.

12          MR. BRYAN: I've not tried to.

13          THE COURT: Well, here's what I'm going to ask you to  
14   do, because I think that counsel has the ability to use a  
15   facsimile, to fax her her deposition, first and foremost, so  
16   we don't have to worry about whether or not she's able to  
17   read it or not.

18          So I think that's the place to begin to drain the swamp,  
19   so to speak. I have a facsimile. You're more than welcome  
20   to use mine. The clerk's office has a facsimile. If she can  
21   accept an email and print it in some form or fashion, that's  
22   probably going to be better than trying to read it off of the  
23   telephone. Try to find that out. Okay?

24          Once we have that, once we have that, then I'm going to  
25   ask you to prepare for her an errata sheet, under the --

1 under these circumstances, rather than going through the  
2 court reporter, understanding it is a little bit, if you  
3 will, unorthodox.

4 And then I'm going to ask that you contact the court  
5 reporter and ask her is it possible for her or him to email  
6 the audio file. If so, then I will -- I'll tell you where to  
7 have her email it. The audio file. And then, if necessary,  
8 we can listen to that part of the deposition. If the  
9 indication on the errata sheet needs to be listened to, we  
10 can do that.

11 But I think that's how we'll proceed, first -- the first  
12 juncture, though, is to see if she can receive the deposition  
13 perhaps in a more appropriate way, meaning instead of trying  
14 to read it on her phone. Okay? Great. Yes.

15 MR. BEERS: Could you ask counsel whether he's going to  
16 have objections, in addition to cross designations or  
17 corrections?

18 THE COURT: Yes, I think he is.

19 MR. BRYAN: I think I will.

20 THE COURT: Okay. That's where we need to begin, I  
21 think.

22 MR. BRYAN: All right.

23 THE COURT: Great.

24 MR. SLOAN: Your Honor, Chip Sloan, Christ Church Mount  
25 Pleasant. One question on the 30(b)(6) depositions: One

1 thing that came up when I was reading through it, I think  
2 there was an order from the Court that the witness be  
3 prepared to answer from I think it was 2005 forward.

4 And then, you know, they put in some documents today  
5 from 1980 or 1993. What I don't want is my witness answering  
6 "no" to some general question and then them trying to say  
7 some kind of gotcha thing from 1980 that my witness didn't  
8 know about.

9 So I didn't put the stipulation in the deposition, nor  
10 is the order attached. I just want to make sure that there's  
11 an understanding that the witness was ordered to be there  
12 with knowledge from -- and I think it was -- you all can  
13 correct me -- I think it's 2005 forward, so that that's clear  
14 with the Court that they were only answering as to 2005  
15 forward.

16 MR. BEERS: I think, Your Honor, some categories were  
17 2000 forward, and I think some other categories were 2002  
18 forward. Some counsel have registered objections where the  
19 questions of the witness extended beyond that, and I -- and  
20 certainly those are noted in the margin.

21 THE COURT: Okay.

22 MR. BEERS: And beyond that, I don't know what to say.

23 MR. SLOAN: I guess we can pull the order. I guess  
24 whatever the order was, I think the witness can only be held  
25 to what the order said.

1 THE COURT: And you are correct.

2 MR. SLOAN: It was 2002 or 2000.

3 THE COURT: And you are correct.

4 MR. SLOAN: Thank you, Your Honor.

5 THE COURT: Let me ask you this question: I'm sensing  
6 that we've got a fair number of loose ends; so I'll see you  
7 all in the morning. And I'm not going to -- you know, I'd  
8 like for you all to be here at 9:30, but you all have got  
9 some work to do. And then it doesn't sound like you all are  
10 going to be ready then.

11 MR. RUNYAN: Your Honor, we have two witnesses that have  
12 extraordinarily tight timeframes tomorrow, and I'm not  
13 suggesting that Your Honor change her schedule.

14 THE COURT: I don't care.

15 MR. RUNYAN: But whenever you're ready to start, we'd  
16 like to start with those two witnesses.

17 THE COURT: And then handle the 30(b)(6) stuff after  
18 that? I don't care. Suits me. Sure. Okay. Great. I'll  
19 see you at 9:30.

20 (Trial of the case adjourned for the day.)

21 - - -

22

23

24

25

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 23rd 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 September 25, 2014

16

17 /s/ *Ruth L. Mott*

18 Official Court Reporter

19

20

21

22

23

24

25

VOLUME XIII

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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., )

TRANSCRIPT OF RECORD

JULY 24, 2014  
ST. GEORGE, SC

Plaintiffs,

vs.

THE EPISCOPAL CHURCH, )  
(A/K/A THE PROTESTANT )  
EPISCOPAL CHURCH IN THE )  
UNITED STATES OF AMERICA); )  
THE EPISCOPAL CHURCH IN )  
SOUTH CAROLINA, )

Defendants.

B E F O R E:

HONORABLE DIANE S. GOODSTEIN

Ruth L. Mott, RPR, CRR  
Official Court Reporter

## 1 I N D E X

2

3 WITNESS DIRECT CROSS REDIRECT RECROSS

4 ALLEN CARL GUELZO

MR. RUNYAN-VOIR DIRE 2330

5 MR. RUNYAN 2336

MS. KOSTEL 2365

6 MR. BEERS 2381

MR. TISDALE 2398

7

ROBERT STRATTON LAWRENCE

8 MR. RUNYAN 2399

MR. TISDALE 2401

9

WADE H. LOGAN, III

10 MS. GOLDING 2405

MR. RUNYAN 2419

11 MR. BEERS 2420

12 NANCY ARMSTRONG

MR. RUNYAN 2424

MR. BEERS 2432 2435

14 CERTIFICATE OF REPORTER 2438

15

16

## E X H I B I T S

17

NO. DESCRIPTION ID EVD

18

DSC-69 ACT OF PARLIAMENT 2344 2345

19

DSC-70 1866 JOURNAL 2364 2364

DSC-71 10/29/2012 LETTER 2405 2405

20

DSC-72 11/19/2013 LETTER 2407 2407

DSC-73 FILING SECRETARY OF STATE FOR 2408 2408

21

PECUSA, INC.

DSC-74 PAGE FROM LEGAL NOTICES SECTION 2409 2409

22

OF POST AND COURIER

DSC-75 SUMMARY MONEY FLOW 2431 2432

23

24

- - -

25

1 THE COURT: All right. We were talking about documents  
2 yesterday and we were talking about witnesses and there was  
3 some concern about two particular witnesses yesterday that  
4 needed to be called, as I understand. We've got the 30(b)(6)  
5 deposition and those objections. Yes, you were going to meet  
6 last evening. Right?

7 MR. BEERS: We met last evening and this morning and  
8 we're making some progress. We're trying to devise some  
9 clever ways so that you don't have to look at every exhibit  
10 between 1800 and 1909, 2009, or every page and line in the  
11 30(b)(6).

12 THE COURT: I understand.

13 MR. BEERS: We're trying, but we'll see. But we're  
14 making some progress.

15 THE COURT: All right. Yes.

16 MR. HORGER: Your Honor, Bob Horger for the Redeemer. I  
17 understand there was some question about that one yesterday  
18 and I've taken care of that.

19 THE COURT: Thank you so much, Mr. Horger. That's  
20 wonderful. I do appreciate that so very much. Thank you.  
21 All right.

22 MR. BEERS: And I think Mr. Bryan and I have reached an  
23 agreement.

24 Haven't we?

25 MR. BRYAN: Yes, Your Honor. I kind of give up on the

1 logistics of my situation. I reviewed the deposition  
2 transcript and I'm not really concerned about -- it's a  
3 distinction without a difference perhaps as relates to the  
4 issues in the case. So I'm getting off my rule thing. And I  
5 told Mr. Beers that I, as counsel for this party, since it's  
6 a 30(b)(6), I believe I have the right to waive, and I'll do  
7 that.

8 THE COURT: Very well.

9 MR. BRYAN: And to the extent there was a motion to  
10 suppress on the record yesterday, I withdraw that.

11 THE COURT: Thank you so much.

12 MR. BRYAN: Yes, ma'am. Thank you for your  
13 accommodation too.

14 THE COURT: Absolutely. All right. So, Mr. Beers, this  
15 probably will go to you in terms of the work that you're  
16 doing on 30(b)(6). What I would like to do, if it suits, is  
17 I'd like to go ahead and take the testimony of those folks  
18 who I know that you were concerned about needing -- I don't  
19 know if they're catching flights, I don't know what's going  
20 on, but I sensed some urgency with two of the witnesses. I'd  
21 like to go ahead and get those done, the ones that you feel  
22 some urgency regarding, and then perhaps yield some time this  
23 afternoon so that you all can finish what you need to finish  
24 with regards to documents.

25 MR. BEERS: We'll try, Your Honor.

1 THE COURT: How does that sound to everyone? And work  
2 through lunch and then you all take some time this afternoon  
3 so that we get Court time in but maybe conclude a little bit  
4 early today. Does that sound like an okay plan?

5 MR. RUNYAN: Yes, Your Honor.

6 MR. BEERS: Yes, Your Honor.

7 THE COURT: Okay. Very well. All right. Have any live  
8 people, witnesses?

9 MR. RUNYAN: We do, Your Honor.

10 THE COURT: Okay.

11 MR. RUNYAN: The first one we would call would be Dr.  
12 Allen Guelzo.

13 ALLEN CARL GUELZO,  
14 being first duly sworn, testified as follows:

15 THE COURT: Your witness.

16 DIRECT EXAMINATION BY MR. RUNYAN - VOIR DIRE:

17 Q. Dr. Guelzo, would you just give us your name again,  
18 please?

19 A. My name is Allen Carl Guelzo.

20 Q. Thank you, sir. Where do you live?

21 A. I live in Philadelphia and in Gettysburg, Pennsylvania.

22 Q. And are you employed in Gettysburg, Pennsylvania?

23 A. Yes, I am. I am the Henry R. Luce professor of the  
24 Civil War era at Gettysburg College.

25 Q. Would you give the Court a sketch of your educational

1 background, please?

2 A. My undergraduate degree is from Cairn University in  
3 Langhorne, Pennsylvania. I have an M.A. and Ph.D. from the  
4 University of Pennsylvania. I have an M.Div. from  
5 Philadelphia Theological Seminary, the Theological Seminary  
6 of the Reformed Episcopal Church.

7 Q. What were your areas of study in history?

8 A. My areas of study were 18th and 19th century American  
9 religion, philosophy, and political history.

10 Q. Doctor, in addition to teaching at the Gettysburg  
11 College, have you taught in any other locations?

12 A. Yes, I have. I taught ecclesiastical church history for  
13 13 years at the Philadelphia Theological Seminary.

14 Q. Have you also taught courses in the Civil War history?

15 A. Yes. I taught those at Eastern University and at  
16 Gettysburg College.

17 Q. Have you taught courses that involve both American  
18 history and intellectual history?

19 A. Yes. I regard those as being my -- my staples, so to  
20 speak, in terms of courses taught.

21 Q. Have you had occasion to actually teach judges?

22 A. Excuse me, I did not hear the question.

23 Q. Have you had occasion to teach judges?

24 A. I have, in fact; at a number of judges conventions, both  
25 federal and state judges. They were very good pupils.

1 Q. Have you had the occasion to teach teachers in history?

2 A. Yes, frequently. I have worked with the Gilder Lehrman  
3 Institute of American History in New York City, which  
4 sponsors teacher seminars on American history throughout the  
5 country, and with the National Endowment for the Humanities  
6 most recently. I had not done work with NEH for some time  
7 because I was a member of the Council of the National  
8 Endowment of the Humanities, but having cycled off that  
9 counsel in 2013, I taught two NEH seminars this year.

10 Q. Dr. Guelzo, you have written a number of books; is that  
11 correct?

12 A. That is correct.

13 Q. Could you just give us a rough estimate of the books  
14 written involving history in general?

15 A. I can't say that I've actually sat down and counted each  
16 and every one of them, but there are, I would guess,  
17 something in the area of about a dozen.

18 Q. Have you written any books that deal with religious  
19 history?

20 A. Yes, I have. Two books in particular. The first two  
21 books spoke directly to issues of American religious history.  
22 The second of those two books in fact spoke to the history of  
23 the Episcopal Church in the 19th century, late 18th and early  
24 19th century, and to the 1873 disruption of the Episcopal  
25 Church which gave rise to the formation of the reformed

1 Episcopal Church.

2 Q. Is that this book (indicating)?

3 A. Yes, it is.

4 Q. Did this book win any prizes in church history?

5 A. Yes. It won the Albert C. Outler Prize in ecumenical  
6 church history awarded by the American Society of Church  
7 History in 1994.

8 Q. Do you regularly speak on topics involving 18th century  
9 American history as well as Civil War history?

10 A. Yes, I do.

11 Q. Have you studied as part of your work the historical  
12 origins of the Episcopal Church?

13 A. Yes, I have.

14 Q. Have you taught the history of the Episcopal Church?

15 A. Yes, I have.

16 Q. Have you written articles involving religious history  
17 and including the religious history of the Episcopal Church?

18 A. Yes, I have; in a variety of scholarly quarterlies  
19 ranging from the Filson Club Historical Quarterly to the  
20 Anglican -- to Anglican and Episcopal history, which is the  
21 quarterly of the Historical Society of the Episcopal Church  
22 of which I am also a director.

23 Q. Have you ever served on the National Council on the  
24 Humanities?

25 A. Yes. I served on the Council from 2006 to 2012.

1 Q. How did you get on that Council?

2 A. I was appointed by the president of the United States.

3 Q. Have you contributed articles to religious  
4 encyclopedias?

5 A. Yes, I have; to a number of them.

6 Q. And I believe I heard you say you were a member of a  
7 professional organization relating to the history of the  
8 Episcopal Church; is that right?

9 A. That's correct. I'm one of the directors of the  
10 Historical Society of the Episcopal Church.

11 Q. Dr. Guelzo, are you a member of the clergy of the  
12 Episcopal Church?

13 A. Yes, I am.

14 Q. What position do you hold as a clergyman?

15 A. I am a priest of the diocese of Chicago.

16 Q. And are you licensed currently to officiate in any  
17 dioceses?

18 A. Yes. I'm licensed to officiate in the diocese of  
19 Pennsylvania and the diocese of Bethlehem.

20 Q. Where were you ordained?

21 A. In Illinois, in Peoria, Christ Church Peoria.

22 Q. Do you from time to time participate in worship services  
23 as an assistant?

24 A. Yes. I'm frequently called upon in what has been for a  
25 number of years our home parish, St. David's, Radnor,

1 Pennsylvania, where I assist the other regular clergy. I'm  
2 in a nonstipendiary basis assisting in preaching,  
3 administration of the sacraments, leading of various  
4 meetings, conducting classes of various sorts, and in general  
5 being available whenever the regular members of the staff are  
6 simply too stretched in terms of schedule. I am, so to  
7 speak, well, you might say, a designated hitter.

8 Q. Doctor, is St. David's a parish within a diocese that is  
9 within the Episcopal Church?

10 A. Yes, it is. It is within the diocese of Pennsylvania  
11 and it is one of the oldest parishes in the diocese of  
12 Pennsylvania.

13 Q. And who is the present bishop of that diocese?

14 A. The present bishop is Clifton Daniels, who is the  
15 provisional bishop of the diocese.

16 MR. RUNYAN: Thank you.

17 Your Honor, at this time I would submit Dr. Guelzo as an  
18 expert in late 18th and 19th century American history,  
19 intellectual history, church history, and Civil War history.

20 THE COURT: Is there any voir dire?

21 MR. TISDALE: No, thank you, Your Honor.

22 MR. BEERS: No, Your Honor.

23 THE COURT: Is there any objection?

24 MR. BEERS: No, Your Honor.

25 MR. TISDALE: No objection.

1 THE COURT: Very well.

2 DIRECT EXAMINATION BY MR. RUNYAN:

3 Q. Dr. Guelzo, is the Episcopal Church organized in a  
4 hierarchical religious structure?

5 A. No.

6 MS. KOSTEL: Objection, Your Honor.

7 MR. BEERS: Objection, Your Honor. You have said 19  
8 times, at least, that hierarchy, the hierarchical nature of  
9 the Episcopal Church is not an issue in this case. We have  
10 not put in evidence on hierarchy because you've said under  
11 the law of this state hierarchy was not part of the game.

12 THE COURT: It is not. And I will not do any  
13 interpretation with regards to the hierarchical analysis. As  
14 you know, the Supreme Court in Jones versus Wolf discussed  
15 the two likely or available analyses when it comes to church  
16 disputes. One, of course, is the hierarchical analysis and  
17 the other is the neutral principles analysis. The  
18 hierarchical also being called the deferential or the  
19 deference procedure.

20 My concern is this, and direct this, direct your  
21 comments, and let me ask this: In terms of whether or not  
22 there is a constructive trust and, number two, whether or not  
23 there is confusion in the marks, as you will recall, Ms. Lott  
24 went on for a very long time in her testimony about the  
25 confusion that would occur in the marks. There has been an

1 awful lot of testimony from the defendants with regard to the  
2 control that the national church has over both the diocese as  
3 well as the parishes either directly or through the diocese,  
4 and that affects who owns the property or in whose trust the  
5 property is, as well as control as it relates to the  
6 utilization of the marks.

7         So in order to make out your case on those issues, a  
8 great degree of your proof has gone to the structure and the  
9 control that the national church, as we have called it --  
10 we've sort of morphed back into national Episcopal Church as  
11 I have become more educated, you all knew it ab initio, I  
12 have become more educated, and we have begun to talk to it in  
13 terms of that. Speak to me of this witness testifying  
14 regarding the structure, not as it relates to the  
15 hierarchical analysis, because we know that I'm not going to  
16 utilize that, but there has been an awful lot of proof which  
17 has been offered even into the documents yesterday because of  
18 the reference of the constitution and bylaws, the accession  
19 as it relates both to the diocese from parish to diocese and  
20 from diocese to national church and from parish to national  
21 church, does it have no relevance with regards to those  
22 issues. Boy that was a bunch.

23         MR. BEERS: I think the point we're trying to make is,  
24 Your Honor, that he can testify about specific examples of  
25 control, just as we put in evidence some specific acts of

1 control, but he's being called as an expert who's about to  
2 give an expert opinion on whether the church is hierarchical  
3 or not. That's a very different matter.

4 THE COURT: How so?

5 MS. KOSTEL: I think Your Honor has ruled us out from  
6 getting near the hierarchy issue, and that's how we have  
7 understood Your Honor's rulings throughout the presentation  
8 of our case. And so we kept away from the issue of  
9 hierarchy, understanding Your Honor's interpretation of the  
10 law, and kept -- tried to stay in the neutral principles area  
11 and proving specific instances of control.

12 THE COURT: Well, two things let me ask. Let's talk  
13 about it a little bit because I want to stay within the  
14 parameters of where we have been, clearly. But there were a  
15 couple of things. If you will remember and harken back to  
16 Professor McWilliams, he talks about that it is the  
17 constitution and the canons of the national church that  
18 become the neutral principles. Remember that?

19 MS. KOSTEL: Yes.

20 THE COURT: And he talks about that because of the  
21 structure of the church, because you've got the national  
22 church, then you've got, if you will, this ripple-down  
23 effect, and then you have these parishes that make reference  
24 to the constitution and the canons.

25 MS. KOSTEL: Well, I think -- excuse me.

1 THE COURT: Yes, so we've got that. We've got all of  
2 that testimony again of Ms. Lott when she talks about control  
3 and because of this control, the top-down control, the marks  
4 cannot be used that are registered with the State of South  
5 Carolina because of the confusion, and that arises out of  
6 this control of the national church over the diocese and the  
7 parishes.

8 And then we've got all this information that's just come  
9 in and yet coming in that talks about the reference and the  
10 vestry minutes and some of the deeds, and in all of this  
11 information harkening back to the constitution and the  
12 canons. We've even had the Book of Common Prayer come in as  
13 being evidence of control.

14 You're right, I'm not going to use the hierarchical  
15 analysis, yet this relationship, and you can call it  
16 something else, but this trickle down, to use a Reagan-ism --  
17 I guess it's a Bush-ism actually -- this trickle-down  
18 control, if you will, is very much a part of this case, not  
19 in terms of the analysis that I would use in terms of the  
20 separation, but certainly as it relates to ownership of  
21 property and certainly with regards to the marks. So how do  
22 I keep the plaintiffs from being able to answer that? Tell  
23 me.

24 MS. KOSTEL: Well, a couple things. First of all, I  
25 think what Professor McWilliams testified was that because of

1 the 1973 corporate incorporation document of the plaintiff  
2 diocese because of the way it used -- referred to the  
3 national church's constitution and canons, it essentially  
4 incorporated it. I did not understand him to be relying on  
5 the hierarchical nature of the church to spell out his  
6 analysis of the corporate issues. So that's number one.

7 Number two, on the issue of control, I would echo what  
8 Mr. Beers says, which is that we put in evidence of control  
9 for a neutral principles purpose, which was to take on the  
10 trademark issue and perhaps also prove constructive trust.  
11 But we too have witnesses that could say that the church is  
12 hierarchical, but I think everyone in the room I think  
13 understood that Your Honor did not want to hear that kind of  
14 testimony based on your decision that whether or not the  
15 church is hierarchical didn't matter in this case. Specific  
16 evidence about control, that's a different thing, because  
17 that's a neutral principles concept. So that's the  
18 distinction we're drawing.

19 THE COURT: It's not a neutral. I don't see it as a  
20 neutral. I don't see it as a neutral principle.

21 MS. KOSTEL: Don't see what?

22 THE COURT: It's evidentiary. It certainly is  
23 evidentiary. But I've got to tell you I can't in fairness  
24 keep the plaintiffs from being able to meet the nature of the  
25 voluminous amount of evidence that the defendants have put in

1 regarding this control issue.

2 MS. KOSTEL: And I don't think we're trying to stop  
3 that. I think what we're saying is meet the control evidence  
4 but no conclusions about hierarchy.

5 MR. RUNYAN: Your Honor, may I speak to this?

6 THE COURT: Okay.

7 MR. RUNYAN: I generally agree with the concept that  
8 hierarchy should not -- is not relevant, but, however, two  
9 things give me pause. First of all, the only reason that  
10 control is really in this case is for them to argue  
11 eventually, as they have said they will do, for a change in  
12 the law in South Carolina. They've indicated they intend to  
13 make that argument. But more fundamentally Exhibit 431,  
14 which they introduced over my objection, talks about members  
15 of the clergy of this church and further represent the polity  
16 and order of this hierarchical church. There is an exhibit  
17 in evidence that speaks to the exact word that they say they  
18 don't seek.

19 MS. KOSTEL: What is that?

20 MR. RUNYAN: 431.

21 MS. KOSTEL: That's not in evidence yet.

22 MR. RUNYAN: We have it as in evidence.

23 MR. KOSTEL: No, it's not, because it wasn't complete,  
24 Alan. You objected that it wasn't complete so it's not in  
25 evidence.

1 THE COURT: We'll ask our court reporter to take a  
2 minute and just see.

3 MR. RUNYAN: I can adjust my question to the issue of  
4 control.

5 MS. KOSTEL: Thank you.

6 THE COURT: Okay.

7 Q. Dr. Guelzo, is the Episcopal Church organized in such a  
8 fashion that its governance controls the dioceses and the  
9 parishes?

10 A. No.

11 Q. How would you characterize how it is organized?

12 A. The organization of the Episcopal Church is something  
13 which has grown up over 200 years, so it isn't any single  
14 line of growth or nor does it follow a single line of  
15 development. It has tended to zigzag in various ways  
16 depending on circumstances. Therefore, there's many issues  
17 in the constitution and canons which it in fact does not  
18 address. We might expect a document like that would be  
19 comprehensive, but it is not, it is developed in response to  
20 situations. So there is no clear sense in which the  
21 relationships between dioceses and the national church  
22 represent what you could legitimately call control. If by  
23 control we are talking about authority and direction, then,  
24 if anything, the authority and direction has over the history  
25 of the Episcopal Church tended to flow from the bottom

1 upwards.

2 Q. Doctor, in terms of words of control, are words such as  
3 "supreme" or "supremacy" found in any of the organizational  
4 documents of the Episcopal Church?

5 A. I have never come across any such. In fact, if  
6 anything, the foundation of the Episcopal Church was  
7 struggling to avoid terminology of that sort in the 1780s  
8 when the Episcopal Church was organized.

9 Q. Doctor, let's back up and pick up with history a little  
10 bit. Does the word "Episcopal" predate the creation of the  
11 Episcopal Church?

12 A. Yes.

13 Q. What does it mean?

14 A. It means government by episcopacy, by overseers, by  
15 bishops.

16 Q. Are there other churches in the world that have the word  
17 "Episcopal" in their names other than the national church in  
18 this case?

19 A. Oh, yes, yes. I think, for one thing, of the Lusitanian  
20 Episcopal Church. That's one example in western Africa.  
21 There is a Portuguese Episcopal Church. There are Episcopal  
22 churches of various description, such as the Methodist  
23 Episcopal Church. And even in the 18th century the  
24 parliament of England recognized the Moravians as an ancient  
25 Protestant Episcopal Church.

1 Q. I'm going to hand you a document that I will mark for  
2 identification as 69 for identification. Just hold your  
3 thought for a moment, Doctor, while I give that to them.

4 (Plaintiff's Exhibit DSC-69 marked for identification.)

5 Q. Doctor, could you identify that document?

6 A. This document that I'm looking at here is an act of  
7 parliament with direct reference to the Moravians, who I  
8 mentioned before. If you would like, I could explain  
9 something about that connection.

10 MR. RUNYAN: Let's get it in evidence first if we could.  
11 We'd offer it in evidence, Exhibit 69.

12 THE COURT: Any objection?

13 MR. TISDALE: Give us just one minute, please, Your  
14 Honor.

15 THE COURT: Sure.

16 MS. KOSTEL: We've never seen this.

17 MR. TISDALE: No.

18 MR. BEERS: Is this being introduced as an exhibit?

19 MR. RUNYAN: It is.

20 MR. BEERS: We've never seen that before.

21 MR. RUNYAN: It's reply. Didn't know I'd need it.

22 MR. TISDALE: I don't know enough about what it is to be  
23 able to say whether we object or not.

24 MS. KOSTEL: It's hard to tell whether it's relevant at  
25 this point.

1 MR. RUNYAN: All right. Let's lay some more foundation.

2 Q. Doctor, is this a statue of the parliament in England.

3 A. Yes. It was passed by parliament in the reign of King  
4 George II.

5 MR. BEERS: Excuse me, Your Honor. Objection. I'd like  
6 to know to what issue in this case.

7 MR. RUNYAN: We're getting there, Mr. Beers. Just give  
8 me a second.

9 MS. KOSTEL: Ordinarily we weren't allowed to get there,  
10 so we'd like to know in advance.

11 MR. RUNYAN: It goes to the issue of the use of the name  
12 Protestant Episcopal Church many, many years before you guys  
13 used it.

14 MR. BEERS: I don't know about the guys part, but no  
15 objection to the rest.

16 THE COURT: Folks. Y'all.

17 MR. RUNYAN: Still object?

18 MR. BEERS: No.

19 MR. RUNYAN: Tom?

20 MR. TISDALE: No.

21 MR. RUNYAN: Your Honor, we'd offer this in evidence.

22 THE COURT: I think it's in evidence now without  
23 objection.

24 (Plaintiff's Exhibit DSC-69 admitted into evidence.)

25 Q. Doctor, would you turn, please, to the second page.

1 And, first of all, would you tell the Court whether there is  
2 an act of parliament set forth on that page and the  
3 succeeding two pages?

4 A. Yes, this is an act of parliament.

5 Q. What does the act relate to?

6 A. The act relates to a group known as the United Brethren  
7 or Unitas Fratrum, but more popularly known as the Moravians.  
8 This was a group of Protestant pietists in Moravia, today we  
9 would call that area the Czech Republic. The Moravians were  
10 a Protestant pietist group in the domains of the Austrian  
11 empire, and especially the domains known as Bohemia, now  
12 today the Czech Republic. This Protestant group was  
13 persecuted by the state authorities in the Austrian empire.  
14 They moved into Germany into the Duchy of Saxony to find  
15 refuge there. But eventually the Duke of Saxony wanted them  
16 to conform to the state Lutheran church.

17 At this point they fled to other points where they could  
18 have religious freedom, to England and to England's North  
19 American colonies. The Moravians who moved to London and  
20 those who moved to North Carolina and Pennsylvania petitioned  
21 for recognition by the Church of England and were granted  
22 this by act of parliament on the grounds that the Moravians  
23 were, like the Church of England, an ancient Protestant  
24 Episcopal Church, since they were governed by bishops, and  
25 was granted equal status and exemption from any taxation or

1 other ecclesiastical difficulties and liabilities that would  
2 otherwise have been laid upon dissenter churches in England  
3 in the 18th century.

4 Q. Thank you, Doctor. Let's focus on just the words  
5 "Protestant Episcopal Church" if we could for a moment. If  
6 you would look at roughly at the center of that page, 463.  
7 Could you just tell us what is set forth there, using those  
8 words?

9 A. The aim here is to identify the Moravian congregations  
10 as ancient, not literally going back into Roman or Greek  
11 times but having a lengthy history. Protestant, in other  
12 words, part of the family of Protestant churches that stem  
13 from Martin Luther and the Protestant reformation, and  
14 Episcopal in that the Moravians were governed by bishops.

15 Q. Doctor, would you refer down to the lower part of the  
16 page. Does that phrase "Protestant Episcopal Church" appear  
17 one other place?

18 A. Yes, it does; towards the bottom of Page 463 as copied  
19 from the statute book. And it says: Every person being a  
20 member of the said Protestant Episcopal Church known by the  
21 name of Unitas Fratrum or the United Brethren.

22 Q. Doctor, leaving the UK and coming over to the United  
23 States was the phrase "Protestant Episcopal Church" used for  
24 any church other than the Protestant Episcopal Church in the  
25 United States prior to its existence?

1 A. Yes. The term and title "Protestant Episcopal Church"  
2 was used by the parishes of Maryland in the 1770s as they  
3 attempted to organize themselves during the upheavals of the  
4 Revolution. They assembled and described themselves as the  
5 Protestant Episcopal Church as they were appealing to the  
6 Maryland General Assembly for recognition of the titles of  
7 their properties. They did this because during the  
8 Revolution many of the state governments of the United States  
9 enacted confiscatory statutes, confiscating the properties of  
10 Tories and sympathizers with the British. These parishes in  
11 Maryland wished to establish that they were not in sympathy  
12 with the British occupation forces, and so they appealed to  
13 the Maryland General Assembly for recognition as a separate  
14 entity and gave themselves the title Protestant Episcopal  
15 Church.

16 Q. Doctor, prior to the creation of the Episcopal Church,  
17 how were the post-revolution churches in South Carolina  
18 referred to?

19 A. They also used the title Protestant Episcopal Churches.

20 Q. Doctor, would you take a moment, please, and describe  
21 for the Court how the Episcopal Church came to be the  
22 national church?

23 A. At the end of the American Revolution the Church of  
24 England congregations in what became the United States were  
25 pretty much thrown on their own resources. Of the 286 clergy

1 resident in America, 131 of them went into exile, and many of  
2 these congregations simply dissolved because it was felt that  
3 these were appendages of the British government.

4 A number of congregations, though, began organizing  
5 themselves. They created, actually borrowed, a mechanism  
6 from the Revolution itself which was to organize as state  
7 conventions. The Revolution had begun by states resolving  
8 themselves as conventions. Maryland in 1779 is one of the  
9 first and actually elects William Smith as their leader, as  
10 their bishop, as their overseer. William White, the rector  
11 of Christ Church Philadelphia, issued in 1782 a pamphlet  
12 entitled The Case of the Episcopal Churches Considered in  
13 which he outlines a plan for organizing these church of  
14 England congregations on what he called the federal plan.  
15 And he in fact called for the assembling of a Pennsylvania  
16 state convention in 1784 in Philadelphia. That Pennsylvania  
17 state convention in turn issues a call for the meeting of  
18 nine state conventions which assembled in 1785 in  
19 Philadelphia.

20 Summing it up, the long and short of it is that the  
21 Episcopal -- the national church really comes into being by  
22 the action of individual state church organizations  
23 organizing themselves, then coming together, and then  
24 proceeding to do business.

25 Q. So did the Episcopal Church create the state

1 organizations or did the state organizations create the  
2 Episcopal Church?

3 A. Well, the state organizations were responsible for  
4 creating the Episcopal Church. There was no Episcopal Church  
5 beforehand to call it into being. Episcopal congregations  
6 had received no oversight or instruction from the Archbishop  
7 of Canterbury or the Bishop of London in England and,  
8 curiously, it's not even on William White's authority that  
9 the call goes out to the state conventions to come. It is  
10 the Pennsylvania convention which invites the other state  
11 conventions to assemble together.

12 Q. Dr. Guelzo, what was the attitude, if you can tell us,  
13 of the former Anglican parishes to the idea of an episcopacy?

14 A. Dicey, the reason being mostly political. Anglican  
15 churches were seen both before the Revolution and during the  
16 Revolution as a kind of religious fifth column of the British  
17 empire. So those who were loyal to Anglican worship and the  
18 Anglican ethos had to walk a very narrow path for fear of  
19 exciting hostility and retribution by people who would assume  
20 that any attempt to organize a full-blown Episcopal church  
21 would attract a great deal of negative publicity and maybe  
22 even spark mob actions and riots.

23 Tories, of course, had been tarred and feathered with  
24 some regularity during the Revolution, and these marooned  
25 Church of England parishes were not eager to have the same

1 thing happen. So what they proposed by way of an  
2 organization stays as far away from the vocabulary of a full  
3 hierarchical structure or a full control structure, they're  
4 even hesitant to use the word "bishop." When William White  
5 lays out his case for the Episcopal churches considered, he  
6 suggests that the term "overseer" be used rather than  
7 "bishop" for fear of implying that some kind of top-down  
8 control is being imposed from England.

9 Q. Were there any components of William White's proposal  
10 for this type of a church in the case considered that  
11 suggested that when these entities came into union, they  
12 would only give so much authority as was needed for that  
13 organization but retain the rest?

14 A. The only authority that the various state conventions  
15 seemed to give at all to judge by the record of the original  
16 convention, original national convention, was for the purpose  
17 of electing bishops. And that, curiously enough, is an  
18 authority which that same convention devolves back onto the  
19 diocese in 1799.

20 Q. Bishop -- excuse me -- Dr. Guelzo, I'm going to show you  
21 what's marked in evidence as Diocese Exhibit 41, which is a  
22 copy of the Constitution, first Constitution, of the Diocese  
23 of South Carolina. Have you seen that before?

24 A. I have seen this document.

25 Q. Do you see any of the principles that you just discussed

1 contained in any of the articles in Exhibit 41?

2 A. In the very first article: That the Protestant  
3 Episcopal Church in these states is and ought to be  
4 independent of all foreign authority, ecclesiastical or  
5 civil. This is an attempt to establish that although  
6 Episcopalians are coming together as Episcopalians, they  
7 should not be mistaken as a branch of the Church of England,  
8 they should not be mistaken as attempting to create any kind  
9 of monarchical form of government.

10 Q. All right. Any others?

11 A. Moving on here, I point out that the doctrines of the  
12 gospel should be maintained as now proposed by the church of  
13 England and uniformity of worship to be continued as near as  
14 possible.

15 MR. TISDALE: Your Honor, we object. Excuse me, Doctor.  
16 Put an objection on the record that the document speaks for  
17 itself. I think you've ruled that in other cases, similar  
18 cases in the case.

19 MR. RUNYAN: I'll rephrase the question.

20 THE COURT: All right.

21 Q. Doctor, I'm going to read you a couple of things from  
22 this document and then ask you a question about them. There  
23 is Article IV -- I'm going to have a hard time reading it  
24 actually -- that something in the ministry be agreeable to  
25 the usage which require the three orders of bishops, priests,

1 and deacons, parentheses, with an exception, however, to the  
2 establishing of bishops in the state, closed parentheses.

3 How does that exception relate to what you've just testified  
4 about?

5 A. The exception suggests that in the original document  
6 people were dicey, even very hesitant, even about the area of  
7 suggesting that bishops were necessary to the reconstitution  
8 of their association, that they could in fact move on quite  
9 happily and continue to think of themselves legitimately as  
10 Anglicans only with the orders of priests and deacons.

11 Q. I'll read you another article, article fifth: That to  
12 make regulations, rules, and laws there be no other authority  
13 than that of a representative body of the clergy and laity  
14 conjointly.

15 Does that speak to the issue of a centralized authority?

16 A. I think very clearly what Article V is saying  
17 unmistakably is that whatever authority there is, that the  
18 authority remains within these representatives in South  
19 Carolina.

20 Q. And the last article: That no power be delegated to a  
21 general ecclesiastical government except such as cannot be  
22 exercised by the clergy and vestries in their respective  
23 congregations.

24 My first question is: Was that one of the elements of  
25 William White's The Case?

1 A. This was, because White was very sympathetic to the  
2 notion that the individual state organizations and dioceses  
3 should have the full and open control of their property and  
4 of their own government. White was looking less to create a  
5 national church government than he was simply to secure a  
6 legitimate succession of the episcopate, which he hoped to  
7 obtain from the Bishop of London or from the Archbishop of  
8 Canterbury. He also recognized that that might not be  
9 forthcoming because there was no precedent at that point in  
10 Church of England history for consecrating bishops for a  
11 province outside the political of boundaries of the British  
12 empire. So White, always hedging his bets by saying, well,  
13 if this is possible, if we can obtain the episcopate; if we  
14 can't, we will move ahead nevertheless on our own authority.

15 Q. Dr. Guelzo, what was South Carolina's initial position  
16 on whether they desired a bishop or not?

17 A. South Carolina was not entirely sure -- and this in this  
18 respect is very similar to Maryland -- as to whether they  
19 should even talk about bishops simply because the word itself  
20 might conjure up much too much in the way of hostility to  
21 their parishes and to their clergy and people.

22 Understand, the term "bishop" in America in the 1780s is  
23 a loaded term because prior to the Revolution there had been  
24 a good deal of discussion about the creation and consecration  
25 of a bishop for the American colonies. There had been none

1 up till that point. In fact, the Bishop of London had the  
2 overall oversight authority for the American parishes. He  
3 never visited America, he stayed in London. He sent a  
4 representative, a commissary, who lived in Virginia, but that  
5 was about the extent of that representation. Many people  
6 agitated strenuously for the appointment of a colonial  
7 bishop, but it never actually happened because, well, in  
8 large measure no one was willing to pay for it.

9 But it was suggested that the discussions, the attempts,  
10 the plans to create a bishop for America were of a piece with  
11 British imperial attempts to strengthen fiscal and political  
12 control over the colonies so that, for instance, at the time  
13 of the Stamp Act it was said by John Adams that the stamping  
14 and episcopizing of America were two parts of the same  
15 program, which, of course, the Revolution opposes. So,  
16 therefore, using the term "bishop," that had to be done very,  
17 very carefully because that term had a -- it had a history  
18 among Americans that was not very, very tasty.

19 Q. Doctor, in fact, does the governance of the Episcopal  
20 Church today require that a diocese even have a bishop?

21 A. Strictly speaking, no. It's one of the ironies of the  
22 way that the documents themselves have been constructed over  
23 the years, that the constitution and canons both of the  
24 national church and the dioceses tend to respond to specific  
25 situations and specific questions. And if it doesn't occur,

1 if it's not a particular challenge, then there tends not to  
2 be legal material on that or statutory material on that. So  
3 the exact idea that you must have a bishop in order for the  
4 diocese to function itself doesn't really appear in the  
5 documents.

6 Q. Doctor, are you familiar with a work known as "The  
7 Episcopal Church And Its Work" authored by Powel Mills  
8 Dawley?

9 A. Yes.

10 Q. Is that a work that you consider to be reliable as it  
11 relates to the general history of the Episcopal Church?

12 A. Yes. It's one of a number of standard references and  
13 surveys of the history of the Episcopal Church.

14 Q. Okay. I'm going to read a couple things and ask you a  
15 question if I could. On Page 75 of that work the following  
16 quote appears: The constitutional articles are the most  
17 important laws of the church, and like those laws called  
18 canons, which may be altered at any session of general  
19 convention, the provisions of the constitution may be amended  
20 only by the action of two successive conventions.

21 MS. KOSTEL: I'm sorry to interrupt. Is this an  
22 exhibit?

23 MR. RUNYAN: No. I don't think I can introduce it. I  
24 will if you'll consent to it.

25 MS. KOSTEL: Why are you reading it then?

1 MR. RUNYAN: That's the way we do it.

2 MS. KOSTEL: Only on reply, is that -- got it. Excuse  
3 me.

4 Q. I'll start over, Doctor.

5 THE COURT: Hold on.

6 (Brief pause.)

7 THE COURT: Cross, not reply. I took your question to  
8 be cross, not reply. I think you meant reply. I'm looking  
9 at cross. I'm looking at cross. Hold on.

10 MS. KOSTEL: Okay.

11 MR. RUNYAN: Your Honor, I believe that this is  
12 appropriate examination under Rule 803(18).

13 THE COURT: Well, I finally got it. I got right there.  
14 Thank you. I'll put the rule on the record so we're all on  
15 the same page. It is 803(18). To the extent called to the  
16 attention of an expert witness upon cross-examination, which  
17 is where my mind went, or relied upon by the expert witness  
18 in direct examination; statements contained in published  
19 treatises, periodicals, or pamphlets on a subject of history  
20 is established as a reliable authority by the testimony; if  
21 admitted, the statements may be read into evidence but not  
22 received as evidence.

23 There you go. You may proceed.

24 Q. Doctor, let's refresh our recollection. The Episcopal  
25 Church and Its Work, is this a part of the Episcopal Church

1 teaching series?

2 A. Yes, it is, to the best of my understanding.

3 Q. All right. Back to where we were, I'm going to read a  
4 statement from Page 75 and ask you a question. The  
5 constitutional articles are the most important laws of the  
6 church, unlike those laws called canons, which may be altered  
7 at any session of the general convention. The provisions of  
8 the constitution may be amended only by the action of two  
9 successive conventions. Changes of a serious nature in the  
10 structure or order of the church may not be made until there  
11 has been ample time for study and deliberation.

12 Do you agree with that, Doctor?

13 A. Yes.

14 Q. I'll ask you another question from Page 106 concerning  
15 the office of the presiding bishop of the Episcopal Church.  
16 While the presiding bishop is invested with the prestige that  
17 surrounds the archbishops and metropolitans in other churches  
18 of the Anglican Communion, few of his canonical duties are  
19 those historically associated with the office of archbishop.

20 MS. KOSTEL: Objection, Your Honor. The authority of  
21 the presiding bishop is not an issue in this case.

22 THE COURT: Let me hear the question.

23 MS. KOSTEL: Okay.

24 MR. RUNYAN: I may not go there if she is conceding that  
25 the presiding bishop has no authority over dioceses and

1 parishes at all.

2 MR. BEERS: That's not what we said at all.

3 MS. KOSTEL: The presiding bishop's authority is not at  
4 issue, the general convention's authority is at issue.

5 THE COURT: To me, read. Let me hear the question.

6 MR. RUNYAN: What I am quoting from is as follows:

7 While the presiding bishop is invested with the prestige that  
8 surrounds the archbishops and metropolitans in other churches  
9 of the Anglican Communion, few of his canonical duties are  
10 those historically associated with the office of archbishop.  
11 He exercises no direct pastoral oversight of a diocese of his  
12 own, nor does he possess visitorial or juridical powers  
13 within the independent dioceses of the Episcopal Church.

14 THE COURT: And what is the nature of the objection?

15 MS. KOSTEL: That the authority of the presiding bishop  
16 is not at issue in this case. Any authority of the presiding  
17 bishop, I think that the testimony derives from the general  
18 convention. And the issue in this case is the general  
19 convention's authority over the diocese.

20 THE COURT: Got it. Overruled.

21 Q. Doctor, do you agree with that statement?

22 A. Yes, I do.

23 Q. From Page 115: At the time that the American Revolution  
24 forced an independent organization upon the Anglican Colonial  
25 parishes, the first dioceses existed separately from each

1 other before they agreed to the union in 1789 into a national  
2 church. That union, like the original federation of our  
3 states, was one in which each dioceses retained a large  
4 amount of autonomy. And today the dioceses still possess an  
5 independence far greater than that characteristic in most  
6 other churches with Episcopal polity.

7 Do you agree with that?

8 A. Yes, I do.

9 Q. Page 116 of the same book: Diocesan participation in  
10 any national program or effort, for example, must be  
11 voluntarily given, it cannot be forced. Again, while the  
12 bishop's exercise of independent power within the dioceses is  
13 restricted by the share in church government possessed by the  
14 diocesan convention or the standing committee, his  
15 independence in respect to the rest of the church is almost  
16 complete.

17 Do you agree with that statement?

18 A. Yes, I do.

19 Q. And finally, from the same page: Neither the general  
20 convention nor the National Council lacking control over the  
21 larger part of the church's resources --

22 THE COURT: The national church's?

23 MR. RUNYAN: Resources.

24 THE COURT: Thank you.

25 MR. RUNYAN: -- can put men and money to work in

1 missionary districts or other areas of crucial challenge  
2 without the voluntary cooperation of the dioceses.

3 Do you agree with that statement?

4 A. Yes, I do.

5 Q. You obviously have some familiarity and expertise with  
6 the American Civil War, do you not?

7 A. That is true.

8 Q. Would you tell the Court what happened to the southern  
9 dioceses that were a part of the -- in union with the  
10 Episcopal Church when the Civil War broke out?

11 A. With the outbreak of the Civil War the dioceses  
12 represented in the seceding states of the confederacy came  
13 together to form their own organization, and that was styled  
14 the General Council of the Protestant Episcopal Church in the  
15 Confederate States. This was a motion arising from the  
16 dioceses themselves to federate in this fashion and they  
17 functioned through the Civil War on that basis.

18 At the end of the Civil War representatives of these  
19 dioceses appeared at the next general convention of the  
20 Episcopal Church in 1866 and were welcomed back as dioceses.  
21 In other words, by detaching themselves from the Protestant  
22 Episcopal Church in the United States, they had not acquired  
23 some entirely new identity which forced them to be redefined  
24 as dioceses, they came back as the same dioceses they had  
25 been with the same authority that they had and were indeed

1 welcomed back by the presiding bishop of the Episcopal Church  
2 and by the resolution that was passed at that time in the  
3 1866 general convention.

4 Q. Doctor, I'm going to hand you a document which is the  
5 1866 proceedings of the Diocese of South Carolina. I'll ask  
6 you, sir, if you've seen that before?

7 A. Yes, I have.

8 THE COURT: Is this in evidence at this point?

9 MR. RUNYAN: It is not, Your Honor.

10 THE COURT: Okay.

11 MR. RUNYAN: I would at this time offer it in evidence.

12 (Plaintiff's Exhibit Diocese-70 marked for  
13 identification.)

14 THE COURT: You all have the document; correct?

15 MS. KOSTEL: Yes.

16 MR. TISDALE: He gave us one and I passed it over to  
17 Ms. Kostel.

18 THE COURT: All right. You may proceed, Mr. Runyan, to  
19 ask him questions.

20 Q. Doctor, what is this document?

21 A. This document is a journal of the proceedings of the  
22 Diocese of South Carolina as it was coming at the end of the  
23 Civil War.

24 Q. What was the year?

25 A. 1866.

1 Q. Does it contain on the first page just opposite the  
2 title something entitled "Preamble and Resolutions" of  
3 another entity?

4 A. Yes, it does. "Preamble and Resolutions of the General  
5 Council of the Protestant Episcopal Church," it looks as  
6 though it forgot to put the definite article in, "in the Late  
7 Confederate States."

8 Q. Was there a separate organization of the southern  
9 dioceses during the Civil War?

10 A. Separate in respect of the Episcopal Church in the  
11 United States, yes. There was no new diocese organized under  
12 the aegis of this General Council of the Protestant Episcopal  
13 Church. In fact, to the contrary. It was the dioceses of  
14 states like South Carolina which come together and organize  
15 not only a new convention of their own, but in fact give it a  
16 different title than the general convention of the Protestant  
17 Episcopal Church of the United States. They call it a  
18 General Council to distinguish it. It is very much a  
19 creation of these dioceses.

20 Q. Doctor, I'm going to read you a paragraph from that  
21 preamble and resolution and ask you a question about.

22 THE COURT: Hold on one second. Is it in evidence?

23 MR. RUNYAN: It is not.

24 THE COURT: Is it offered?

25 MR. RUNYAN: It is offered.

1 MS. KOSTEL: No objection.

2 MR. TISDALE: No objection.

3 MS. KOSTEL: 70?

4 THE COURT: 70. Very well.

5 (Plaintiff's Exhibit DSC-70 marked for identification.)

6 (Plaintiff's Exhibit DSC-70 admitted into evidence.)

7 Q. Would you turn to the paragraph marked, looks like,  
8 Resolved 1? Doctor, this says that in the judgment of this  
9 Council it is perfectly consistent with the good faith which  
10 she owes to the bishops and dioceses with which she has been  
11 in union since 1862 for any diocese to decide for herself  
12 whether she shall any longer continue in union with this  
13 Council.

14 Doctor, does that speak at all, in your opinion, to the  
15 issue of the independence of the dioceses?

16 A. It suggests that the diocesan authorities were enjoying  
17 and were given permission to make their own decisions about  
18 affiliation or re-affiliation with the Episcopal Church,  
19 Protestant Episcopal Church of the United States. The  
20 diocese would make its own decision.

21 Q. Doctor, based upon your knowledge as a professional  
22 historian, your understanding of the creation of the  
23 Episcopal Church, and your review of records surrounding its  
24 creation, in your opinion is there anything associated with  
25 that creation that suggests to you that a diocese who helped

1 create the Episcopal Church, once joining it, could never  
2 leave again?

3 A. I can recollect nothing which insists on a permanent  
4 subordination of dioceses in the national church to the  
5 authority of either the bishops or even the general  
6 convention of the Episcopal Church.

7 MR. RUNYAN: Thank you, sir.

8 THE COURT: Any other direct from any other plaintiffs?  
9 All right. Cross-examination, Mr. Beers.

10 MR. BEERS: May we have a few moments, Your Honor?

11 THE COURT: Of course.

12 MR. BEERS: Your Honor, given the fact we did not know  
13 about this witness -- and I'm not complaining about that --  
14 would you mind if Ms. Kostel and I split the cross?

15 THE COURT: No, I don't.

16 MR. BEERS: Thank you.

17 THE COURT: And I know it's not typically normally done,  
18 but I'm going to allow it under these circumstances.

19 CROSS-EXAMINATION BY MS. KOSTEL:

20 Q. Good morning, Dr. Guelzo.

21 A. Good morning.

22 Q. I'm Mary Kostel and I represent the Episcopal Church.  
23 We're referring to it as the national church here. Dr.  
24 Guelzo, you're familiar with someone named Francis Hawks,  
25 right, who was a clergyman and historian alive in the 19th

1 century?

2 A. Yes.

3 Q. And you're aware, I'm certain, that he wrote a book in  
4 that century called Contributions to the Ecclesiastical  
5 History of the United States of America?

6 A. That is correct.

7 Q. And I'm certain you're aware -- and I need to get my  
8 glasses. Excuse me.

9 Getting back to Francis Hawks, you're aware that in that  
10 book Francis Hawks was speaking about dioceses and wrote:  
11 What did the several dioceses surrender when they came into  
12 the general convention?

13 MR. RUNYAN: Your Honor, I'm sure she can do it, but  
14 you've missed a foundational question. I would object to the  
15 foundation.

16 MS. KOSTEL: He's aware of it. He's a historian in the  
17 19th century.

18 Q. Correct?

19 A. Correct.

20 Q. Yes. I thought I had established that.

21 MR. TISDALE: You did.

22 Q. Yes. So Francis Hawks wrote: What did the several  
23 dioceses retain when they -- what did they surrender when  
24 they came into the general convention as we apprehend, he  
25 wrote, the following things: Number one, such an exercise of

1 independency as would permit them to withdraw from the union  
2 at their own pleasure and without the assent of other  
3 dioceses.

4       You're aware that he wrote that; correct?

5 A.   Yes.

6 Q.   Okay.  And you're familiar with Francis Vinton, also a  
7 19th century writer, teacher, professor of ecclesiastical  
8 polity at law in the general theological seminary of the  
9 Episcopal Church and a priest?  You're aware of him?

10 A.   And also a rector in New York City.

11 Q.   Yes, exactly.  And I'm sure you're familiar with a  
12 manual commentary of the general canon law and the  
13 constitution of the Protestant Episcopal Church in the United  
14 States that Francis Vinton wrote?

15 A.   Yes.

16 Q.   And so I'm certain you're aware that Francis Vinton  
17 wrote in his manual commentary a question and answer type of  
18 essay, piece, and one question was, Q:  What is the relation  
19 of the general convention to the diocesan conventions?  A,  
20 his answer:  It is that of a supreme legislature whose  
21 constitution is the fundamental law of the Protestant  
22 Episcopal Church in the United States and whose canons either  
23 overrule or sanction the canons of the several diocesan  
24 conventions; correct?

25 A.   That statement is one of his statements.

1 Q. Yes. And he wrote that in the 19th century; correct?

2 A. That is correct.

3 Q. And you're familiar, I'm sure, with Hill Burgwin, who  
4 was also living in the 19th century, was the chancellor of  
5 the Diocese of Pittsburgh and is a lawyer. And Mr. Burgwin,  
6 I'm sure you know, wrote an article called "The National  
7 Church and the Diocese"?

8 A. Yes.

9 Q. And I'm sure you're aware that he wrote the following,  
10 which is long: But suppose the attempt to do so -- and he's  
11 referring to remove a diocese from the church -- were made  
12 and that the convention of a diocese with the bishop at its  
13 head should, by an overwhelming majority and for a cause  
14 sufficient to satisfy them, resolve to withdraw from the  
15 union with the national church and thereupon set up an  
16 independent organization. What would then be the  
17 ecclesiastical and also the civil status of the different  
18 parties concerned?

19 As to the former, all those who should remain faithful  
20 to the national church, whether as individuals or parishes,  
21 however small a remnant and however unorganized and widely  
22 scattered, would compose the Protestant Episcopal Church in  
23 that diocese. If not strong enough to organize themselves as  
24 a diocese, they would be taken under the foster and care of  
25 the national church and perhaps be organized temporarily as a

1 missionary jurisdiction.

2 As to the others, their acts would be that of  
3 individuals only, being beyond the scope of their powers as  
4 members of the convention. It would be of no legal effect  
5 and the diocese would still remain potentially and when  
6 subsequently reorganized actually in union with the national  
7 church, while any subsequent organization of the majority  
8 would be simply schismatical, especially after their bishop  
9 had been deposed, as he would be at once.

10 Not only would this be the ecclesiastical status of all  
11 the parties as held by the national church, but they would be  
12 regarded in the same light by the civil law and with this  
13 most important consequence that all the property in the  
14 diocese held in trust for the church purposes -- for church  
15 purposes -- excuse me -- whether by the diocese at large, by  
16 parishes, or by any other corporations or individuals, would  
17 remain for the use and benefit of those whom the law held to  
18 be, though in a minority, yet members of the Protestant  
19 Episcopal Church in the United States of America and her  
20 lawful representatives in the diocese concerned.

21 Hill Burgwin wrote that in the 19th century; isn't that  
22 right?

23 A. Can you supply me the exact date on that?

24 Q. Yes. Well, it's an April 1885 issue of the American  
25 Church Review.

1 A. And you are aware that in fact that was inaccurate and  
2 indeed contradicted by the case of Chase, et al., versus  
3 Cheney in 1871.

4 Q. In 1871. But Hill Burgwin wrote this in 1885.

5 A. I'm aware of that. But I will also have to point out  
6 that this is an opinion of a gentleman flying in the face of  
7 and in denial of what was already an established court case  
8 in the Diocese of Illinois and in the Illinois State Supreme  
9 Court.

10 Q. And that case that happened in the Diocese of Illinois  
11 happened before the church adopted new canons setting out its  
12 control over property; isn't that right?

13 A. You're right. You're reading canons or you're reading  
14 Mr. Burgwin's opinion?

15 Q. I'm talking about canons now.

16 A. And there were canons in 1880 to that effect? I'm  
17 unaware of such.

18 Q. That's fine then.

19 A. No. I think you're reading opinions of a particular  
20 person writing about canon law, but there are no such canons.

21 Q. So you're not aware of canons that were adopted by the  
22 general convention after the Cheney case?

23 A. Not of that nature, not representing that gentleman's  
24 opinion, no.

25 Q. I'm talking about canons regarding church property that

1 were adopted by the general convention after the Cheney case  
2 was decided.

3 A. But those canons, of course, were not in fact put into  
4 effect. And what's more, they had to wait until 1977 with  
5 the resolutions surrounding the Dennis canon.

6 Q. What canons do you think you're talking about that were  
7 not put into effect?

8 A. I'm talking about canons with reference to church  
9 property.

10 Q. So you're not aware of any canons that were adopted in  
11 the 1870s regarding church property?

12 A. None that were put to any sort of test.

13 Q. That expressly spoke about protecting church property  
14 against persons who abandoned the Episcopal Church.

15 A. No. You are reading, are you not, Mr. Burgwin's  
16 opinion?

17 Q. I'm not reading anything. I'm asking you if you're  
18 aware of a canon that had that language in it.

19 A. If you can supply me with the text of the canon so that  
20 I can be sure of the exact wording, I would be happy to give  
21 you my opinion about the canons. But you have asked me for  
22 an opinion about Mr. Burgwin's article.

23 Q. No. I asked you whether you were aware of Mr. Burgwin's  
24 article.

25 A. I am aware of Mr. Burgwin's article. That's all.

1 Q. Okay. But you're not aware of canons passed in the  
2 1870s?

3 A. Can you cite me a case?

4 Q. You're either aware of it or you're not, Dr. Guelzo.

5 A. Well, I'm not aware of them because you cannot cite a  
6 case for me.

7 Q. Thank you.

8 A. It doesn't exist, a vapor.

9 Q. You're familiar, I'm sure, also with Murray Hoffman, who  
10 was a layman in the Episcopal Church in the 19th century and  
11 published a paper called "Remarks Upon the Question of What  
12 Is Schism"?

13 A. Yes.

14 Q. And in that paper Hoffman quoted Francis Hawks, did he  
15 not?

16 A. Yes, he did.

17 Q. And in agreement with Francis Hawks said: He enumerates  
18 what the several dioceses retained and then asks what did  
19 they surrender, as we apprehend the following things: Number  
20 one, such an exercise of independence as would permit them to  
21 withdraw from the union at their own pleasure and without the  
22 assent of the other dioceses.

23 That was in Hoffman's article, wasn't it?

24 A. That is correct. Are you aware of the disposition of  
25 these authors whom you have been reading, from Cox to

1 Hoffman?

2 Q. I'm asking the questions.

3 A. I know you're asking the questions.

4 THE COURT: Stop. Both of you stop. When you  
5 cross-examine an expert with regards to a document, it has to  
6 be accepted as a learned treatise by the witness before you  
7 can ask him. This is of no use to the Court if this witness  
8 doesn't consider what you're reading to be learned treatises.  
9 You're not laying the proper foundation. I know there hadn't  
10 been an objection, but this is of no use to me to have you  
11 have a debate with this witness about whether he believes  
12 what you're reading is legitimate or not. That doesn't help  
13 me.

14 MS. KOSTEL: But, your Honor, I'm offering it -- may I  
15 finish?

16 THE COURT: No. You cannot under our rules. When you  
17 cross-examine an expert with regards to a treatise, the  
18 expert has to accept the document as a learned treatise.  
19 That is missing from your foundation. I know it hadn't been  
20 objected to, but this is nonjury, people, and I have to be  
21 able to rely on it. And there's a ton of information. I'm  
22 not going to have this kind of information thrown at me, and  
23 I have got to discern what was legitimate and what wasn't.

24 MS. KOSTEL: Fair enough. Let me ask about --

25 THE COURT: So start over and ask him do you consider

1 this document to be a learned treatise.

2 MS. KOSTEL: Fair enough. But, Your Honor, can I skip  
3 reading all the excerpts again?

4 THE COURT: Absolutely. Absolutely.

5 Q. So let's go back to Francis Hawks. Do you agree that  
6 Francis Hawks wrote a number of works about the history of  
7 the Episcopal Church; correct?

8 A. Yes. But I don't believe that's the question at issue.

9 Q. No. I'm going to follow up that question.

10 A. Very good.

11 Q. Yes. And "Contributions to the Ecclesiastical History  
12 of the United States of America" was one of those works;  
13 correct?

14 A. Correct.

15 Q. And that's what I read from just a moment ago.

16 A. Correct.

17 Q. Yes. And do you consider that a learned treatise?

18 A. No.

19 Q. And why is that?

20 A. Because it was a party statement. Understand that Cox,  
21 Vinton, especially Francis Vinton, were partisans for a  
22 particular party within the church known as the ritualists or  
23 the Anglo-Catholics, as they're sometimes called, who were  
24 agitating for movement of the Episcopal Church to a structure  
25 and to theology more closely resembling Roman Catholicism,

1 hence the name Anglo-Catholic. They were advocates, they  
2 were partisans, they produced works of theological  
3 speculation, but in no sense were they speaking  
4 authoritatively for the church. And their positions were in  
5 fact frequently and roundly condemned in the general  
6 convention of the Episcopal Church. What you are -- what you  
7 are reading effectively would be like reading excerpts from  
8 articles written by members of the Tea Party to describe the  
9 Constitution of the United States.

10 Q. How about Dawley; is that a learned treatise?

11 A. I believe it is.

12 Q. So your view is that Hoffman is not a learned treatise?

13 A. I would say so.

14 Q. And Burgwin, the chancellor of the Diocese of  
15 Pittsburgh?

16 A. Definitely.

17 Q. And Vinton as well?

18 A. Definitely above all Vinton, who is probably among the  
19 authors you read the most forward as a partisan of the  
20 ritualist party.

21 Q. Let me ask you this: Were they known? Were they known  
22 people?

23 A. Oh, they were certainly known, but so was Jesse James.

24 Q. Yes. That's fine. But they were known figures in the  
25 Episcopal Church in the 19th century?

1 A. They were known as radicals, they were known as members  
2 of a fringe group; yes.

3 THE COURT: Now, would you do this for me -- and I hate  
4 to do this because I know you've been through it, but it's  
5 important because you've read some things that are very  
6 important for me to hear -- the gentleman that he just  
7 acknowledged was a learned treatise, can you go back through  
8 the quote that you gave him.

9 MR. KOSTEL: That was not one of the quotes. That was  
10 the treatise that Mr. Runyan introduced.

11 THE COURT: Okay.

12 Q. Let me ask you, Dr. Guelzo, about William Jones Seabury.  
13 Is it your view that he has produced learned treatises?

14 A. No.

15 Q. Okay.

16 THE COURT: Can you spell that for me?

17 MS. KOSTEL: Yes. William Jones Seabury, S-E-A-B-U-R-Y.

18 Q. Can you tell us a little bit about who he was?

19 A. The gentleman was, as my memory serves me, an Episcopal  
20 clergyman and a partisan and the author of partisan material.

21 Q. How about William Stephens Perry?

22 A. William Stephens Perry is the author of learned  
23 treatises and especially not -- I think the word "treatise"  
24 is probably inaccurate. He was the editor of documents. He  
25 was well known as a historian collecting elements of

1 historical documents of the Episcopal Church, which he then  
2 edited in a series of volumes in the 19th century.

3 Q. But in those volumes sometimes he included his own  
4 comments; correct?

5 A. Yes; as introductory material.

6 Q. And in your view did his views carry any weight?

7 A. The documents do, yes. The documents are an important  
8 collection of resources which save scholars like myself from  
9 having to make excessive trips to the library.

10 Q. Yes, I understand. I'm familiar with those types of  
11 collections. But what I'm asking you is setting aside the  
12 documents he was collecting, his commentary on the documents.

13 A. His comments are generally considered to be neither here  
14 nor there because for one thing you're dealing with someone  
15 who's observing the situation from the 19th century, and  
16 documentary editing in the 19th century was a much more  
17 loosey-goosey affair than documentary editing is today.

18 Q. Yes. And so how is Dawley different from all these  
19 people?

20 A. For one thing much shorter, much more precise, and much  
21 more careful, also much more recent.

22 Q. So Dawley writes more recently?

23 A. My understanding is that, yes, Dawley's approach is a  
24 much more cautious, careful, and recent approach.

25 Q. And is there anyone you know of in the 19th century who

1 was writing in a cautious and careful way?

2 A. Not too many. I will cite, though, Calvin Colton.  
3 Colton in 1853, who was an Episcopal clergyman and not really  
4 identified with any of these parties, wrote a landmark  
5 treatise on the structure of the Episcopal Church called  
6 "Genius and Mission of the Episcopal Church in the United  
7 States." His insistence was that the Episcopal Church was  
8 not in any way a type of the English church, it was not  
9 monarchical. Its genius, Colton said, is republican, with a  
10 small r; in other words, meaning that there is no hierarchy,  
11 no monarchy, no top-down authority, rather authority moves  
12 from the bottom up. Even in terms of the authority of  
13 bishops, bishops act only as providing officers of a dioceses  
14 and the authority remains within the dioceses themselves.  
15 That includes the presiding bishop. Colton was at pains to  
16 make clear that the presiding bishop was merely an executive  
17 officer.

18 And, in fact, it is curious in this respect that  
19 presiding bishops of the Episcopal Church were also serving  
20 as diocesan bishops; in other words, the office of presiding  
21 bishop was a part-time add-on because there really was so  
22 little in the way of authority or exercise of authority  
23 attaching to that office.

24 Q. Yes.

25 A. And that is Colton in 1853. I'm sure you're aware of

1 Colton's treatise.

2 Q. Just to flesh out the presiding bishop's office, that  
3 changes somewhat by the action of general convention in the  
4 20th century; for example, the presiding bishop can no longer  
5 continue to have jurisdiction over a diocese while acting as  
6 presiding bishop.

7 A. That is true. There is a conflict of interest involved.

8 Q. That's a fairly recent development.

9 A. That is. And being a history person, of course, the  
10 closer I get to the present, the less I know about  
11 everything.

12 Q. Fair enough. Let me ask you about, are you aware of  
13 anyone writing in the 19th century who took the opposite view  
14 of whether a diocese could leave?

15 A. It's difficult for me to put a finger on a particular  
16 person who is actually addressing that question.

17 Q. Other than the folks who we --

18 A. Other than the Anglo-Catholics.

19 Q. Right.

20 A. The consensus opinion was that the Episcopal Church was  
21 a federation of its dioceses and functioned in that light.  
22 The general convention, if you look carefully at the  
23 proceedings, the published proceedings of each general  
24 convention mostly came together for the consideration of  
25 reports from the dioceses and from the voluntary societies of

1 the church and did very little in the way of what you might  
2 call legislation.

3 Q. Let me ask you this: So you said that the consensus at  
4 the time was that the church was -- the general convention I  
5 think was a confederation. Did I say that correctly?

6 A. Yes.

7 Q. But it's true that William Stephens Perry, who I think  
8 you acknowledge, did make some valid commentary, did you not?

9 A. Yes.

10 Q. Yes. Stated in the history of the American Episcopal  
11 Church, 1587 to 1883, he did say the following: Now how is  
12 it with our ecclesiastical constitution? I must say that  
13 after a careful and anxious scrutiny of the constitution and  
14 canons of our general church, the power of the general  
15 convention seems to me unlimited, while that of the diocesan  
16 convention is only that which the general convention is  
17 pleased to concede.

18 He did say that, didn't he?

19 A. Yes, he did. And I suppose we could put Stephens and  
20 Colton together in a ring and they could slug it out. I  
21 think the point there is that there is not any one single  
22 opinion on this; that, in fact, there has been no  
23 authoritative determination in the 19th century on that  
24 status, no one in fact has thought to put a finger down on  
25 it, on the question of that relationship, so that you will

1 find someone offering an opinion here, you will find someone  
2 offering an opinion in another direction and in yet another  
3 direction. That does not suggest that there is any kind of  
4 settled law on the subject.

5 Q. And you don't know so much about the 20th century you  
6 have testified; is that right?

7 A. No. The 20th century fades away for me.

8 Q. Well, we're in the 21st, so hang on.

9 A. That's fading even faster. Ask me about 1861 and I'll  
10 tell you about everything that was going on, but yesterday,  
11 hopeless.

12 Q. I can sympathize.

13 MS. KOSTEL: Let me collect my thoughts for a moment.  
14 If I may consult with Mr. Beers.

15 CROSS-EXAMINATION BY MR. BEERS:

16 Q. Father, my name is David Beers and I represent the  
17 Episcopal Church as well. There was some discussion about  
18 canons in the 1870s regarding real estate. Do you remember  
19 that?

20 A. Yes.

21 Q. Do you remember that the canons were adopted in the late  
22 1860s and early 1870s about the alienation of property?

23 A. There were some canons, yes.

24 Q. Do you remember what they said?

25 A. Not specifically.

1 Q. Would it refresh your recollection if I were to say that  
2 a parish could not alienate consecrated property without the  
3 consent of the bishop and the standing committee?

4 A. Yes. And this was a direct attempt to close the barn  
5 door on the horse that had galloped away with Charles Edward  
6 Cheney and Christ Church Chicago.

7 Q. Is that your reference to the reformed Episcopal Church?

8 A. Indirectly. The case was not determined in connection  
9 with the reformed Episcopal Church because that was not  
10 organized until 1873. The case of Chase, et al., versus  
11 Cheney is heard in 1871.

12 Q. And are you familiar with the breakaway of the churches  
13 in the reformed Episcopal Church? I'm sure you are.

14 A. Yes, I am.

15 Q. Do you remember, have any idea how many churches broke  
16 away?

17 A. There were no churches that broke away. The reformed  
18 Episcopalians were a movement. They were not a diocese, they  
19 were not parishes, they were a movement. And once they had  
20 separated from the Episcopal Church, they organized  
21 themselves by their own lines.

22 Q. And so who left the Episcopal Church?

23 A. Well, starting at the very top, the --

24 Q. No. I mean what --

25 A. I thought you were asking about personalities.

1 Q. You said they left the Episcopal Church. What do you  
2 mean by "they"?

3 A. Well, all right, then I go to some personalities.

4 Q. Fine.

5 A. The assistant bishop of Kentucky, George David Cummins;  
6 Charles Edward Cheney; William Tufnell Sabine; Benjamin B.  
7 Leacock. And the names will come to me, coming swimming out  
8 of my memory, but I think you get the idea. These were a  
9 number of Episcopal clergy, some of whom in fact at that  
10 point were nonparochial clergy, but they leave the Episcopal  
11 Church and adhere to the reformed Episcopal Church when it is  
12 organized on December 2nd, 1873.

13 Q. And how many of those attempted to take parish property  
14 with them?

15 A. None. They were not -- they were not doing this as  
16 parishes.

17 Q. That man you mentioned in Kentucky, He did try to take  
18 the property of the parishes, didn't he?

19 A. No, he did not.

20 Q. He was not involved in litigation?

21 A. No, he was not.

22 Q. Do you remember any member of the reformed Episcopal  
23 Church in Kentucky that tried to take property away and was  
24 involved in litigation?

25 A. The only question that ever was raised was by Emmanuel

1 Church Lexington. And the actual outcome of that particular  
2 case I believe was an out-of-court settlement, but even there  
3 what was involved was minimal. This was a movement, these  
4 were not parishes or dioceses.

5 Q. And so you disagree with me if I said that my  
6 understanding is about 100 parishes, reformed, 100 parishes  
7 left the Episcopal Church without their property to become  
8 part -- to help form the reformed Episcopal Church?

9 A. Oh, no, no. They did not leave as parishes. These were  
10 individuals who were part of the movement. And when they  
11 reorganized, once the reformed Episcopal Church has its  
12 initial organizational meeting in New York City, then they  
13 begin to address the question of shall we have parishes, are  
14 we going to organize, then later on they become the  
15 organization of senates. But that is subsequent to that.  
16 There were no attempts to take parish property or to take  
17 diocesan property out as a whole.

18 Q. Let me ask you another question in the same era about  
19 the Civil War. Did the Episcopal Church believe or  
20 understand that the so-called southern dioceses left?

21 A. As far as they were concerned, no. They believed that  
22 those dioceses still had some kind of connection to the  
23 Episcopal Church of the United States of America. The  
24 difficulty is in determining exactly what that was legally.

25 Q. But when the general convention met during the Civil

1 War, when they called the roll, they included all those  
2 dioceses, didn't they?

3 A. That is correct; just as the United States Congress did  
4 for the seceded states.

5 Q. And when the individuals in those dioceses showed up at  
6 the next convention of the general convention, they were  
7 seated as deputies of those dioceses?

8 A. That is correct.

9 Q. The general convention created no new dioceses?

10 A. That is correct.

11 Q. So they just came -- the individuals came back, but as  
12 far as the Episcopal Church was concerned, those dioceses  
13 never left?

14 A. That is correct, because the dioceses had an identity  
15 entire to themselves apart from the general convention of  
16 either the Protestant Episcopal Church of the United States  
17 or of the Protestant Episcopal Church of the Confederate  
18 States.

19 Q. All right. Now, we've talked about the property canons  
20 in the 1860s and early 70s. Those canons only applied to  
21 consecrated property; is that right?

22 A. As I understand it, yes.

23 Q. Did the church subsequently adopt a canon that extended  
24 that anti-alienation provision to all real estate?

25 A. I would have to say that I'm uncertain about all real

1 estate because that covers a wide sway of category.

2 Q. Do you have a recollection that there was a canon?

3 A. Yes, there was canonical action that was taken in the  
4 wake of the Cheney case.

5 Q. I'm talking about in the 20th century.

6 A. Oh, the 20th century. The 20th century I'm mostly  
7 familiar with the adoption or the resolution around the  
8 Dennis canon in 1977. But, again, I must warn you, I am a  
9 history person and current events are not my long suit.

10 Q. Are you aware of a canon that prescribes that the parish  
11 property shall always be under the control and jurisdiction  
12 of the rector?

13 A. I know that there are some parishes which in fact do  
14 have arrangements and did have arrangements of that sort.

15 Q. Are you aware of such a canon?

16 A. I'm aware of such arrangements.

17 Q. Are you aware of such a canon?

18 A. No. I am not a canon lawyer.

19 Q. Well, let's go back to your early career. When did you  
20 first enter a process for ordination?

21 A. In 1978.

22 Q. In which diocese?

23 A. This would have been within the reformed Episcopal  
24 Church in the senate of New York and Philadelphia.

25 Q. And when were you received in the Episcopal Church?

1 A. In the year 2000.

2 Q. And where?

3 A. In the Diocese of Quincy.

4 Q. And at that time did you execute the declaration of  
5 conformity?

6 A. Yes.

7 Q. And were you a priest by then or a deacon?

8 A. I was a priest.

9 Q. Are you familiar with the canons relating to ordination  
10 in the Episcopal Church?

11 A. Yes.

12 Q. Where are they?

13 A. Canons regarding ordination are in the constitution and  
14 canons of the church.

15 Q. And where?

16 A. I cannot quote you chapter and verse. Again, I am not a  
17 canon lawyer.

18 Q. I'm not asking you to quote them, I'm just asking where  
19 in the canons all that appears.

20 A. My recollection is that it would be in Section 3.

21 Q. Let me ask you this: Let's talk about bishops. You  
22 would agree with me that the constitution sets out the basic  
23 rules for the election and duties -- the election of bishops?

24 A. Yes.

25 Q. And are you familiar with how bishops are elected?

1 A. Yes.

2 Q. Would you tell us?

3 A. A bishop can be elected by a diocesan convention and  
4 then within 120 days that election must receive consents from  
5 the other dioceses of the Episcopal Church, a majority of  
6 those dioceses.

7 Q. Are there age requirements?

8 A. There is a retirement age at the very top. I will  
9 confess, never having aspired to being a bishop, I'm not sure  
10 what the lower limits might be if there are such.

11 Q. And would you agree with me that the canons relating to  
12 the election of bishops in the constitution are mandatory and  
13 binding on the states, I mean in the dioceses?

14 A. They direct the dioceses. The dioceses are the ones,  
15 however, which give the consents. If we were dealing with  
16 another situation, if, for instance, we were dealing with the  
17 Church of England, appointment of bishops would be remanded  
18 to the Crown Appointments Commission.

19 Q. Would you agree with me that the constitution mandates  
20 what the electing convention must do?

21 A. The constitution describes what the process is.

22 Q. It doesn't mandate it?

23 A. It describes it.

24 Q. Father, I'm going to hand you what's been admitted as  
25 the Constitutions and the Canons of the Episcopal Church in

1 2009. Would you turn to Article II, Page 3?

2 A. Yes.

3 Q. Please turn to Section 1. Would you just read the first  
4 sentence stopping at the word "provided" just to move along  
5 quickly?

6 A. "In every Diocese the Bishop or the Bishop Coadjutor  
7 shall be chosen agreeably to rules prescribed by the  
8 Convention of that Diocese."

9 Q. Now would you turn to Section 2 and read the first  
10 sentence up to the semicolon?

11 A. "No one shall be ordained and consecrated Bishop until  
12 the attainment of thirty years of age."

13 Q. And Section 3, read up to the word "elected," if you  
14 will.

15 A. "A Bishop shall confine the exercise of such office to  
16 the Diocese in which elected, unless" --

17 Q. That's far enough. Section 4, could you just read up to  
18 the comma?

19 A. "It shall be lawful for a Diocese."

20 Q. Fine. I meant the next comma. Pardon me.

21 A. I'm sorry. "...at the request of the Bishop of that  
22 Diocese..."

23 Q. And, I'm sorry. Just to the next comma.

24 MR. BEERS: I apologize for this, Your Honor.

25 THE WITNESS: "...to elect not more than two Suffragan

1 Bishops..."

2 Q. Thank you. Section 5, just read up to the comma.

3 A. "It shall be lawful for a Diocese to prescribe by the  
4 Constitution and Canons of such Diocese that upon the death  
5 of the Bishop..."

6 Q. Thank you. And turn the page to Section 7, read up to  
7 the comma.

8 A. "It shall be lawful for the House of Bishops to elect a  
9 Suffragan Bishop who..."

10 Q. And how about Section 9?

11 A. "Upon attaining the age of seventy-two years a Bishop  
12 shall resign from all jurisdiction."

13 Q. Now, that's mandatory language, isn't it?

14 A. It's descriptive language.

15 Q. It's not mandatory?

16 A. It always describes what the bishop is doing in a  
17 diocese. It is putting the entire purpose of the election of  
18 a bishop in the lap of a diocese. It does not say that the  
19 house of bishops will select a bishop from its own ranks or  
20 that it will mandate the election of a new bishop.

21 Q. But it does say the bishop must resign at 72, he shall  
22 or she shall resign.

23 A. Yes.

24 Q. That's mandatory.

25 A. Yes.

1 Q. That's mandatory.

2 A. Yes. But that is not saying that it has authority to  
3 tell the diocese what to do that way.

4 Q. Now, are you familiar with all the duties of bishops?

5 A. I'm sorry.

6 Q. Are you familiar with all the duties of bishops that are  
7 set out in the constitution and canons?

8 A. I wish I could say I was intimately familiar with them,  
9 but never having been a bishop, I am not.

10 Q. And so you don't know to what extent the constitution  
11 and canons set out a broad array of duties that are  
12 mandatory?

13 A. Sir, I am a historian, not a canon lawyer.

14 Q. As a historian you don't read or rely on canons?

15 A. I examine canons from the past.

16 Q. But you've not examined the ones that govern the  
17 Episcopal Church today?

18 A. I do not examine them in the way that you are examining  
19 them or want me to examine them.

20 Q. Do you examine them?

21 A. Oh, yes. I read them.

22 Q. The current canons?

23 A. Yes.

24 Q. By the way, what do the current canons say about the  
25 authority of the presiding bishop with respect to the

1 discipline of bishops?

2 A. I am at a loss. I haven't read that in several years.

3 Q. Are you familiar with the provision --

4 A. I'm uncertain where your line of question is going. My  
5 understanding is that I was speaking as a historian. Now  
6 we're all afield and you might as well ask me what I think  
7 the temperature of the weather is in Haiti today.

8 Q. If I'm going to ask you about the structure of the  
9 church today as laid out in the constitution and canons, you  
10 would not be the witness?

11 A. I am not in that immediate respect concerning this  
12 edition of the constitution and canons an authority about  
13 this edition of the constitution and canons.

14 Q. How about the editions of the constitution and canons  
15 say for the last 20 years? You've already said that when you  
16 get up to the late 20th century, you're not our man.

17 A. That's right.

18 Q. I see. Thank you. All right.

19 A. Do you have questions about the area that I am familiar  
20 with?

21 Q. Are you familiar with the preamble of the Episcopal  
22 Church?

23 A. I am.

24 Q. Could you turn to it? Well, if you're familiar with it,  
25 tell me what it says.

1 A. "The Protestant Episcopal Church" --

2 Q. No, no, don't read it. Don't read it. Read it if you  
3 need to, but, first of all, just let me ask you what you  
4 remember about the preamble.

5 A. It establishes, first of all, the historic connection of  
6 the Episcopal Church to the overall Anglican fellowship,  
7 describes it as a fellowship, curiously enough, and not a  
8 communion. It then also speaks of the dioceses as being  
9 companions in following that tradition.

10 Q. It does?

11 A. Yes. "...duly constituted Dioceses...in communion with  
12 the See of Canterbury, upholding and propagating the historic  
13 Faith and Order as set forth in the Book of Common Prayer."  
14 I don't see that it says set forth in this constitution and  
15 canons, but maybe that's an oversight.

16 Q. Could you read the last sentence for me?

17 A. "This Constitution, adopted in General Convention in  
18 Philadelphia in October, 1789, as amended in subsequent  
19 General Conventions, sets forth the basic Articles for the  
20 government of this Church, and of its overseas missionary  
21 jurisdictions."

22 Q. So the preamble provides that the constitution sets  
23 forth the basic articles for the government of the church?

24 A. Yes, yes, the basic articles, the operating rules, so to  
25 speak.

1 Q. By the way --

2 A. They do not speak to a number of other questions,  
3 however. You'll notice that there is no allusion here to the  
4 theology of the church. There is no attempt on the part of  
5 this preamble to establish a comprehensive authority.

6 Q. A comprehensive authority of what?

7 A. A comprehensive authority that would speak to all  
8 matters of faith and doctrine.

9 Q. Are those matters set forth --

10 A. If there is, I have missed it completely.

11 Q. The constitution does provide for the adoption of the  
12 prayer book, does it not?

13 A. Yes, it does.

14 Q. And in the Episcopal Church that is the basic faith  
15 doctrine, isn't it?

16 A. Have you ever heard of the Articles of Religion?

17 Q. All 39 of them.

18 A. Thank you.

19 Q. But the substance of our faith is by and large set out  
20 in the Book of Common Prayer, isn't it?

21 A. And by what determination was that made? You mean by  
22 the prayer book alone and solely? By what authoritative  
23 demonstration was that settled upon entirely apart from the  
24 Articles of Religion or any other statement of faith? What  
25 about the Apostles' Creed? What about the Chicago

1 Quadrilateral, sometimes known as the Chicago-Lambeth  
2 Quadrilateral just to make things more difficult for  
3 everybody.

4 Q. So my question would have been about the basic faith  
5 document would be better if the -- well, the Apostles' Creed  
6 is in the prayer book, isn't it?

7 A. Yes, it is; but not used at every service.

8 Q. Okay. And I suppose the prayer book would have more --  
9 would be closer to the basic articles of faith if it had the  
10 Chicago Quadrilateral in it?

11 A. It might be. Do you see any evidence of that in the  
12 document?

13 Q. In the prayer book?

14 A. No. I mean in the constitution and canons.

15 Q. No. I'm talking about the prayer book.

16 A. Well, good. Then what we're talking about is the  
17 constitution and canons, as I understand it, and I'm saying  
18 to you that this provides general operating directions, but  
19 it does not provide a comprehensive statement of faith  
20 doctrine operations and so forth like that. It sets out  
21 several basics.

22 Q. But the general convention adopted the prayer book?

23 A. Yes, that's true. But at the same time, if I may offer  
24 this as an example, I live in a townhouse association. We  
25 have rules and regulations that govern the common areas of

1 our townhouse association, but the houses themselves are  
2 owned in fee simple and our deeds are registered in the  
3 courthouse accordingly. The fact that we have rules and  
4 regulations, however, does not mean that the rules and  
5 regulations cover every aspect of our property. In fact, if  
6 the association were to pass a rule and regulation declaring  
7 that our property, our fee simple property, now belongs to  
8 someone else, in this case the association, well, that would  
9 provide quite a lot of interesting litigation on the county  
10 courthouse. It would in fact fall flat because that would be  
11 simply an example of fiat confiscation of property and it  
12 would be treated as such.

13 Q. The constitution does provide for the adoption of the  
14 prayer book, does it not?

15 A. Yes, it does.

16 Q. The constitution provides for the --

17 A. But doesn't provide for everything in the church.

18 Q. The constitution and canons together provide for the  
19 discipline of all clergy, do they not?

20 A. Yes.

21 Q. And the duties of bishops?

22 A. Yes, it describes them. Does it describe all the duties  
23 of bishops?

24 Q. And when --

25 A. It doesn't.

1 Q. And if the canon on the subject of duties of bishops  
2 says "shall," you view that as a -- what was the term you  
3 used, a descriptive term?

4 A. Yes.

5 Q. I see. And the duties of rectors provided by the  
6 national canons?

7 A. They are described there, yes.

8 Q. One more question back in the old days. You said that  
9 there was reluctance, I think, in the state church in South  
10 Carolina to have bishops.

11 A. Correct. Or at least to use the terminology.

12 Q. But they called themselves an Episcopal Church, didn't  
13 they?

14 A. That they did.

15 Q. Why?

16 A. If I was available from a time machine, I would probably  
17 pose that question to them. Obviously they did not regard  
18 having bishops as being of the essence of being an Episcopal  
19 Church. And indeed it is an interesting theological  
20 question, as I am sure you know, as to whether the possession  
21 of the episcopate is of the esse of the church. That has  
22 never been settled in Anglican circles.

23 Q. Just as you don't know much about the canons, I don't  
24 know much about theology.

25 MR. BEERS: Could I have a moment with Ms. Kostel?

1 MS. GOLDING: I'm going to move to strike that last  
2 comment of Mr. Beers. I think that was inappropriate and to  
3 a certain extent insulting. It wasn't a question.

4 THE COURT: It was certainly not a question.

5 MR. BEERS: That's all I have, Your Honor. Thank you,  
6 sir.

7 THE COURT: Yes, sir.

8 Mr. Tisdale.

9 MR. TISDALE: I think you'll be pleased with the length  
10 of my questioning.

11 CROSS-EXAMINATION BY MR. TISDALE:

12 Q. Doctor, I'll just ask a question or two about the  
13 creation of the reformed Episcopal Church that you testified  
14 about in 1873, I think.

15 A. That is correct.

16 Q. Why did that body adopt the name reformed Episcopal  
17 Church and not simply call itself the Episcopal Church?

18 A. Because they, first of all, wanted to establish that  
19 they were an Episcopal Church fully as much as the Protestant  
20 Episcopal Church was. They were founded by a bishop  
21 consecrated in due order and succession. They also wished to  
22 indicate they were reformed in the sense that they were  
23 making an effort to purge out the more radical elements that  
24 had disturbed the life of the Protestant Episcopal Church, in  
25 this case Anglo-Catholic ritualist thinking.

1 Q. Would you agree that they wanted to distinguish  
2 themselves from the Episcopal Church at least in that way  
3 that you just described?

4 A. In that respect, yes.

5 Q. Thank you very much.

6 MR. TISDALE: Thank you, Your Honor?

7 THE COURT: All right.

8 Redirect?

9 MR. RUNYAN: None, Your Honor.

10 THE COURT: Very well. Anything from any other  
11 plaintiff?

12 Thank you. You may step down.

13 All right. We'll take a 15-minute break and then we'll  
14 have our next witness.

15 (Recess held.)

16 THE COURT: All right. If you would call your next  
17 witness, please.

18 MR. RUNYAN: Plaintiffs call Bob Lawrence.

19 ROBERT STRATTON LAWRENCE,  
20 being first duly sworn, testified as follows:

21 THE COURT: All right. If you'd state your full name  
22 for our record again, please.

23 THE WITNESS: Robert Stratton Lawrence.

24 THE COURT: Your witness.

25 DIRECT EXAMINATION BY MR. RUNYAN:

1 Q. Father Lawrence, are you related in any way to Mark  
2 Lawrence?

3 A. I am not, except as a brother in Christ.

4 Q. Where are you employed?

5 A. I am the executive director of St. Christopher Camp and  
6 Conference Center. It's an appointed position. I'm on the  
7 bishop's staff.

8 Q. At the testimony yesterday of Bishop vonRosenberg the  
9 following question was asked and the following answer was  
10 given, and I'm going to ask you about it:

11 Bishop vonRosenberg, since you have been bishop of the  
12 Episcopal Church in South Carolina, have the people of the  
13 diocese that you lead had any access to the assets and  
14 institutions of the plaintiff, the Protestant Episcopal  
15 Church in South Carolina, such as this, have you been able to  
16 use the assets of Camp St. Christopher?

17 Answer: No, sir.

18 Father Lawrence, was the bishop mistaken?

19 A. Yes, sir, I believe he was, because in my time there,  
20 and it will be four years as of the 30th of September, St.  
21 Christopher has been available to all groups that have asked  
22 to come and utilize the facilities. And, in fact, a number  
23 of the parishes that now identify themselves under Bishop  
24 vonRosenberg's authority have continued to utilize St.  
25 Christopher. We have had summer camp staff as well as many

1 summer campers this summer coming from parishes of the  
2 Episcopal Church in South Carolina.

3 And we intentionally altered a policy that used to give  
4 preferential treatment to the diocese, the parishes of the  
5 Diocese of South Carolina, and we have expanded that. And  
6 there was a letter sent out to all bishops with Anglican  
7 jurisdiction, including Bishop vonRosenberg, in September of  
8 last year notifying them of that policy to where not only are  
9 we available to them, they continue to get the exact same  
10 preferential policies at reduced rates and being able to book  
11 24 months in advance. So that policy is fully in place right  
12 now for all parishes of the Episcopal Church in South  
13 Carolina.

14 Q. And the facilities are available for use by parishioners  
15 from the Episcopal Church in South Carolina?

16 A. Yes.

17 Q. And they have been so used?

18 A. Have been.

19 MR. RUNYAN: Thank you, sir.

20 MR. TISDALE: Is that it?

21 MR. RUNYAN: That's it.

22 THE COURT: All right. Cross-examination.

23 CROSS-EXAMINATION BY MR. TISDALE:

24 Q. Thank you, Father Lawrence. Is St. Christopher  
25 available for use of any member of the public who files an

1 application that is accepted under the normal course of the  
2 application process?

3 A. Yes. But I'm not sure what you mean in terms of  
4 application. I mean --

5 Q. Well, if you want to go to camp, you file an application  
6 to be accepted to go to camp, don't you?

7 A. Yes, sir.

8 Q. Is that available to any citizen to file such an  
9 application to be accepted for that?

10 A. Yes, it is.

11 Q. It is. And you also have a group -- as you said, groups  
12 can sign up to use it. And they're not limited to the  
13 Episcopal Church, are they?

14 A. No, sir.

15 Q. Any group. In fact, there are a lot of things that  
16 don't have anything to do with religion that use the camp  
17 from time to time, don't they?

18 A. Yes, sir.

19 Q. Are any members of the Episcopal Church in South  
20 Carolina associated with that diocese that you know of on the  
21 governing board of Camp St. Christopher?

22 A. Again, the structure of St. Christopher, it is a  
23 department of the diocese. There is a board of directors.  
24 They're more of an advisory board. They don't really  
25 function as a true board of directors in that I work for the

1 bishop and not for the board.

2 Q. All right. On that board of advisors did you say?

3 A. They're called a board of directors, but in effect  
4 they're more of a board of advisors.

5 Q. Are any members of the Episcopal Church in South  
6 Carolina members of that board of directors?

7 A. Right now, no, sir.

8 Q. No. Have they ever been since 2012?

9 A. No. But there was no transition, the people that were  
10 serving as directors then by and large are still serving.

11 Q. All right. So is Bishop vonRosenberg on any board that  
12 has anything to do with the operation of the camp?

13 A. No, sir. But he has full access and use of it if he  
14 were to so choose in the same way that Bishop Lawrence does.

15 Q. As anybody does?

16 A. Yes.

17 Q. Anybody. So my question to you is obviously this: Does  
18 the Episcopal Church in South Carolina have anything to do  
19 with directing the operation and programs of Camp St.  
20 Christopher?

21 A. No, sir, they do not.

22 Q. Does the Episcopal Church in South Carolina have any  
23 ownership interest in Camp St. Christopher?

24 A. The proper ownership of St. Christopher is by the  
25 trustees of the Diocese of South Carolina.

1 Q. Correct. And along those lines let me ask you this:  
2 How is St. Christopher financed? Where does the money come  
3 from to run it?

4 A. By the funds that we generate. We get no support from  
5 the diocese outside of a portion of the diocesan budget  
6 covering some debt service on an old loan from a capital fund  
7 campaign of years ago.

8 Q. Does any money come to you, through the diocese or  
9 otherwise, from the trustees of the -- trustees?

10 A. None outside of what they pay in normal fees for use of  
11 the facility.

12 Q. The trustees?

13 A. If the trustees were to book an overnight retreat, they  
14 would pay the normal fees as any other group.

15 Q. There's no financial allocation from the trustees either  
16 through the diocese or directly to the camp?

17 A. Not to the operational budget, sir.

18 Q. To any part of the upkeep of the camp?

19 A. No, sir.

20 MR. TISDALE: All right. Nothing else, Your Honor.

21 THE COURT: All right.

22 Yes, from the national church?

23 MR. BEERS: No, ma'am.

24 THE COURT: All right. Any redirect?

25 MR. RUNYAN: None, Your Honor.

1 THE COURT: Anyone else on behalf of the plaintiffs?

2 Thank you, sir. You may come down.

3 All right. Call your next witness, please.

4 MS. GOLDING: Mr. Logan.

5 THE COURT: Mr. Logan has already been sworn in this  
6 matter.

7 WADE H. LOGAN, III,

8 being first duly sworn, testified as follows:

9 DIRECT EXAMINATION BY MS. GOLDING:

10 Q. Mr. Logan, how long have you served as chancellor for  
11 the plaintiff diocese?

12 A. I believe officially since 2007.

13 Q. As chancellor for the plaintiff diocese, did you send a  
14 letter to the chief financial officer for the defendant  
15 national church in October 2012?

16 A. Yes, ma'am, I did.

17 (Plaintiff's Exhibit DSC-71 marked for identification.)

18 Q. And is this a letter that you sent in your capacity as  
19 the chancellor?

20 A. Yes, ma'am.

21 MR. GOLDING: Okay. Your Honor, we would offer this  
22 letter as Plaintiff Diocese Exhibit No. 71.

23 MR. TISDALE: No objection.

24 MR. BEERS: No objection.

25 (Plaintiff's Exhibit DSC-71 admitted into evidence.)

1 Q. For what reason did you send the letter which is October  
2 29, 2012, Exhibit 71, to the CFO officer of defendant  
3 national church?

4 A. It was our understanding that we were still listed, we  
5 the diocese were still listed, under a group exemption which  
6 the Episcopal Church held. I stated it was my understanding  
7 that our permission had to be given for that and that we did  
8 not give permission and asked that we be removed from the  
9 listing of entities under the group exemption number.

10 Q. What response, if any, did you get from the defendant  
11 national church with respect to Plaintiff's Exhibit No. 71?

12 A. I got no response.

13 Q. Okay. Let me then give you a letter dated November 19,  
14 2013. And can you identify that letter, please?

15 A. Yes, ma'am. This is another letter that I wrote also to  
16 Mr. Barnes dated November 19, 2013.

17 Q. And what was the reason for writing this letter in  
18 November?

19 A. It was my understanding that there were a number of  
20 congregations affiliated with the plaintiff diocese which  
21 will continue to be listed under the group exemption. I  
22 stated that it was -- they had not given permission to be  
23 included and listed a number of the parishes and asked that  
24 they be removed from that exemption list.

25 MR. GOLDING: Your Honor, we would mark that letter as

1 Exhibit 72.

2 (Plaintiff's Exhibit DSC-72 marked for identification.)

3 THE COURT: Any objection?

4 MR. BEERS: No.

5 MS. KOSTEL: No objection.

6 MR. TISDALE: No objection, Your Honor.

7 (Plaintiff's Exhibit DSC-72 admitted into evidence.)

8 MR. TISDALE: I've got a general objection to this  
9 testimony. Perhaps she could clear it up. What is this in  
10 rebuttal to? It may be it's been a long record, but I don't  
11 see the connection to it.

12 MS. GOLDING: There was -- the defendants --

13 MR. TISDALE: I object to it for that reason.

14 THE COURT: Overruled.

15 MR. TISDALE: She was going to explain.

16 THE COURT: I can tell you. But you go ahead. I'm  
17 sorry.

18 MS. GOLDING: During the defendants' case, Your Honor,  
19 they brought in through the documentation and they in fact  
20 introduced, I believe, or attempted to introduce IRS  
21 regulations with respect to a group exemption for the  
22 501(c)(3), and these letters are to show that we had  
23 withdrawn our commission and we did not want to be listed  
24 under those exemptions.

25 MR. TISDALE: Thank you.

1 Q. With respect to Plaintiff Diocese Exhibit No. 72, did  
2 you receive any response to that, Mr. Logan?

3 A. No, ma'am, I don't believe I did.

4 Q. And, Mr. Logan, has the plaintiff diocese obtained its  
5 own 501(c)(3) status?

6 A. Yes, ma'am.

7 Q. And to your knowledge, have the parishes associated with  
8 the plaintiff diocese obtained their own 501(c)(3) status?

9 A. I believe some have. I don't know that others have, I  
10 know some have.

11 Q. Okay. Next let me hand thank you this document, please.  
12 Would you identify the document that I handed to you, please?

13 A. Yes, ma'am. This appears to be a copy of a filing from  
14 the South Carolina Secretary of State for the Protestant  
15 Episcopal Church in the United States of America, Inc.

16 Q. Is that the South Carolina Secretary of State?

17 A. Yes, ma'am.

18 MR. GOLDING: We would offer that document as Plaintiff  
19 Diocese Exhibit 73.

20 (Plaintiff's Exhibit DSC-73 marked for identification.)

21 MR. TISDALE: No objection.

22 MR. BEERS: (Shaking head).

23 THE COURT: All right? Very well.

24 (Plaintiff's Exhibit DSC-73 admitted into evidence.)

25 MR. GOLDING: Next let me hand you another document.

1 (Plaintiff's Exhibit DSC-74 marked for identification.)

2 Q. With respect to the document I just handed you, Mr.  
3 Logan, can you just identify this document, please?

4 A. Yes, ma'am. This appears to be a page from the legal  
5 notices section of the News and Courier of Thursday, February  
6 19, 1987.

7 Q. Okay. And is there a notice in this document that  
8 references the plaintiff diocese?

9 A. Yes, ma'am, there is; filing notice.

10 Q. Was this notice within their books and records of the  
11 plaintiff diocese under your control and custody?

12 A. Yes, ma'am.

13 MS. GOLDING: Your Honor, we would offer this document  
14 in as Plaintiff's Exhibit No. 74.

15 MR. TISDALE: No objection.

16 MR. BEERS: No.

17 THE COURT: Very well, no objection from either party.

18 (Plaintiff's Exhibit DSC-74 admitted into evidence.)

19 Q. With respect to Exhibit 74, Mr. Logan, with respect to  
20 the notice, can you, instead of reading the notice, just  
21 identify who the bishop was at that time on this notice?

22 A. It was signed by the Right Reverend C.F. Allison, who  
23 would be FitzSimons Allison, former bishop of the diocese.

24 Q. Okay. And is there a capacity for the bishop in this  
25 notice?

1 A. Yes, ma'am. He signed as president.

2 Q. Okay. Mr. Logan, I want to take you into October of  
3 2012. In October 2012 were you party to any communications  
4 between Bishop Lawrence and the presiding bishop of the  
5 defendant national church?

6 A. Yes, ma'am, I was.

7 Q. Okay. And do you know when that communication occurred?

8 A. I'll have to check my notes. I believe it was on  
9 October 22nd -- excuse me -- October 15th.

10 Q. And tell me, was that communication by telephone?

11 A. Yes, it was.

12 Q. Okay. And can you tell me what you recall with respect  
13 to the telephone call in which you were a party with Bishop  
14 Lawrence and the presiding bishop for the defendant national  
15 church?

16 A. Yes, ma'am. In addition to the presiding bishop and  
17 Bishop Lawrence and myself, I believe that Mr. Beers was part  
18 of the conversation. Bishop Schori, Jefferts Schori, advised  
19 that she had received a written certificate of abandonment  
20 from a body known as the Disciplinary Board of Bishops on  
21 October 10th; that she was required under the applicable  
22 canons of the national church, which our diocese does not  
23 recognize, to restrict Bishop Lawrence's ministry; that Mr.  
24 Beers would be sending a copy of a restriction and other  
25 paperwork; and that she would still be willing to meet with

1 Bishop Lawrence on October the 22nd, which was a previously  
2 arranged meeting; and that she would not publicize the fact  
3 of these developments.

4 Q. Now, as of that telephone call on October the 15th,  
5 2012, had you received a document entitled "Certificate of  
6 Abandonment"?

7 A. No, ma'am.

8 Q. And to your knowledge, had the bishop, Bishop Lawrence,  
9 received a document entitled "Certificate of Abandonment"?

10 A. To my knowledge, he had not.

11 Q. Subsequently had you ever received such a document?

12 A. I received an unsigned copy of that document, I believe  
13 it was later that day, I believe it came from Mr. Beers. At  
14 some time subsequent to that I received a copy of the  
15 signature page, which I also believe had come from Mr. Beers.

16 Q. Okay. When you received the copy of the signature page  
17 subsequently, was the signature page attached to the  
18 certificate?

19 A. No, ma'am, just one page.

20 Q. Okay. To your knowledge, has Bishop Lawrence ever been  
21 served or received from the defendant national church the  
22 certificate of abandonment?

23 MS. KOSTEL: Objection.

24 THE WITNESS: To my knowledge, he has not.

25 MS. KOSTEL: Objection to relevance. I'm not sure how

1 it's relevant.

2 MS. GOLDING: Your Honor, the defendants presented  
3 evidence and they presented a document entitled "Certificate  
4 of Abandonment" which was marked as Defendant's Exhibit 22.

5 MS. KOSTEL: Correct.

6 MS. GOLDING: And it came in through the testimony of  
7 Bishop Daniel, I believe, Clifton Daniel, and so we are  
8 responding. It may have been another individual, but it was  
9 definitely Defendant's Exhibit No. 22.

10 THE COURT: And this is in response to that.

11 MS. GOLDING: This is in response to that, Your Honor.

12 THE COURT: Very well. Overruled.

13 Q. Now, let me hand you what is a copy of Defendant's  
14 Exhibit No. 22. And, first of all, let me ask you, are you  
15 familiar with the constitution and canons of the national  
16 church?

17 A. Very generally back then I was and I believe -- yes,  
18 back then I was.

19 Q. With respect to the document, Defendant's Exhibit No.  
20 22, under the constitution and canons what is to be the  
21 process with respect to the issuance of a certificate?

22 MS. KOSTEL: Objection, Your Honor. This gets into  
23 whether the church is following its procedures and how it's  
24 following its procedures. That is clearly beyond the  
25 province of the Court, if I understand where Ms. Golding is

1 going.

2 MS. GOLDING: I'm going because I believe the defendants  
3 in their case have tried to present that Bishop Lawrence was  
4 no longer in a position to undertake any acts as a bishop.  
5 And I am going to just establish that he was not  
6 disassociated in October at the time that the plaintiff  
7 diocese voted to disaffiliate itself from the defendant  
8 national church.

9 THE COURT: I understand. Any response?

10 MS. KOSTEL: So what Ms. Golding is trying to establish  
11 is what the national church thought about the status?

12 THE COURT: No. What she's doing is she's saying that  
13 there is a procedure that failed to be followed and,  
14 therefore, his acts that were taken in October, because of  
15 the failure of the national church to do whatever it did,  
16 based on their theory, as certain actions were taken in  
17 October, that he was within his purview and his authority to  
18 undertake those acts at that time.

19 MS. KOSTEL: Well, I'm sure that Ms. Golding and Your  
20 Honor are aware of the Supreme Court precedent that restricts  
21 Courts from looking into the internal procedures of church  
22 tribunals. And so if Ms. Golding is trying to show whether  
23 or not the church --

24 THE COURT: Well, here's what she just showed me. She  
25 responded to a document and tells me that the document wasn't

1 served. People get due process, got to serve something on  
2 somebody before they got notice; right?

3 MS. KOSTEL: I don't think that's what she was after,  
4 Your Honor.

5 THE COURT: I thought that was what you were after.

6 MS. GOLDING: I already answered that question.

7 THE COURT: I know.

8 MS. GOLDING: May I proceed with questioning the  
9 witness? I'm not going to any intent, it's just to procedure  
10 and the effect of that procedure as to Bishop Lawrence's  
11 status, that's all.

12 MR. KOSTEL: And I just renew my objection.

13 THE COURT: All right. Here's where we are: Whatever  
14 was the ultimate determination, I can't go behind that.

15 MS. GOLDING: No, no. There was no determination at  
16 all.

17 MS. KOSTEL: Wait a minute. That's testimony, Your  
18 Honor.

19 MR. RUNYAN: I think they will agree with me that the  
20 certificate of abandonment was a charge, not a conviction.

21 THE COURT: They're saying it's a conviction.

22 MS. KOSTEL: No, we're not, Your Honor.

23 MR. RUNYAN: I don't think they're going to say that.

24 THE COURT: Okay. All right. Well, then why would  
25 you --

1 MS. GOLDING: If they --

2 THE COURT: Stop, please. Then why am I having this  
3 discussion if it's only a charge? As you know, I take the  
4 final determination when it comes to the ecclesiastic  
5 determination. And if it's not a determination, why are you  
6 objecting?

7 MS. KOSTEL: Your Honor, it's not merely a charge. What  
8 it is is it's a preliminary determination that under the  
9 governance of the church temporarily strips the bishop of his  
10 authority until there can be a final determination.

11 THE COURT: Okay. Well, it's the final determination,  
12 of which I am limited. So why would you propose to tell me  
13 that the document that is in evidence originally with your  
14 objection is something other than what it is?

15 MS. KOSTEL: I'm not telling Your Honor that. I'm  
16 telling Your Honor that it is what it is and the Court is  
17 bound by it.

18 THE COURT: Let me tell you something, you better stop.  
19 We're going to take a recess and you're going out with your  
20 local counsel, because you're about to lose your pro hac  
21 vice. Do you understand?

22 MS. KOSTEL: I do, Your Honor.

23 THE COURT: You better go out with Mr. Holmes right now  
24 and you all better have a discussion about Rule No. 3.1.

25 Do you understand me, Mr. Holmes?

1 MR. HOLMES: Yes, ma'am.

2 THE COURT: We will take 15 minutes.

3 Do not discuss, please, your testimony with anyone.

4 (Recess held.)

5 THE COURT: Let me see that exhibit, please, Exhibit No.

6 22.

7 THE WITNESS: Judge (indicating).

8 (Brief pause.)

9 THE COURT: You may proceed, Ms. Golding.

10 MS. GOLDING: Thank you.

11 Q. Mr. Logan, with respect to the telephone conversation  
12 on, I believe it was, October the 15th --

13 A. Yes, ma'am.

14 Q. -- of 2012 with the presiding bishop and Mr. Beers, as  
15 counsel for the defendant national church, did you have a  
16 subsequent communication with either of them after that  
17 October with respect to Defendant's Exhibit 22?

18 A. I believe that the -- everything except the signature  
19 page was sent to me by Mr. Beers later that day and that at  
20 some later date, which I can't recall right now, after  
21 request, I received a copy of the signature page.

22 Q. Okay. With respect to your understanding of Exhibit 22,  
23 Defendant's Exhibit 22, once that document is served upon a  
24 bishop, what is the procedure that's followed?

25 A. Well, actually what this is is a certificate of

1 abandonment of the Episcopal Church. And this is signed by  
2 the Right Reverend Dorsey Henderson, who was chair of the  
3 Disciplinary Board for Bishops, I believe, it's dated  
4 September the 18th, and this was forwarded to the presiding  
5 bishop.

6 My understanding of the procedure is that a written  
7 restriction of ministry under their canons is then issued and  
8 it must be served upon the bishop in question. And I should  
9 tell you that -- I need to correct myself -- I don't know  
10 that I have ever received this certificate of -- I must have  
11 received the certificate of abandonment. When I told you  
12 about what I had received from Mr. Beers, that was actually  
13 the restriction. I apologize.

14 Q. Going forward with respect to what is the response under  
15 the -- what's your understanding as to procedure with respect  
16 to the certificate or restriction?

17 A. The procedure is that once the presiding bishop, as I  
18 understand it, receives such a certificate, she must issue a  
19 document called a restriction, I believe it's a restriction  
20 of ministry, which then must be served upon the bishop in  
21 question in order for the restriction to become effective.

22 Q. And then is there any response time with respect to the  
23 restriction of ministry?

24 A. I believe it's 60 days.

25 Q. Okay. And then once the subject bishop has responded,

1 then what is the next step?

2 A. Then the presiding bishop needs to make a decision about  
3 whether to suspend the bishop, take further action, or to  
4 drop the charges, I believe, my general recollection.

5 Q. Now, before October of 2012, October the 15th of 2012,  
6 did you have any knowledge of any possible complaints or  
7 investigations against Bishop Lawrence that were proceeding  
8 in the earlier part of the year?

9 A. There was a set of charges that were made which were  
10 dismissed. I'm not sure about the timing, but it is my  
11 understanding, which I learned subsequently, that a group of  
12 complainants had filed charges against Bishop Lawrence and he  
13 was notified of the filing of those charges after the fact.

14 Q. And to your knowledge, did Bishop Lawrence receive any  
15 restrictions from the presiding bishop?

16 A. You would have to ask him that. I can just tell you  
17 what I've seen. To my knowledge, he did not.

18 Q. That's what I want, to your knowledge.

19 THE COURT: I don't know that she's finished.

20 MR. BEERS: Oh, I'm sorry. I apologize, Your Honor.

21 MR. TISDALE: I thought she was too. I'm sorry.

22 THE COURT: Do you not see her having a conversation  
23 with her co-counsel? You all have done it a hundred times.  
24 Doesn't necessarily mean she's finished.

25 MS. GOLDING: Your Honor, I'm concluded with my

1 examination.

2 THE COURT: All right. Any further -- yes, sir --  
3 direct?

4 MR. RUNYAN: Couple of questions.

5 THE COURT: All right.

6 DIRECT EXAMINATION BY MR. RUNYAN:

7 Q. Mr. Logan, to your recollection, when the restriction of  
8 ministry was sent to you, was it signed?

9 A. No.

10 Q. After a certificate of abandonment is issued by a  
11 disciplinary board for bishops, is there a period of time  
12 during which the respondent, the bishop in question, has an  
13 opportunity to respond?

14 A. After he receives notice of this in a restriction from  
15 the presiding bishop, he has a 60-day period of time in which  
16 to respond.

17 Q. And do the canons require that he be personally served  
18 with that?

19 A. That's my recollection.

20 Q. And if there is a response, is there then a trial in the  
21 House of Bishops?

22 A. That's my recollection, yes, sir.

23 Q. And if there isn't a response after a 60-day period,  
24 certain actions may be taken of a more permanent nature by  
25 the presiding bishop; is that correct?

1 A. That's correct.

2 MR. RUNYAN: That's all I have.

3 THE COURT: Cross-examination.

4 CROSS-EXAMINATION BY MR. BEERS:

5 Q. Good morning, Mr. Logan.

6 A. Good afternoon.

7 Q. Good afternoon. In the telephone conversation of  
8 September 15 -- I'm sorry --

9 A. It was actually October 15, I believe, Mr. Beers.

10 Q. October 15 -- sorry -- was the subject of restriction on  
11 ministry discussed, mentioned?

12 A. Yes, it was.

13 Q. And do you recall Bishop Lawrence saying to Bishop  
14 Jefferts Schori, you're going to have to restrict me, aren't  
15 you?

16 A. I don't remember that exact language. There was a  
17 discussion. I believe she said she was going to have to  
18 restrict him.

19 Q. I see. But you don't remember who brought it up first?

20 A. I believe she did.

21 Q. I see. All right. And then you asked me for a copy of  
22 the certificate?

23 A. Actually, I believe she said that she would be sending  
24 it -- you would be sending it. And later that day I did get  
25 the unsigned copy or at least everything but the signature

1 page.

2 Q. And then you later got -- I sent you the signature page?

3 A. Right.

4 Q. And you were representing Bishop Lawrence at the time?

5 A. I'm the diocesan chancellor.

6 Q. And so you were representing Bishop Lawrence?

7 A. I'm not his agent for service or process, if that's what  
8 you're asking.

9 Q. No, I understand that.

10 A. I was acting as his lawyer, the diocesan chancellor,  
11 giving advice to the bishop, yes, sir.

12 Q. Now, as I understand it, the standing committee met  
13 shortly after that phone call.

14 A. I believe that they did.

15 Q. And as a result of that, Bishop Lawrence called Bishop  
16 Jefferts Schori back; is that right?

17 A. I'll take your word for it. I think he did, yes.

18 Q. Maybe this will refresh your recollection. Did she call  
19 him back -- call her back to say he under the circumstances  
20 was not going to be able to meet, attend the meeting that  
21 they had originally scheduled?

22 MR. RUNYAN: Your Honor, I object; lack of foundation.  
23 Hadn't shown this witness participated in that discussion.

24 MR. BEERS: I'm just asking if he knows.

25 THE WITNESS: I don't know what was actually said. The

1 meeting did not take place.

2 Q. I see. Okay. Now, what action did the standing  
3 committee take on either that day or the next day with regard  
4 to the relationship between the diocese and the Episcopal  
5 Church?

6 A. The standing committee had actually already passed a  
7 resolution, which I think was dated October 2nd, which  
8 basically said that upon the taking of any action against  
9 Bishop Lawrence effective as of that date, or words to that  
10 effect, that we were disassociated from the Episcopal Church.

11 Subsequent to that, actually I think it was later that  
12 day, a requirement of the resolution was that I, as  
13 chancellor, had to certify that in fact that condition had  
14 occurred. I issued such a certification. I believe that  
15 there was another meeting, I'm sure we had a later meeting,  
16 of the standing committee.

17 Q. I'm --

18 A. You asked if there was a later meeting with the standing  
19 committee.

20 Q. I think you've answered my question. There was a  
21 meeting in which you were asked to certify that the action  
22 had been taken or some action had been taken.

23 A. That was back on October 2nd.

24 Q. No. I'm sorry. I thought you were describing a meeting  
25 you were asked to --

1 THE COURT: The question was, Mr. Logan, did the  
2 standing committee take any action that day or the next day.  
3 You can get it read back if you need it.

4 THE WITNESS: I am sure that they didn't take action  
5 that day. I issued my certification that day. Either the  
6 next day or very shortly after that, Your Honor, the standing  
7 committee did have a meeting and in effect affirmed the  
8 action.

9 Q. You don't have the minutes or your certification here,  
10 do you?

11 A. No, sir.

12 Q. Okay. And then did there come a time when Bishop  
13 Lawrence left the Episcopal Church?

14 A. I'm not sure what you mean by the term. He had never,  
15 to my knowledge, issued a written abandonment of the  
16 Episcopal Church.

17 Q. No. I mean after October 15 did there come a time when  
18 he stated he was no longer a member of the House of Bishops  
19 or no longer an Episcopal bishop?

20 A. To my recollection he made such a statement, yes.

21 Q. Do you remember when that was?

22 A. No, sir.

23 MR. BEERS: Thank you, Your Honor. That's all I have.

24 THE COURT: Okay. Mr. Tisdale, do you have any  
25 questions?

1 MR. TISDALE: No questions, Your Honor.

2 THE COURT: Okay. Is there any redirect?

3 MS. GOLDING: None, Your Honor.

4 THE COURT: Very well. You may step down.

5 Call your next witness, please.

6 MR. RUNYAN: Plaintiffs call Nancy Armstrong.

7 NANCY ARMSTRONG,

8 being first duly sworn, testified as follows:

9 DIRECT EXAMINATION BY MR. RUNYAN:

10 Q. Ms. Armstrong, would you state your name again for the  
11 record?

12 A. Nancy J. Armstrong.

13 Q. And where do you live?

14 A. I live in Summerville, South Carolina.

15 Q. Where do you work?

16 A. I am an employee of the Diocese of South Carolina.

17 Q. What's your position there?

18 A. My position is assistant treasurer.

19 Q. How long have you had that position?

20 A. 21 years.

21 Q. Prior to that what did you do?

22 A. Prior to that I took a little time off to be with my  
23 infant son. The job before that, I served for 11 years as  
24 the vice president for finance and administration for an  
25 interstate trucking company. Prior to that I was a United

1 States Marine.

2 Q. At my request did you look at the records, the financial  
3 records, of the Diocese of South Carolina in order to  
4 determine two things: How much money you could tell that the  
5 Diocese of South Carolina had given to the Episcopal Church  
6 and how much money you could trace from Episcopal Church  
7 entities that may or may not be related but came through  
8 their office?

9 A. Yes, I did.

10 Q. All right. First of all, with respect to monies paid to  
11 or given to the Episcopal Church, the national church, for  
12 what period of time did you look at the records?

13 A. I looked at them all the way back to the beginning of  
14 the diocese.

15 Q. And how much money did you determine had been  
16 voluntarily given to the national church during that period  
17 of time?

18 A. \$6,341,948.

19 Q. And has that amount of money been adjusted at all for  
20 inflation, those are just raw numbers?

21 A. Raw numbers.

22 Q. All right. And did you try to determine how much money  
23 had been received, first of all, from the Domestic and  
24 Foreign Missionary Society?

25 A. Yes.

1 Q. All right. First of all, did you determine whether any  
2 grants had been received?

3 A. Yes.

4 Q. How much was the total amount of grants that you were  
5 able to locate for the same time period that you looked for  
6 what had been paid to the Episcopal Church?

7 A. 729,268.

8 Q. Did that include loans?

9 A. Yes.

10 Q. Did that include monies that did not on their face come  
11 from the Domestic and Foreign Missionary Society?

12 A. Yes.

13 Q. Let's just talk about the Domestic and Foreign  
14 Missionary Society. How much in grants did you discover in  
15 that process?

16 A. 127,730.

17 Q. And how much of that money actually made it to a parish  
18 in this diocese?

19 A. 20,629.

20 Q. And how much of that money actually made it to the  
21 diocese itself?

22 A. 54,100.

23 Q. And how much of that \$127,000 went to the community or  
24 third-party individuals?

25 A. 53,000.

1 Q. Okay. Did you discover any other DFMS funds labeled as  
2 gifts?

3 A. Yes.

4 Q. How much was that?

5 A. 5,000.

6 Q. Did any of that money go to any parish in the diocese or  
7 to the diocese itself?

8 A. No, it did not.

9 Q. Did you discover any other money that was referred to as  
10 loans to churches?

11 A. Yes, I did.

12 Q. And how much was that?

13 A. 25,000.

14 Q. Did any of that money go to the Diocese of South  
15 Carolina?

16 A. No, it did not.

17 Q. Did the 25,000 go to any parish within the Diocese of  
18 South Carolina?

19 A. Yes.

20 Q. And how much went to the parishes?

21 A. Total money out of all of the grand total that went to  
22 all the parishes?

23 Q. No. The loan.

24 A. Just the loan. 25,000.

25 Q. And to one parish or more than one?

1 A. Just to one.

2 Q. What was the name of the parish?

3 A. That was St. Helena's in Beaufort.

4 Q. Okay. And that was a loan?

5 A. Yes, it was.

6 Q. Do you know what the rate was?

7 A. I do not.

8 Q. Okay.

9 A. But I did confirm with them that they did receive it.

10 Q. Okay. Was it paid back?

11 A. Yes.

12 Q. Did you find monies that were given through the office  
13 of the DFMS but actually came from the United Thank Offering?

14 A. Yes.

15 Q. What is the United Thank Offering?

16 A. The UTO is an organization with its own board who --  
17 that raises funds separately and they make grants that are  
18 applied -- the people applying for the grants go through the  
19 diocese to receive for community improvement and that sort of  
20 thing.

21 Q. You said raises money separately. What did you mean by  
22 that?

23 A. The United Thank Offering raises its own contributions.

24 Q. Okay. And how much money during that period of time was  
25 received as a United Thank Offering grant?

1 A. 230,938 in total.

2 Q. Did any of that money go to the Diocese of South  
3 Carolina?

4 A. No.

5 Q. Did any of that money go to a parish or two within the  
6 Diocese of South Carolina?

7 A. Yes.

8 Q. How much went to a parish within the Diocese of South  
9 Carolina?

10 A. 58,000.

11 Q. Did that go to one or more parishes?

12 A. Several.

13 Q. Are any of those parishes not a part of this lawsuit?

14 A. Yes.

15 Q. Which ones?

16 A. Calvary Church, St. John's Chapel.

17 Q. Of the \$230,938 in grants from the United Thank  
18 Offering, how much of that money went to third parties  
19 unrelated to the Diocese of South Carolina?

20 A. 172,938.

21 Q. Did you discover any monies that came through the  
22 diocese from the presiding bishop's fund for world relief?

23 A. Yes, I did.

24 Q. And how much did you discover?

25 A. 340,600.

1 Q. Did the Diocese of South Carolina get any of that money?

2 A. Yes -- no, not the diocese itself, no.

3 Q. Was any of that money sent to churches within the  
4 Diocese of South Carolina?

5 A. Yes.

6 Q. How much?

7 A. 65,000.

8 Q. Of the \$340,600 how much went to entities other than the  
9 diocese and the parishes within the diocese?

10 A. 275 -- 275,600.

11 Q. Does that money include some money for Hurricane Hugo?

12 A. Yes, it did.

13 Q. And how much was that?

14 A. 145,000.

15 Q. And how much of that money went to a parish or parishes  
16 within the Diocese of South Carolina?

17 A. All of it.

18 Q. To a parish --

19 A. None of it went to the diocese and I'm not sure about  
20 the split of the 145,000.

21 Q. Okay. Well, did any more than 65,000 within the 340,000  
22 go to the parishes?

23 A. No.

24 Q. Okay. Thank you.

25 Okay. Did I ask you to figure out the ratio of the

1 amount of money that was given to the Episcopal Church versus  
2 the amount of money assumed in toto to come from them?

3 A. Yes, you did.

4 Q. What is the ratio of that?

5 A. 117 to 1.

6 Q. How does that work out in terms of a percentage?

7 A. It's a pretty tiny percent.

8 Q. Does .8 percent sound right?

9 A. .8.

10 Q. Of the total receipts received that you were able to  
11 find in your records through the office of the DFMS, what  
12 percent went to entities that are neither parishes or the  
13 diocese itself?

14 A. 69 percent.

15 Q. 69.46?

16 A. .46 percent.

17 Q. Have you prepared a summary of the information that you  
18 did and to which you have just testified?

19 A. Yes, I did.

20 (Plaintiff's Exhibit DSC-75 marked for identification.)

21 Q. I show you what's been mark for identification as  
22 Plaintiff's Exhibit 75. Can you tell me what that is?

23 A. This is the spreadsheet that I prepared which summarized  
24 all of my research.

25 Q. Is that a summary of what you've just testified to?

1 A. Yes, it is.

2 MR. RUNYAN: We would offer it in evidence.

3 MR. TISDALE: What exhibit number, please?

4 MR. RUNYAN: 75.

5 THE COURT: Any objection?

6 MR. TISDALE: No objection, Your Honor.

7 THE COURT: Any objection?

8 MR. BEERS: No, Your Honor.

9 THE COURT: Very well. 75 is in evidence without  
10 objection.

11 (Plaintiff's Exhibit DSC-75 admitted into evidence.)

12 Q. Just a final couple of questions, Ms. Armstrong. In  
13 this process of review did you and persons working with you  
14 actually look through all of the journals of the Diocese of  
15 South Carolina?

16 A. We did.

17 Q. And this is what you came up with?

18 A. Yes.

19 MR. RUNYAN: That's all I have.

20 THE COURT: Cross-examination.

21 CROSS-EXAMINATION BY MR. BEERS:

22 Q. Ms. Armstrong, my name is David Beers. I represent the  
23 Episcopal Church. Just to clarify, if you look at the -- do  
24 you have the Exhibit in front of you?

25 A. Yes, I do.

1 Q. Look at the -- just to the right of the middle of the  
2 page. The column says "Total Received Through the Diocese."  
3 Could you explain to me what you meant by that?

4 A. It means that the money was sent to us, deposited into  
5 our account, and we disbursed the funds accordingly.

6 Q. All right. And then two columns over you say "Sent to  
7 other community entities or individuals."

8 A. Mm-hmm.

9 Q. Can you give me any rough idea, certainly not all of  
10 them, but how about some examples?

11 A. Sure. Let me look at my notes if you don't mind.

12 Q. Sure.

13 A. Some of that money went for hurricane relief to various  
14 organizations in the area. Some went to the South Carolina  
15 Christian Action Council. Some went to Camp Baskerville.

16 Q. That's enough. I mean, you may continue, but that's all  
17 I need. But who made the -- well, sorry. Let me start  
18 again. I apologize.

19 Some went to Hugo relief?

20 A. Yes.

21 Q. Can you just give me an example of an entity that would  
22 receive the money from the Hugo relief?

23 A. Sure. Camp Baskerville did receive a good bit of that,  
24 Calvary Church got some of that.

25 Q. Okay. And who made the decision to send it to

1 Baskerville?

2 A. I'm not sure. Looking at the --

3 Q. I don't mean what individual. Was it made by somebody  
4 in the diocese?

5 A. I believe it was.

6 Q. So go back to that first column, the total received  
7 through the diocese. And you said that includes money that  
8 was sent to the diocese and then the diocese sent it on to  
9 somebody else?

10 A. Correct.

11 Q. And the decision of the somebody else was made by  
12 somebody in the diocese?

13 A. Some of these grants were applied for in the name of a  
14 particular church or another community entity, but in the  
15 case of Hurricane Hugo some of that money was sent as like a  
16 block grant, a flat amount of money, and then we accounted  
17 for that back. And it all went to -- all went to  
18 organizations that were impacted in the community.

19 MR. BEERS: Thank you very much. That's all I have,  
20 Your Honor.

21 THE COURT: All right.

22 Mr. Tisdale?

23 MR. TISDALE: Thank you, Your Honor. I don't have any  
24 questions.

25 THE COURT: All right.

1 REDIRECT EXAMINATION BY MR. RUNYAN:

2 Q. Ms. Armstrong, one final question. For the most part in  
3 these grants do they have a designated entity that they're  
4 supposed to go to?

5 A. Yes.

6 Q. And for the most part when we're talking about third  
7 party money, that designated entity was on the grant from the  
8 DFMS?

9 A. That is correct.

10 Q. And you administer it?

11 A. Yes.

12 MR. RUNYAN: Thank you. That's all I have.

13 THE COURT: All right. Recross? None.

14 Feel free to go. Thank you.

15 Call your next witness, please.

16 MR. RUNYAN: Your Honor, at this time we would call the  
17 Right Reverend Mark Lawrence.

18 THE COURT: Very well.

19 MR. RUNYAN: Could it be possible to take a lunch break  
20 right now or would you like to keep going?

21 THE COURT: You have two choices. And you're welcome to  
22 caucus and tell me what it is that you want to do. I have an  
23 obligation and I'm going to leave at 2 o'clock. You may  
24 choose to go for an hour and then you can work on your  
25 documents, as you all tell me. You all don't tell me, the

1 defendants tell me that they need more time to work with the  
2 parishes with regards to documents. You may have that time  
3 to work with the documents. But I have a commitment which  
4 I'm going to honor. I'm going to be leaving at 2 o'clock.  
5 If you wish, you may start your document review after lunch  
6 at 2 o'clock and then we will take this witness up in the  
7 morning. I don't care which.

8 MR. RUNYAN: That would be our preference, Your Honor.

9 THE COURT: Okay. Do you all want to caucus and let me  
10 know?

11 MR. TISDALE: I think that's fine, Your Honor. I mean,  
12 he was not on the list of witnesses for today so --

13 THE COURT: This is reply. I presume he is replying to  
14 something that was raised.

15 MR. TISDALE: I understand that. But I was just saying  
16 he wasn't on the list. So to have until tomorrow would be  
17 helpful.

18 MR. RUNYAN: That is correct.

19 MR. TISDALE: That's all. And I think Mr. Runyan  
20 agrees.

21 THE COURT: Very well. We'll start in the morning at  
22 9:30. Those of you who have any issues with regards to  
23 documents, you cannot go to lunch, but please do everything  
24 you can to resolve whatever issues remain with regards to  
25 documents so that we can hopefully end that process tomorrow.

1 And I will see you all in the morning at 9:30.

2 MR. TISDALE: Thank you, Your Honor.

3 --- END OF TRANSCRIPT OF RECORD ---

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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 24th 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 September 26, 2014

16

17 Ruth L. Mott

18 Official Court Reporter

19

20

21

22

23

24

25

VOLUME XIV

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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., )

TRANSCRIPT OF RECORD

JULY 25, 2014  
ST. GEORGE, SC

Plaintiffs,

vs.

THE EPISCOPAL CHURCH, )  
(A/K/A THE PROTESTANT )  
EPISCOPAL CHURCH IN THE )  
UNITED STATES OF AMERICA); )  
THE EPISCOPAL CHURCH IN )  
SOUTH CAROLINA, )

Defendants.

B E F O R E:

HONORABLE DIANE S. GOODSTEIN

Ruth L. Mott, RPR, CRR  
Official Court Reporter

## 1 I N D E X

2 WITNESS DIRECT CROSS REDIRECT RECROSS

3 MARK JOSEPH LAWRENCE

4 MR. RUNYAN 2445

5 MS. GOLDING 2481

6 MR. BEERS 2481

7

8 CERTIFICATE OF REPORTER 2523

9

## 10 E X H I B I T S

11 NO. DESCRIPTION ID EVD

12 DSC-76 BISHOP'S STATEMENT 2441 2447

13 DSC-77 10/2/2012 LETTER 2441 2452

14 DSC-78 LETTERS DIMISSORY 2441 2457

15 DSC-79 12/5/2012 LETTER 2441 2459

16 DSC-80A EXCERPTS FROM CONSTITUTION AND 2441 2462  
CANONS, 200617 DSC-80B EXCERPTS FROM CONSTITUTION AND 2441 2462  
CANONS, 2009

18

19 D-225B -- EXCERPTS FROM JOURNALS 2509 2511  
D-424B

20

21 J-1 LIST OF PARISH-SPECIFIC PAGE 2519  
CITATIONS IN DIOCESAN JOURNALS,  
1901-200922 J-2 LIST OF PARISH-SPECIFIC PAGE 2519  
CITATIONS IN DIOCESAN JOURNALS  
UP THROUGH 1900

23

24 C-9 -- 30 (B) (6) DEPOSITIONS 2522  
C-44

25

26

27

28

29

1 (Plaintiff's Exhibits DSC-76 through DSC-79 and DSC-80A  
2 and DSC-80B premarked for identification.)

3 THE COURT: All right. If you'd call your witness. I  
4 think that's where we ended yesterday.

5 MR. RUNYAN: Your Honor, we had one issue that I  
6 mentioned to Mr. Tisdale this morning. Because our next  
7 witness will be our last witness, and they have not closed  
8 their case yet, we need some finality on that so we know  
9 whether we have to call somebody else, so I'm just asking if  
10 their case is over.

11 MR. TISDALE: Your Honor, except for the processing of  
12 the documents, we have no further testimony to present. And  
13 except for working out all the documentary evidence, we --

14 THE COURT: And all the documentary evidence beyond the  
15 30(b)(6), and there may have been one or two documents that  
16 we were still trying to get legibility issues resolved, other  
17 than those documents, what other documents are --

18 MR. BEERS: We have to admit the diocesan journals and  
19 we've worked out an agreement with everybody on that. It's a  
20 question of making the record clear.

21 THE COURT: I think they need to know what additional  
22 that they aren't anticipating might there be.

23 MR. TISDALE: Your Honor, we have a very brief thing  
24 that doesn't have anything to do with another witness, I  
25 don't think, but Ms. Golding, she's gone over Bishop

1 Lawrence's deposition, which we put into evidence, and she --  
2 there's just one point that we need to get resolved on that  
3 at some point. And that's all there is. It doesn't have  
4 anything to do with the case other than that. We don't have  
5 any more testimony or documents other than what have been  
6 mentioned.

7 MS. KOSTEL: And there's one final thing: On the  
8 parish-specific exhibits that we went through parish by  
9 parish, we're ready to submit them, but in putting together  
10 the hard copies we found that we couldn't locate some so  
11 we're withdrawing several of them. And I think I probably  
12 need to put that into the record and also note for the  
13 record -- I'll do it at the time -- that as to the  
14 consecration documents which were marked for identification  
15 only, it's our judgment that there are other consecration  
16 evidence that's been marked for identification in the  
17 30(b)(6), and so this was duplicative so we pulled them out  
18 of here. But I need to make that record.

19 THE COURT: We'll just clean that up.

20 MS. KOSTEL: Yes.

21 THE COURT: Okay. Just so everyone is clear and we have  
22 some organization as we get to towards the conclusion, it is  
23 my understanding that I should anticipate the 30(b)(6)  
24 depositions that I have been -- that I know that Mr. Beers  
25 has been working with the different parishes, that I should

1 anticipate those depositions.

2 MR. BEERS: That will not take long, Your Honor.

3 THE COURT: Okay. And you've been working through  
4 whatever objections, and any that aren't resolved, I will  
5 handle. I will handle the objection that is in Bishop  
6 Lawrence's deposition --

7 MS. GOLDING: That's correct.

8 THE COURT: -- which I understand is primarily one.  
9 Additionally there's going to be some clean up of some  
10 exhibits that have perhaps been in and there needs to be a  
11 tweak here and there.

12 MS. KOSTEL: Yes, Your Honor.

13 MR. BEERS: There's a tweak with the diocesan journals,  
14 but it's consented to.

15 THE COURT: Exactly. Thank you. But those should  
16 conclude the documents and the evidence with regards to the  
17 defendants. Yes?

18 MR. TISDALE: That is correct.

19 THE COURT: All right.

20 MR. BEERS: Because we're still negotiating some of the  
21 diocesan journals, we're probably going to have to make a new  
22 set -- no. I'm sorry. We're still negotiating on the  
23 30(b)(6). We had made copies, hard copies, but we'll either  
24 have to mark them or just get another copy, get another set  
25 copied.

1 THE COURT: I understand. We'll figure out how to do  
2 that. It very well may be, but we'll leave the record open  
3 for the receipt of that.

4 MR. BEERS: Right. But the record will be clear as to  
5 what's in and what's out.

6 THE COURT: Yes, yes. Got it.

7 MR. RUNYAN: Your Honor, I understand there is an --  
8 Exhibit 512, I believe, Defendant's Exhibit 512, is a Book of  
9 Common Prayer. I don't see it here. Is that --

10 MS. ST. ARMAND: It's right here. It just hasn't made  
11 its way over there yet (indicating).

12 MR. RUNYAN: All right. Okay. That was my last  
13 question.

14 THE COURT: Okay. So now you are prepared to call your  
15 final witness?

16 MR. RUNYAN: I am, Your Honor.

17 THE COURT: Okay.

18 MR. RUNYAN: Plaintiffs call the Right Reverend Joseph  
19 Mark Lawrence.

20 MARK JOSEPH LAWRENCE,  
21 being first duly sworn, testified as follows:

22 THE COURT: And if you'd be so kind as to state your  
23 full name for the record again and spell your last name,  
24 we're going to use this, again, as a sound check.

25 THE WITNESS: Mark Joseph Lawrence, L-A-W-R-E-N-C-E.

1 THE COURT: Your witness.

2 DIRECT EXAMINATION BY MR. RUNYAN:

3 Q. Good morning, Bishop.

4 A. Good morning.

5 Q. Would you please tell the Court where you live?

6 A. I live in Charleston, South Carolina.

7 Q. And have you lived here all of your life?

8 A. No.

9 Q. Where were you born?

10 A. I was born in Bakersfield California, fifth-generation  
11 Californian, which is nothing here but in California that's  
12 roots.

13 Q. Okay. Did you go to school in California?

14 A. I did.

15 Q. Where did you go?

16 A. I went to the Bakersfield school system. And then I  
17 graduated from Cal State University in Bakersfield. And then  
18 I went to Trinity Episcopal School for the Ministry, where I  
19 received a Master of Divinity degree.

20 Q. Are you married?

21 A. I am. My wife, Allison, we've been married since 1973.  
22 We have five children, 15 grandchildren, and the 16th one is  
23 there in the womb of her, our youngest daughter, who's in the  
24 first row.

25 Q. Bishop, where are you presently employed?

1 A. I'm employed in South Carolina with the Diocese of South  
2 Carolina.

3 Q. Are you the 14th bishop of the Diocese of South  
4 Carolina?

5 A. Yes, I am.

6 Q. We have heard testimony that in order to become the 14th  
7 bishop of the Diocese of South Carolina you, along with  
8 others, were interviewed. Were you in fact interviewed by  
9 members of a search committee and the standing committee?

10 A. Yes, I was.

11 Q. During the course of any of those interviews did anyone  
12 ask you whether you would be willing to take the Diocese of  
13 South Carolina out of the Episcopal Church?

14 A. No.

15 Q. Did you intend to take the Diocese of South Carolina out  
16 of the Episcopal Church?

17 A. Absolutely not.

18 Q. Bishop, at some point after your election, as you were  
19 doing duties of the bishop, were issues raised of which you  
20 were aware about whether the national church, through its  
21 general convention or otherwise, had the right to control a  
22 diocese?

23 A. Yes.

24 Q. And did you participate with other bishops of the church  
25 in adopting a statement on that issue?

1 A. Yes, I did.

2 Q. I'm going to hand you what's been marked as Plaintiff's  
3 Exhibit 76 for identification. Is that the statement?

4 A. That is the statement of polity of the Episcopal Church.  
5 And my name is listed on the front page along with others.

6 Q. And does this set forth some of the positions that you  
7 took on whether the Diocese of South Carolina is or is not  
8 subordinate to the national church?

9 A. It does represent that.

10 MR. RUNYAN: Move it into evidence.

11 THE COURT: Any objection?

12 MR. BEERS: No, Your Honor.

13 MR. TISDALE: None, Your Honor.

14 THE COURT: Very well.

15 MS. KOSTEL: The number?

16 MR. RUNYAN: 76.

17 THE COURT: In evidence without objection.

18 (Plaintiff's Exhibit DSC-76 admitted into evidence.)

19 Q. I'd like you to just walk us through, briefly, the  
20 duties of a bishop with jurisdiction; but, first of all, I'd  
21 like for you to just describe what a bishop with jurisdiction  
22 is.

23 A. A bishop, coming from the Greek word "episkopos" or  
24 "episcopoi," whether it's singular or plural, is an overseer  
25 of a body of gathered congregations and people that is the

1 basic unit of the church and has for innumerable centuries  
2 been the basic unit of the church. So the bishop is the  
3 overseer.

4 Q. And as the 14th bishop of South Carolina, between your  
5 election and consecration in October of 2012, would you just  
6 tell the Court the kinds of things that you would do as a  
7 bishop with jurisdiction involving church matters?

8 A. Well, I am the chief pastor of the congregation, so I  
9 shepherd, pastor, nurture the clergy, priests and deacons. I  
10 visit congregations, celebrate the sacrament, baptize,  
11 confirm people. I help congregations that do not have a  
12 rector or a pastor to find some. They elect their pastor of  
13 their parish, but I approve of them or confirm that election.  
14 I appoint clergy to mission congregations, those  
15 congregations that are unable to afford a full-time priest.  
16 I send letters dimissory of priests transferring from the  
17 Diocese of South Carolina into another diocese. I receive  
18 letters dimissory. I sign documents for a priest seeking  
19 retirement and wanting his or her church pension fund to  
20 begin. I preside at conventions. I'm the president of the  
21 convention of the diocese when it meets. I sign documents on  
22 behalf of the diocese, legal and ecclesial. Those are some  
23 of the things.

24 Q. Just a question about letters dimissory. Does that have  
25 reference to the transfer of a priest to you or from you in

1 terms of jurisdiction over that priest?

2 A. Yes, when a priest seeks to be transferred from, let's  
3 say, the Diocese of South Carolina to the Diocese of  
4 Springfield, that priest will make a request of me to send a  
5 letter dimissory and then I send that letter. And then the  
6 corresponding bishop of the Diocese of Springfield or the  
7 Diocese of Albany or whatever it might be, that bishop then  
8 sends to me a recognition that they have received that  
9 person.

10 Q. Bishop Lawrence, I want to take you back to a convention  
11 of the Diocese of South Carolina in October of 2010. Did the  
12 convention of the Diocese of South Carolina vote to amend its  
13 articles of incorporation?

14 A. Yes, it did.

15 Q. And as a result of that did you in fact sign an  
16 amendment that was filed with the Secretary of State?

17 A. I did.

18 Q. Did you sign as an officer of the corporation?

19 A. Yes, I did.

20 Q. And after the signing of that document until we'll take  
21 it up to October of 2012, did you continue to do the job that  
22 you have done as bishop, as a bishop with jurisdiction?

23 A. Yes, I continued to do the job.

24 Q. And when letters dimissory were sent to another  
25 jurisdiction, were they in fact received?

1 A. Yes, they were.

2 Q. And were the priests transferred on the records of the  
3 Episcopal Church?

4 A. Yes, I assume they would have been.

5 Q. Bishop, did you also from time to time between that time  
6 period attend meetings of the House of Bishops?

7 A. Yes, I did.

8 Q. About how frequently did they meet?

9 A. The House of Bishops often meets twice a year. Every  
10 three years it meets at the general convention of the  
11 Episcopal Church.

12 Q. And on occasion at House of Bishops meetings are votes  
13 taken of the bishops on various issues?

14 A. Yes. There's often a business session at each gathering  
15 of the House of Bishops.

16 Q. Between October of 2010 and October of 2012 did you on  
17 occasion vote when required at these meetings?

18 A. I certainly did.

19 Q. Was your vote counted either for or against the  
20 proposition?

21 A. Yes, it was.

22 Q. Did you attend the convention of the -- the general  
23 convention in the summer of 2012?

24 A. I did.

25 Q. Were you called as a member of the bishops, called

1 during the roll call?

2 A. I was.

3 Q. Did you have the opportunity to speak to issues?

4 A. I spoke to several.

5 Q. Were you given seat, voice, and vote?

6 A. I was.

7 Q. Did you in fact vote?

8 A. I did.

9 Q. Let's go to September-October of 2012, if we could. Did  
10 you receive a request from the standing committee for an  
11 interpretation of the constitution and canons as the  
12 ecclesiastical authority of the diocese?

13 A. Yes. I received it in mail.

14 Q. I'm going to hand you what's already been marked as  
15 Diocese Exhibit 2.

16 MR. RUNYAN: If you'd put this on the screen, the last  
17 page of Canon 37.

18 Q. Bishop, would you just read that canon, please, sir.

19 A. Canon 37 of the Ecclesiastical Authority. The  
20 ecclesiastical authority of the Diocese is the Bishop. If  
21 there is no Bishop, the standing committee is the  
22 ecclesiastical authority. The ecclesiastical authority of  
23 the Diocese, with the advice and counsel of the Chancellor,  
24 is the sole and final authority with respect to any dispute  
25 concerning the interpretation of the constitution and the

1 canons of this Diocese, and its interpretations shall be  
2 final and binding in all respects.

3 Q. And pursuant to that canon did you in fact issue such an  
4 interpretation that is Exhibit 77 for identification  
5 (indicating)?

6 A. Yes, the interpretation of the constitution and canons  
7 by the ecclesiastical authority of the diocese; has my  
8 signature on the last page.

9 MR. RUNYAN: Okay. I'd offer that in evidence.

10 MR. TISDALE: No objection, Your Honor.

11 MR. BEERS: No objection.

12 THE COURT: Very well.

13 (Plaintiff's Exhibit DSC-77 admitted into evidence.)

14 Q. Okay. Let's go to October the 15th, 2012. Were you  
15 scheduled on that day to have a conversation with the  
16 presiding bishop?

17 A. Yes. We had arranged for a phone call on that day with  
18 her chancellor being on the line and my chancellor being on a  
19 telephone line.

20 Q. So there were four of you?

21 A. Correct.

22 Q. One of those was Mr. Beers?

23 A. Yes.

24 Q. And one of those was Wade Logan?

25 A. Correct.

1 Q. And one of those was Katharine Jefferts Schori?

2 A. Yes.

3 Q. And yourself?

4 A. Correct.

5 Q. Bishop, a preliminary question: Prior to that phone  
6 call did you have any knowledge at all that there was a  
7 complaint against you in the fall of 2012 or that there had  
8 been any sort of finding by the Disciplinary Board for  
9 Bishops that a charge would be preferred against you for the  
10 charge of abandonment?

11 A. I had no knowledge of that.

12 Q. And between September 17th, which the record will  
13 reflect is the date of that document, and October the 15th,  
14 the date of your phone call, had you had the opportunity to  
15 be in the presence of the presiding bishop?

16 A. Yes. I met with her at the national church office in  
17 New York.

18 Q. Of what day?

19 A. October 3rd.

20 Q. Approximately how long was the meeting?

21 A. I will guess probably about two hours.

22 Q. At any time during the two hours were you informed of  
23 the existence of the document known as a certification of  
24 abandonment signed presumably on September 17, 2012?

25 A. I was told nothing about such a thing.

1 Q. Did you on October the 15th ask a question of the  
2 presiding bishop related to that issue?

3 A. Yes. She said that she had received it on October 10th.  
4 I asked her if she had received it at that time or she  
5 discovered or learned about it at that time, and she said she  
6 received the document at that time.

7 Q. Okay.

8 A. I didn't push it.

9 Q. Now, Bishop, after that discussion -- were you informed  
10 during that discussion also about her intent to issue a  
11 restriction of your ministry?

12 A. Was I informed in the conversation on the 15th?

13 Q. Yes.

14 A. Yes, she informed me of that.

15 Q. All right. And to this day have you ever been served  
16 with a signed restriction of your ministry by the presiding  
17 bishop's office?

18 A. I have never been served.

19 Q. To this day have you ever been served with the  
20 certificate of abandonment together with its attachments?

21 A. I do not believe I have.

22 MR. RUNYAN: Your Honor, at this time I would like to  
23 publish portions of Defendant's Exhibit 203, which is the  
24 Constitution and Canons of the Episcopal Church for 2009.  
25 The portion that I would publish is on Page 161, is a part of

1 the canon on ecclesiastical discipline, Canon 4, Section 19,  
2 Subsection 20. "Notices or other papers to be served  
3 according to procedures of this Title shall be deemed to have  
4 been duly served if a copy is delivered to the person to be  
5 served, is left with an adult resident of the abode of the  
6 person to be served or is mailed by certified mail to the  
7 person's usual place of abode. Notice by publication shall  
8 be made in a newspaper of general circulation in the  
9 jurisdiction of the person's usual place of abode.  
10 Acceptance of service renders unnecessary any further  
11 process."

12 Were you served in that fashion, Bishop?

13 MS. KOSTEL: Excuse me. Your Honor, I'd like to just  
14 preserve for the record objection to this line of inquiry. I  
15 understand Your Honor's ruling of yesterday and would  
16 respectfully like to preserve for the record my objection to  
17 going into the question of whether the church's processes  
18 were followed, just preserving for the record, understanding  
19 Your Honor's ruling on that issue.

20 MR. TISDALE: We would, of course, join that objection.

21 THE COURT: I want the record to be clear that the  
22 reason that this inquiry is important is for the purpose of  
23 the Court's ability to be able to determine at some point  
24 whether the actions that were taken by Bishop Lawrence  
25 pursuant to the civil law of the State of South Carolina were

1 taken in his capacity as a managing agent. The relevance of  
2 this information goes to that.

3 MS. KOSTEL: Thank you, Your Honor.

4 MR. TISDALE: Your Honor, I just wanted to be certain  
5 the reporter got that we joined in that objection and we  
6 appreciate your ruling on it.

7 THE COURT: You may proceed.

8 Q. Bishop Lawrence, after the --

9 A. I don't know if I answered that question.

10 Q. Oh, I'm sorry.

11 A. Could you restate it?

12 THE COURT: That happens every single time that there's  
13 that interruption between question and answer.

14 THE WITNESS: I think I remember it well enough. I have  
15 no recollection of that being fulfilled.

16 Q. Okay. Thank you, Bishop. After the conversation on  
17 October the 15th and the disassociation of the diocese from  
18 the Episcopal Church, did you continue to function as bishop?

19 A. I did. I went to my normal visitation that Sunday and  
20 did confirmation as usual. I signed letters dimissory, I  
21 signed documents for the Church Pension Fund, for the  
22 retirement of clergy persons, I presided at a convention,  
23 various things.

24 Q. Okay. I'm going to hand you what's marked as  
25 Plaintiff's Exhibit 78 for identification. Hang on just a

1 minute and I'll ask you a question about that.

2 Could you identify that exhibit, Bishop?

3 A. Yes. These are letters dimissory. First one --

4 Q. Let's not get into the details. Could you tell us what  
5 date you signed these letters on that are in front of you?

6 A. The first one is November 26th. The second one is an  
7 acceptance of a letter dimissory.

8 Q. Hang on just a second. November 26 in what year?

9 A. 2012.

10 Q. Okay. And the second one is what?

11 A. The acceptance of a letter dimissory from another  
12 diocese.

13 MR. RUNYAN: Let's stop right there before we get into  
14 it. I'd move this in evidence.

15 THE COURT: Plaintiff's 78. Is there any objection?

16 MR. TISDALE: No objection, Your Honor.

17 MS. KOSTEL: One moment, please. Thank you.

18 MR. BEERS: No. Go ahead. Sorry.

19 THE COURT: Very well, 78 in evidence without objection.

20 (Plaintiff's Exhibit DSC-78 admitted into evidence.)

21 Q. Bishop, are these letters dimissory the types of things  
22 that you had been doing since you were first elected and  
23 consecrated as a bishop?

24 A. Yes, they are.

25 Q. Anything different about these than the others other

1 than the fact that they're dated in November 2012?

2 A. No. They look the same.

3 Q. Were letters dimissory issued after the convention of  
4 the special convention of the diocese in November of 2012?

5 A. One -- two were and two were before the one on November  
6 17th.

7 Q. Have you ever been informed by anybody with the  
8 Episcopal Church or with the dioceses to which these letters  
9 are directed or from which they were received that the  
10 transfers did not occur?

11 A. No.

12 Q. Bishop, after the convention, special convention, in  
13 November of 2012, in early December did you receive something  
14 from the presiding bishop's office?

15 A. I first received a phone call from the presiding bishop,  
16 I believe it was on December the 5th, informing me that I  
17 had -- she had accepted my renunciation of orders, and then a  
18 letter came signed by her and to I believe two attending  
19 bishops.

20 Q. I hand you Plaintiff's Exhibit 79 for identification and  
21 ask you, is that the letter to which you refer?

22 A. Yes, it is.

23 MR. RUNYAN: Offer it in evidence.

24 MR. BEERS: For the record, Your Honor, I join

25 Ms. Kostel's objection to this on the same grounds, that it's

1 beyond the scope, permissible scope, in this proceeding and  
2 has no relevance to the current proceeding. But I understand  
3 Your Honor has ruled.

4 THE COURT: Well, I haven't ruled.

5 MR. BEERS: Sorry.

6 THE COURT: I haven't ruled on that.

7 MR. BEERS: I think it raises the same issue that  
8 Ms. Kostel raises.

9 MR. RUNYAN: Actually, this is a finding. This is a  
10 finding of an official of the Episcopal Church. I'm not  
11 sure --

12 MR. BEERS: That's not our objection. Our objection  
13 goes to relevance.

14 MR. RUNYAN: Relevance. Okay.

15 MR. TISDALE: We have no objection to it.

16 THE COURT: Thank you, Mr. Tisdale.

17 MR. BEERS: Excuse me, Your Honor. With all due  
18 respect, Ms. Kostel has just instructed me to withdraw my  
19 objection.

20 THE COURT: Very well.

21 (Plaintiff's Exhibit DSC-79 admitted into evidence.)

22 Q. Bishop Lawrence, would you look at this exhibit, please,  
23 sir, and, first of all, tell us the date?

24 A. It is dated December the 5th, 2012.

25 Q. And would you look at the fax line at the top and tell

1 us what is the date on the fax line?

2 A. 12/06/12, December the 6th, 2012.

3 Q. Do you recall receiving that document on or about  
4 December 5th or 6th?

5 A. I do not recall when I received it.

6 Q. You don't dispute that you did in fact receive it at  
7 some time?

8 A. I did receive it, yes.

9 Q. Is it signed by anybody on behalf of the Episcopal  
10 Church?

11 A. It's signed by Katharine Jefferts Schori, presiding  
12 bishop; signed by, looks like, Dean Wolfe, who I believe is  
13 the Bishop of Kansas; and it looks like it's signed by Wayne  
14 Smith, and I forget where Wayne Smith is the bishop. It's  
15 the Midwest.

16 Q. Bishop, I'm going to ask you to read, if you would, the  
17 first paragraph. Well, first of all, read the title, if you  
18 would, please.

19 A. Renunciations of Ordained Ministry and Declaration of  
20 Removal and Release.

21 Q. Okay. Would you read the first full paragraph that  
22 comes under that heading?

23 A. In accordance with Title III, Canon 12, Section 7 of the  
24 Constitution and Canons of the Episcopal Church and with the  
25 advice and consent of the Advisory Committee to the Presiding

1 Bishops, I have accepted the renunciation of ordained  
2 ministry of this church made in writing on November 17th,  
3 2012, by the Right Reverend Mark Joseph Lawrence, Bishop of  
4 South Carolina.

5 Do you want me to continue?

6 Q. No. You can stop right there. I'm going to hand you  
7 two more documents mark for identification as Plaintiff's  
8 Exhibit 80A and 80B. Hold on just a minute and I'll have a  
9 question for you.

10 MR. TISDALE: What is this exhibit number, Alan? I'm  
11 sorry.

12 MR. RUNYAN: 80A and B. For the record, these are parts  
13 of exhibits, Defendants 203 and 202, but they are just a  
14 couple of pages.

15 MR. TISDALE: Which one's which?

16 MR. RUNYAN: 80A is the 2006 excerpt from the Episcopal  
17 Church Constitution and Canons. 80B is the 2009 excerpt.

18 Q. Bishop, I believe these are substantially similar, so  
19 I'm just going to ask you to refer to 80B if you would.

20 A. 80B.

21 Q. Yes, 80B.

22 MR. RUNYAN: I would offer these in evidence.

23 THE COURT: As I understand, these are excerpts from  
24 documents which are already in evidence; is that correct?

25 MR. RUNYAN: That's right. I don't need to offer them.

1 MR. TISDALE: We certainly have no objection to it.

2 MS. KOSTEL: Right.

3 THE COURT: Very well.

4 (Plaintiff's Exhibits DSC-80A and DSC-80B admitted into  
5 evidence.)

6 Q. Bishop, if you would look at 80B, and I direct your  
7 attention to Section 7 entitled "Renunciation of the Ordained  
8 Ministry." The first thing I would like you to do is compare  
9 that to the other document that was sent to you by the  
10 presiding bishop and tell me if this is the correct section  
11 that she referenced?

12 A. Title III, Canon 12, Section 7, okay, yes.

13 Q. All right. I'm going to read this. And follow along  
14 with me if you would, please. "Renunciation of the Ordained  
15 Ministry."

16 A. All right. I do not see where you are -- okay. I see,  
17 yes.

18 Q. Subsection (a): If any Bishop of this Church shall  
19 declare, in writing, to the Presiding Bishop a renunciation  
20 of the ordained Ministry of this church, and a desire to be  
21 removed therefrom, it shall be the duty of the Presiding  
22 Bishop to record the declaration and request so made. The  
23 Presiding Bishop, being satisfied that the person so  
24 declaring is acting voluntarily and for causes, assigned or  
25 known, which do not affect the person's moral character,

1 shall lay the matter before the Advisory Council to the  
2 Presiding Bishop, and with the advice and consent of a  
3 majority of the members of the Advisory Council the Presiding  
4 Bishop may pronounce that such renunciation is accepted, and  
5 that the Bishop is released from the obligations of all  
6 Ministerial offices, and is deprived of the right to exercise  
7 the gifts and spiritual authority as a Minister of God's Word  
8 and Sacraments conferred in Ordinations. The Presiding  
9 Bishop shall also declare in pronouncing and recording such  
10 action that it was for causes which do not affect the  
11 person's moral character, and shall, if desired, give a  
12 certificate to this effect to the person so removed."

13 My question, Bishop, is: Did you before December 5,  
14 2012, declare in writing to the presiding bishop your desire  
15 to renounce the ordained ministry of the Episcopal Church and  
16 to be removed therefrom?

17 MR. BEERS: Excuse me, Your Honor. We object on the  
18 grounds that this is impermissible to examine into the  
19 operation of the denomination's disciplinary process. I  
20 believe you ruled in essence that -- overruled that sort of  
21 objection in the past, but I just want to make it for the  
22 record.

23 MR. TISDALE: We would join that, please, Your Honor.

24 THE COURT: I don't understand what you've just said,  
25 that I have overruled that objection in the past. I haven't

1 seen this document so how could I have overruled that.

2 MR. BEERS: I'm just talking about the grounds, Your  
3 Honor. Well, let me just state it for the record and let's  
4 move forward. We think that -- we believe that it is not  
5 permissible for this Court to -- it is not relevant to any  
6 issue in this case of how the denomination's disciplinary  
7 process is carried out.

8 THE COURT: I understand.

9 Yes, sir, Mr. Runyan.

10 MR. RUNYAN: I simply am asking a person with knowledge  
11 who is involved in that scenario if he did what he needed to  
12 do under their constitution and canons to accomplish that  
13 result. I'm not disputing the fact that the church issued  
14 what it issued, and I'm not trying to go behind it except to  
15 get his testimony about his participation or lack thereof in  
16 that event, and I think it's relevant for that. I think it's  
17 appropriate.

18 MS. GOLDING: It just goes to credibility.

19 MR. RUNYAN: It goes to his credibility, if nothing  
20 else.

21 THE COURT: Well, there were a couple of things, and I  
22 want to talk about them. As you know, Pearson says that the  
23 Court is bound to accept a determination of the highest  
24 authority with regards to ecclesiastic or religious  
25 determinations. And if you're asking me to accept this with

1 regards to credibility, then what, of course, you're doing is  
2 putting his character in issue, and it would necessarily have  
3 to be in that context under the Rules of Evidence. The  
4 calvary has arisen.

5 MS. GOLDING: Your Honor, it's not as to credibility of  
6 the witness, it's only as to credibility of the defendant  
7 national church. Mr. Runyan is not going behind the December  
8 5 final position of the national church. We're not seeking  
9 any change in that. We're just going to the credibility of  
10 that defendant national church with respect to the question  
11 and that answer.

12 THE COURT: Let me ask this question, because this is  
13 the only possible relevance that it has in light of Pearson:  
14 Let me assume just for purposes of argument that this is a  
15 fraudulent procedure. Pearson, I'm concerned, says even  
16 though it is a fraudulent procedure -- and I make no finding  
17 that it is, I only make that comment for the sake of  
18 argument -- I still think that Pearson says I am bound to  
19 accept it. But I ask this question, and it's this: Are  
20 there documents which were executed by Bishop Lawrence for  
21 which the plaintiffs claim authority for him to execute that  
22 were in fact signed after the date reflected here.

23 MR. RUNYAN: There may be some, Your Honor. I believe  
24 there were some retirement documents. But our purpose is to  
25 close the door on the period during which he unquestionably

1 had good standing. And this is evidence of when that door  
2 could have been closed, in Your Honor's interpretation,  
3 because prior to this time there really was no issue within  
4 the church based on his behaving as a bishop with  
5 jurisdiction as to his good standing.

6 MR. BEERS: I didn't hear the last words.

7 THE COURT: Just based on my prior rulings is what he  
8 said, sync.

9 MR. BEERS: Thank you.

10 THE COURT: Let me ask this question because actually I  
11 know that we are within the critical time period: Tell me,  
12 when was the vote to alter the constitution articles or the  
13 articles of incorporation, I should say, and/or bylaws that  
14 remove the reference to the national church from the diocese.  
15 What is that operative date?

16 MR. RUNYAN: There were a sequence of them. The first  
17 would have been in October of 2010.

18 THE COURT: All right.

19 MR. RUNYAN: The first vote on the last one by the  
20 convention would have been November 17, 2012.

21 THE COURT: Yes. And the quitclaim deeds, what was the  
22 last execution date of the quitclaim deeds? How do you like  
23 that for a trick question.

24 MR. RUNYAN: It would have been sometime in November, I  
25 believe, of 2011.

1 THE COURT: Okay.

2 MR. RUNYAN: Your Honor, to keep the record clean I'll  
3 just withdraw the question.

4 THE COURT: I understand. But let me be clear, I'm a  
5 little bit concerned about the November the 17th date.

6 MR. RUNYAN: Well, he testified earlier that he had  
7 issued letters dimissory on November 26, which is after the  
8 date of that convention, and that they had been accepted in  
9 the ordinary course of the Episcopal Church's business. The  
10 purpose in putting in this last document, frankly, which they  
11 never chose to put in, was to show what act, if there was,  
12 that was valid by the Episcopal Church that actually brought  
13 to conclusion his ministry under the Pearson ruling.

14 I think it's relevant that the process used, which  
15 involved him personally, it required his personal action for  
16 that to happen, he didn't do that. It doesn't affect the  
17 Court's view of the final ruling, but it does affect the  
18 credibility of the Episcopal Church, which is an issue in  
19 this case.

20 MS. KOSTEL: Objection. I don't think the credibility  
21 of the church is in issue.

22 MR. RUNYAN: It's a party. I mean -- but that's all I  
23 have to say about that.

24 THE COURT: All right. Let me ask this question: The  
25 November the 17th date, by November the 17th, 2012, were all

1 of the actions that were taken to remove, to make the  
2 alterations that have been talked about, the amendments to  
3 the articles of incorporation and bylaws, constitution, all  
4 of those acts that were taken by the diocese, were they all  
5 taken as of November the 17th, 2012? And you can caucus if  
6 you need to, because it's an important question for me.

7 (Attorneys confer.)

8 MR. RUNYAN: Your Honor, under the -- I think the best  
9 way to put this is that the last act that he took,  
10 considering that to be an act of the church while he was in  
11 the Episcopal Church, would have been in November of 2012.

12 THE COURT: When in November?

13 MR. RUNYAN: 17, November 17. He may have signed  
14 something after that, but he presided over the convention  
15 November 17.

16 THE COURT: And what acts were taken during that  
17 convention relevant to the issues which are raised, which, of  
18 course, would be the alteration of either the constitution,  
19 bylaws, or the articles of incorporation.

20 MR. RUNYAN: The articles were amended two years before  
21 that. The canons of the diocese which had previously been  
22 altered to remove any reference to the 2009 Constitution and  
23 Canons and which had placed a supremacy clause in the  
24 constitution making any conflicting Episcopal Church  
25 constitution and canons with those of the diocese

1 inapplicable, that had all been done in October of 2010.

2 In November of 2012 all references in the canons to the  
3 Episcopal Church canons were removed and a vote was taken on  
4 removing the entire first paragraph, which would have taken  
5 out the supremacy clause and would have taken out any  
6 accession to the constitution of the Episcopal Church.

7 THE COURT: When?

8 MR. RUNYAN: That vote was taken on November 17th. In  
9 order to amend the constitution, Your Honor, there would have  
10 to have been a final vote taken on removing that first  
11 paragraph, and that vote would have been taken and was taken  
12 in March of 2013. The first vote was taken in November to  
13 remove that preamble. The second vote would have been taken  
14 in March 2013.

15 I would point out to the Court that the votes of the --  
16 I want to get this right; I'm thinking back to the All Saints  
17 case -- the vestry had already been removed supposedly by  
18 Bishop Salmon prior to the congregation voting to leave, and  
19 that had no effect on the outcome of the case.

20 THE COURT: And I ask, based upon your review, is there  
21 a means provided to appeal a determination such as was made  
22 when the allegation might be, for example, fraud.

23 MR. RUNYAN: There is a 60-day provision, as I recall,  
24 that would have flowed from the presiding bishop's recording  
25 the charge made by the Disciplinary Board for Bishops which

1 would -- we don't really have a precise date but, according  
2 to her statement to Bishop Lawrence, would have been October  
3 10, 2012.

4 There's also a provision that, by recollection, says  
5 that if there is a charge made against a bishop, this  
6 particular provision, the renunciation canon, may not be  
7 used. But now we're inquiring into the issues behind it.

8 THE COURT: All right. Pearson says that I have to  
9 accept the final determination when it comes to ecclesiastic  
10 determinations. And upon your suggestion to this point that  
11 there was potentially arguably, from your perspective,  
12 nefarious conduct that generated this document, Pearson  
13 doesn't allow me to look at that. I have to leave the church  
14 to its own determinations. As you know, religious bodies  
15 every day all over the world do terrible things to people.  
16 Our law gives me plenty to handle on the secular side and it  
17 is on the secular side that I intend to remain. And,  
18 therefore, this final determination I must accept.

19 MR. RUNYAN: There is one other issue, Your Honor.

20 THE COURT: Yes.

21 MR. RUNYAN: Under the case law of South Carolina and US  
22 Supreme Court, if a final determination is the product of  
23 collusion, that is a defense and does allow the Court to look  
24 at that issue. In our judgment, this entire process is  
25 relevant to the issue of collusion. There is a collusion

1 exception contained in the couple South Carolina cases. It's  
2 never been ruled on before and, frankly, it's never been  
3 ruled on by the US Supreme Court, but it is there.

4 And we believe that, especially given the fact that in  
5 November 2011 in public he was tried, he was supposedly --  
6 charges were made against him that were substantially  
7 similar --

8 MR. BEERS: Excuse me, Your Honor.

9 MR. RUNYAN: I've got the floor, Mr. Beers.

10 -- charges were made that were substantially similar and  
11 were found not to have been worth proceeding, followed by  
12 this proceeding in secret, without his knowledge, charges  
13 were made and found to be adequate to go forward, followed by  
14 the absence of service, and then followed by using a  
15 procedure which is on its face defective, according to this  
16 witness' participation in it, is evidence of collusion, and  
17 collusion is a basis to avoid decisions of the highest body  
18 of a religious authority.

19 THE COURT: In that I absolutely have not anticipated  
20 this at all, I need those cases if you can share those with  
21 me, the citations.

22 MR. RUNYAN: I can. That would conclude the examination  
23 of Bishop Lawrence. Do you want me to provide the cases  
24 right this second?

25 THE COURT: Well, I need you to do that now, because I'm

1 stopping you from asking him further, for example, did you  
2 send that letter and were they included in the notebook.

3 MR. RUNYAN: They were not, Your Honor.

4 THE COURT: I didn't think so.

5 Mr. Beers, you wanted to speak to that, the issue of  
6 collusion.

7 MR. BEERS: Well, I was just trying to understand what  
8 was going on. It was a long -- maybe what Mr. Runyan was  
9 doing was making a proffer, but he was making a speech and  
10 alleging a lot of facts about the Episcopal Church that are  
11 not in evidence and it kind of took me by surprise and I  
12 didn't know -- maybe it was a proffer, Your Honor, that  
13 assuming he can prove all those things, then do the cases  
14 apply and allow you to make that ruling.

15 THE COURT: I think you're exactly correct.

16 MR. BEERS: Okay. Thank you.

17 THE COURT: I think what he was saying is that, Judge,  
18 if you were to allow it, this would be the evidence that we  
19 would offer. And collusion is an exception under both state  
20 law and under the constitution, I think you are exactly  
21 correct.

22 MR. BEERS: Thank you.

23 MR. RUNYAN: Okay. I'm going to reference two cases,  
24 Your Honor. The first -- and I don't know if these were the  
25 two I had in mind, but I found them quickly -- the first

1 older case is Hatcher v. South Carolina Council of the  
2 Assemblies of God, 267 --

3 MR. TISDALE: Could you speak a little louder.

4 MR. RUNYAN: -- 267 S.C. 107.

5 MS. KOSTEL: Could you give us the year on that, Alan?

6 MR. RUNYAN: 1976.

7 MR. HOLMES: Is it Southeast 2d?

8 THE COURT: No, that was S.C.

9 MR. HOLMES: Okay.

10 MR. RUNYAN: And it is a traditional quote that appears  
11 in a number of different cases down through the years that  
12 says the following on page -- in the Supreme Court Reporter  
13 114: "In the absence of fraud, collusion, or arbitrariness,  
14 the decisions of the proper church tribunals on matters  
15 purely ecclesiastical, although affecting civil rights, are  
16 accepted in litigation before the secular courts as  
17 conclusive, because the parties in interest made them so by  
18 contract or otherwise," and that's citing a United States  
19 Supreme Court decision that actually appears in a number of  
20 other decisions, including Presbyterian Church v. Hull, which  
21 is in the submitted cases as well.

22 And then following on in Pearson itself the same concept  
23 appears, and that would be on Page 50, 325 S.C. 50, and the  
24 quote is: "In a number of places in its Milivojevich  
25 opinion," M-I-L-I-V-O-J-E-V-I-C-H, "the Supreme Court made it

1 clear that Courts must accept in litigation the religious  
2 determinations of the highest judicatories" -- and,  
3 parenthetically, this was not a judicatory -- "of a religious  
4 organization." The judicatory would have been the House of  
5 Bishops. "The rule of action which should govern the civil  
6 courts...is, that, whenever the questions of discipline, or  
7 of faith, or ecclesiastical rule, custom, or law have been  
8 decided by the highest of these church judicatories to which  
9 the matter has been carried, the legal tribunals must accept  
10 such decisions as final, and as binding on them, in their  
11 application to the case before them," and the Court quotes  
12 Watson v. Jones and parenthetically quotes the following:  
13 "In the absence of fraud, collusion, or arbitrariness, the  
14 decisions of the proper church tribunals on matters purely  
15 ecclesiastical, although affecting civil rights, are accepted  
16 in litigation before the secular courts as conclusive,  
17 because the parties in interest made them so by contract or  
18 otherwise."

19 As I said before, I know of no case in the country that  
20 has actually ruled on this issue. I do know the US Supreme  
21 Court has considered this trilogy of concepts and has ruled  
22 on the issue of arbitrariness but has never ruled on the  
23 issue of fraud or collusion.

24 THE COURT: Well, fraud and collusion as it relates to  
25 civil rights. And I gather the civil rights that you would

1 be referring to would be due process.

2 MS. KOSTEL: Your Honor --

3 MR. RUNYAN: Actually, well, I don't really know  
4 exactly. There are lots of different ways to look at this.  
5 But the Supreme Court of the United States has addressed the  
6 issue of arbitrariness, which is along the lines of what she  
7 was arguing; and that is, it doesn't matter if they really  
8 mess their procedure up or they were arbitrary or foolish,  
9 but nobody has addressed the issue of collusion or fraud.  
10 It's an open issue, it is a relevant issue, and this evidence  
11 is being offered on that open issue.

12 THE COURT: But with reference to the Pearson and then  
13 the Watson case, if you will, it's referring to where the  
14 issue involved is one of due process, I mean, civil rights.  
15 And it says, if you go back and read it, it says on the issue  
16 of discipline, and we'll leave it there, on the issue of  
17 discipline if there's fraud or collusion as it relates to the  
18 civil rights. I haven't read it but it's the way that I  
19 heard it. The issue is one of discipline.

20 The concern that you have is one, if you will, of due  
21 process, which is an issue of civil rights. In other words,  
22 if somebody's going to tell you you can no longer be a bishop  
23 and there is then a right of due process, then aren't we  
24 affecting the civil rights? In other words, I think that  
25 you've got to -- in order to raise the issue of collusion,

1 it's fairly limited.

2 MR. RUNYAN: I don't interpret it that way, Your Honor,  
3 with all due respect.

4 THE COURT: Go back and read the language in Pearson, I  
5 wish I had Pearson. I'm trying to put my hands on it.

6 MR. RUNYAN: I've read this phrase in the context of a  
7 lot of decisions, and it seems to be directed at the  
8 ecclesiastical decision that the person or entity desires the  
9 Court to adhere to because it's the highest one. So if it's  
10 arrived at arbitrarily, the US Supreme Court has said it  
11 doesn't matter. What the US Supreme Court and South Carolina  
12 Courts have not said, if it's arrived at through a process of  
13 collusion or fraud, that's an open issue.

14 THE COURT: Yes, yes.

15 MS. KOSTEL: And I would note, Your Honor, that we have  
16 not heard -- I don't believe we've heard fraud or collusion  
17 raised until today. And two points: So we believe that  
18 plaintiffs are foreclosed from putting on this kind of case.  
19 And if Your Honor believes that they should go forward, then  
20 we believe that we're entitled to a surrepley to put on  
21 counterevidence, because this is the first time we've heard  
22 about collusion as a defense to our case.

23 THE COURT: I would sort of back into it and say I would  
24 absolutely completely agree with you with regards to  
25 surrepley. That's the easy part. The more difficult part is

1 to take a look at the Pearson case, which I'm going to have  
2 to do myself.

3 And what a lovely time to take a morning break, give me  
4 a chance to do that. But for your informational purposes,  
5 you're absolutely correct, in the event that we would go  
6 there, you would have to be afforded that.

7 (Recess held.)

8 THE COURT: All right. Have you got something you want  
9 to say?

10 MR. RUNYAN: I do, Your Honor.

11 THE COURT: Okay.

12 MR. RUNYAN: I think the conversation, probably because  
13 of me, got lost in the weeds, so I'd like to restate the  
14 position that we have on this.

15 THE COURT: Okay.

16 MR. RUNYAN: I don't think as a matter of law from our  
17 position it matters civilly to the decision of the diocese  
18 and to the whatever standing Bishop Lawrence needed because I  
19 think the decision was made. I think the issues that we have  
20 been talking about are issues that relate to a position  
21 concerning what would happen if there were deference in South  
22 Carolina to a decision of the highest body in the Episcopal  
23 Church. We have an issue about that. But if there were such  
24 deference which might in turn affect the standing of the  
25 bishop, then this issue could relate to that. But under the

1 civil law of South Carolina I don't think it matters, and so  
2 for that reason I'm not pressing to ask the witness to answer  
3 the question. I still contend that it's relevant on that  
4 issue down the line, but I think, from our perspective,  
5 focusing purely on the civil law in South Carolina I don't  
6 think it matters. That's our position.

7 THE COURT: Let me clarify a couple things then because  
8 obviously when you raise the issue of fraud and collusion, my  
9 ears perk up. And clearly, both under United States Supreme  
10 Court and under Pearson and under our state law, and I guess  
11 I was not particularly prepared for it because I didn't know  
12 of it, but I do believe that if decisions are made and they  
13 are the result of fraud or collusion, that is a problem and  
14 the civil court can take a look at that. Not arbitrariness,  
15 I think the Supreme Court's taken arbitrariness out; but with  
16 regards to fraud and collusion, I have to reverse myself from  
17 what I said earlier. So an inquiry is possible.

18 So my question, though, is this: My question is -- and  
19 we talked a little bit about it, but let me just clear what's  
20 going on in my brain, and then I'll ask the questions that I  
21 need to ask. With regards to whether or not there is a  
22 challenge to the current analytical approach taken by the  
23 State of South Carolina -- and the defendants have wished and  
24 they have put some things in the record no doubt so that they  
25 will have an opportunity to challenge that potentially,

1 potentially, at some later date, and we've talked about that,  
2 and I think that they are absolutely entitled to do some of  
3 that. And they've done that, and I think they've preserved  
4 their ability to raise that issue. I think you've done  
5 likewise, based upon what you've already indicated. So I  
6 want to move that aside, that issue.

7       The question that concerns me, which is why I was asking  
8 you about the dates, because from the letter, which is now  
9 Exhibit No. 79, there was a renunciation on November the  
10 17th, 2012, which would then mean that Bishop Lawrence may or  
11 may not have had authority to act as a managing agent of the  
12 corporation. Now, I said may or may not because I'm just  
13 coming to these issues. And so again I ask are there any  
14 documents that were executed or actions that were taken on  
15 November the 17th, 2012, or beyond that you believe have an  
16 effect on your argument that the diocese could and did end  
17 its accession with the national church.

18       MR. RUNYAN: Well, I'll give you a long answer or a  
19 short answer. The long answer is it didn't matter. The  
20 diocese had voted to leave, the standing committee had voted  
21 to leave as a board of directors. Under the civil law of  
22 South Carolina if they had -- if they were authorized to do  
23 that, it was done at that point. On November the 17th that  
24 action was affirmed. If you want to look at it as  
25 ratification, then the convention had authority to ratify at

1 that point. It doesn't really matter what Bishop Lawrence's  
2 standing was at that point.

3 However, to answer the Court's question, on November the  
4 26th there was an action taken by Bishop Lawrence as a bishop  
5 in the Episcopal Church transferring -- receiving or  
6 transferring letters dimissory that was accepted by another  
7 diocese that was recorded in the books of the Episcopal  
8 Church. So he had standing as of November 26th, which is  
9 after November 17th. And then finally, the actual document,  
10 the way that on its face works, it happens when it's issued,  
11 not as of the date of the alleged renunciation, it's when  
12 it's accepted, and it was accepted by the presiding bishop on  
13 December the 5th.

14 THE COURT: This says I have accepted the renunciation  
15 made in writing. That was made in writing on November 17th.

16 MR. RUNYAN: Right. She accepted it on December the  
17 5th. I don't think -- in the scheme of things I just don't  
18 think it matters either way, and I apologize for putting us  
19 in the weeds.

20 THE COURT: Okay.

21 MR. RUNYAN: We would withdraw the question, Your Honor.

22 THE COURT: Very well.

23 MR. RUNYAN: Thank you.

24 THE COURT: Cross-examination.

25 MS. GOLDING: Your Honor, may I have just a couple

1 questions?

2 THE COURT: I'm so sorry. Yes, ma'am.

3 DIRECT EXAMINATION BY MS. GOLDING:

4 Q. Bishop Lawrence, just for clarification, with respect to  
5 your attendance at the House of Bishops between 2010 and  
6 2012, that was the national church's House of Bishops; is  
7 that correct?

8 A. That is correct.

9 Q. Okay. And in the summer of 2012 the general convention  
10 that you attended, that was the general convention of the  
11 national church; is that correct?

12 A. Correct.

13 MS. GOLDING: Thank you. No further questions?

14 THE COURT: All right. Now cross-examination.

15 CROSS-EXAMINATION BY MR. BEERS:

16 Q. Good morning, Bishop.

17 A. Good morning, Mr. Beers.

18 Q. Can we talk about Exhibit 76, which is the so-called  
19 bishops statement?

20 A. Yes.

21 Q. How many signatories were there?

22 A. 15.

23 Q. And how many were bishops with jurisdiction? Can you  
24 remember?

25 A. 11. I was counting them.

1 Q. Yes. And how many were bishops who no longer had  
2 jurisdiction?

3 A. If you'd asked me at the beginning, I could have had  
4 both of them at the same time.

5 Q. I just thought maybe you could remember whether one of  
6 them had retired or not.

7 A. I'll just count them for you, sir.

8 Q. Okay. Thanks.

9 A. Looks like three do not have -- four. No, three, three.

10 Q. Okay. Once more, how many all together of just the  
11 bishops signatures?

12 A. With jurisdictions or?

13 Q. No, together.

14 A. 15.

15 Q. All right. Now, how many bishops with the jurisdiction,  
16 round numbers now, Bishop, do you think there were in office  
17 at that time?

18 A. Probably somewhere between 100 and 110.

19 Q. All right. Thank you. And how many bishops are in the  
20 House of Bishops both those with jurisdiction and those who  
21 have, quote, retired or resigned, roughly?

22 A. Oh, I don't know. 200, 200 would not be an unreasonable  
23 guess.

24 Q. So could I try to coax you to about 275?

25 A. I would not dispute that.

1 Q. Okay. I heard you testify about the duties of a bishop  
2 including -- and the duties that you carry out. Do you  
3 remember that testimony?

4 A. Yes.

5 Q. Let's see if I've got them. Pastor?

6 A. Yes.

7 Q. And I take it you would agree with me that your  
8 commitments as a pastor are laid out in the ordination  
9 service of the prayer book?

10 A. They're laid out in the holy scriptures, in the Book of  
11 Common Prayer. And I could go on, but if that's sufficient.

12 Q. No, I understand. Visitations?

13 A. Yes.

14 Q. Celebrated visitations?

15 A. Yes. I mentioned that.

16 Q. Confirmation at visitations?

17 A. Yes.

18 Q. Dealing with parishes, what we sometimes call vacant  
19 parishes, parishes without rectors?

20 A. I mentioned that, yes.

21 Q. And the election or deployment of new rectors?

22 A. I mentioned that one.

23 Q. Letters dimissory?

24 A. Mentioned that.

25 Q. Retirement of rectors, retirement of clergy?

1 A. Correct.

2 Q. Pension Fund?

3 A. Yes.

4 Q. Pastoral letters did you mention?

5 A. Yes.

6 Q. Record of -- I don't know that you mentioned this: The  
7 requirement to keep a record of your official acts?

8 A. I do that.

9 Q. Now, all of that list, are there not canons in the  
10 national church that deal with each of those subjects?

11 A. Yes. There are canons in the national church and canons  
12 in the diocesan canons.

13 MR. BEERS: May I have a moment, Your Honor?

14 (Brief pause.)

15 THE COURT: Yes.

16 MR. BEERS: Ms. Kostel's counsel's prudent, Your Honor.

17 That's all the questions I have, Bishop. Thank you.

18 THE COURT: Redirect?

19 MR. TISDALE: Well, your Honor, I'm glad to be able to  
20 report that the Episcopal Church of South Carolina has no  
21 questions of this witness.

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

23 MR. RUNYAN: No redirect, Your Honor.

24 MS. GOLDING: None, thank you, Your Honor.

25 THE COURT: You may come down, sir.

1 All right. On behalf of the plaintiffs any further  
2 witnesses or exhibits?

3 MR. RUNYAN: No witnesses, Your Honor, and I do not  
4 believe any exhibits. We do have a few requests to admit to  
5 publish.

6 THE COURT: Very well.

7 MR. RUNYAN: The first is a request for admission to the  
8 Episcopal Church in South Carolina by the Diocese of South  
9 Carolina responded to on October 3, 2013: The Constitution  
10 and Canons of the Episcopal Church do not provide for the  
11 discipline of member diocese.

12 Answer: Admitted.

13 The next is from the Episcopal Church's response to the  
14 Diocese of South Carolina's First Request for Admissions  
15 dated August 2013, Request for Admission No. 3: In 1789 the  
16 Constitution of the Episcopal Church stated that a, quote,  
17 Protestant Episcopal Church in any of the United States not  
18 now represented may at any time hereafter be admitted on  
19 acceding to this constitution, closed quote.

20 Response: Admitted.

21 The same document, Request No. 14: On or about July 15,  
22 1987, Ellen F. Cooke -- spelled with an E -- treasurer of the  
23 Domestic and Foreign Missionary Society of the Protestant  
24 Episcopal Church in the United States of America prepared  
25 and/or issued a document in the ordinary course of her

1 employment which stated in part, quote, the Episcopal Church  
2 is comprised of 117 autonomous dioceses, 98 of which are  
3 domestic and 19 foreign, closed quote.

4 The response: Admitted.

5 Request for Admission No. 15, same document: Since 1901  
6 Article IX of the Constitution of the Episcopal Church has  
7 stated that the general convention, quote, may establish an  
8 ultimate Court of Appeal, solely for the review of the  
9 determination of any Court of Review on questions of  
10 Doctrine, Faith, or Worship, closed quote.

11 Answer: Admitted.

12 No. 16: The Court referenced in Request 15 has never  
13 been established by the general convention.

14 Answer: Admitted.

15 The next is from a response dated October 8, 2013, by  
16 the Episcopal Church to requests for admissions asked by nine  
17 of the plaintiff parishes. Request for Admission No. 9,  
18 Resolution D-24 offered by Canon Walter Dennis at the 1979  
19 general convention stated in its third paragraph the  
20 following, quote: Whereas, the Supreme Court of the United  
21 States in the case of Jones v. Wolf, 99 S.Ct. 3020 (1979),  
22 has suggested that such alienation might be legally possible  
23 in the absence of an explicit recitation in the constitution  
24 that an express trust exists in favor of the general church  
25 concerning covering the property of local parishes.

1           The response: Admitted, with the exception that the  
2 word "covering" was not included in the last line of the  
3 quoted language.

4           Request No. 10: Neither the 1979 general convention nor  
5 any succeeding general convention of the Episcopal Church  
6 voted to amend the constitution of the Episcopal Church to  
7 provide for the express trust set forth in Resolution D-24.

8           Response: Admitted.

9           That concludes the requests for admission, Your Honor.  
10 That would also conclude our reply.

11          THE COURT: Very well. Thank you.

12          All right. On behalf of any other plaintiffs?

13          All right. Now back to documents.

14          MR. BEERS: I'm ready to move in the 3230(b)(6)  
15 depositions.

16          THE COURT: Okay.

17          MS. KOSTEL: Your Honor, may I be excused for just a  
18 moment?

19          THE COURT: Sure.

20          MS. KOSTEL: Thank you.

21          MR. BEERS: Would you mind if I did it from here?

22          THE COURT: It would be perfectly fine. And I tell you  
23 what, I don't know that that microphone would reach.

24          MR. BEERS: I can make it loud enough. I think I can be  
25 heard. If I'm not, then by all means. Well, we have three

1 piles.

2 THE COURT: Okay.

3 MR. BEERS: One pile is the Church of the Resurrection,  
4 and they wish to preserve an objection on Page 50, Lines 6 to  
5 9, regarding consecration of property. We offer that, Your  
6 Honor. We understand you ruled and we assume that you will  
7 sustain that objection.

8 THE COURT: Okay.

9 MR. BEERS: Similarly in the case of Holy Comforter,  
10 they have objected to testimony about the consecration of  
11 parish property, Pages 34 and 35, Lines 22 to 25 and 1 and 2,  
12 and we offer it but we assume the Court will sustain the  
13 objection.

14 THE COURT: Can you describe for me what the testimony  
15 says?

16 MR. BEERS: Yes. Has the bishop ever come to your  
17 parish to consecrate one of your buildings?

18 Answer: Yes.

19 THE COURT: Okay.

20 MR. BEERS: Now, this is going to be a little tedious  
21 because, Your Honor, I wasn't able to check with the  
22 reporter, but I moved in a bunch of these without objection  
23 the other day. I'm not sure -- I think just to be clear I  
24 should run through all of them.

25 THE COURT: Sure.

1 MR. BEERS: And there's a batch. Would you mind if I  
2 sit down?

3 THE COURT: Not at all.

4 MR. BEERS: These we are offering and there are no  
5 objections.

6 THE COURT: All right.

7 MR. BEERS: St. James, James Island, All Saints, St.  
8 Andrew's Mount Pleasant, Good Shepherd, St. John's Florence,  
9 St. Matthew's Fort Motte, St. Luke's Hilton Head, Holy  
10 Trinity, Christ St. Paul's, St. Paul's Conway, St. Philip's,  
11 Holy Cross, St. Matthias, Trinity Myrtle Beach, Christ  
12 Church, Christ the King, St. Bartholomew's, Prince George  
13 Winyah, Epiphany, Trinity Pinopolis, St. Paul's Summerville,  
14 St. Michael's, St. David's, St. Paul's Bennettsville,  
15 Redeemer, Church of the Cross, Our Saviour, Old St. Andrew's,  
16 Trinity Edisto, St. John's Charleston. These documents we'll  
17 offer and we're going to have to make new copies because  
18 changes were made even as late as an hour ago.

19 THE COURT: All right.

20 MR. BEERS: There are designations by the defendants and  
21 there are counter-designations by the plaintiffs, and they  
22 are marked.

23 THE COURT: Very well.

24 MR. BEERS: Now, the following parishes, St. Jude's  
25 Walterboro, St. Helena's, St. Matthew Darlington, Holy

1 Comforter, and -- I'm sorry, I've covered -- I believe I've  
2 covered -- yes, I've already covered Holy Comforter. So the  
3 following three parishes, St. Jude's Walterboro, St.  
4 Helena's, and St. Matthew's Darlington, wish to argue an  
5 objection all on the same subject, and that subject is --  
6 well, I shouldn't restate it, but for that let me just ask  
7 the group again, does everybody agree with me so far? Have I  
8 made any mistakes? Do I have everyone's, except for those --  
9 if you heard your name pronounced once at least in this last  
10 five minutes. Okay.

11 THE COURT: No objections exist. Very well.

12 So we'll move to the last group, which is St. Jude's,  
13 St. Helena, and -- yes.

14 MR. ORR: Your Honor, Larry Orr on behalf of St.  
15 Matthew's Darlington.

16 THE COURT: Yes.

17 MR. ORR: I objected to Page 38, Lines 5 through 24. As  
18 I understand the Court's ruling I think on the second day of  
19 trial, testimony was offered to show the doctrinal dispute  
20 between the parishes and the national church, and you ruled  
21 that that was not admissible and you would not consider that.  
22 This questioning goes to that issue. I think it's not  
23 relevant to the issues before Your Honor and I would move to  
24 strike that.

25 THE COURT: Okay. Let me take a look at it. Can

1 someone pass it to me.

2 MR. ORR: Yes, ma'am.

3 THE COURT: Thank you. Okay.

4 And, yes, sir, Mr. Beers.

5 MR. BEERS: Well, as I said earlier in this trial, under  
6 the Supreme Court's opinion in All Saints Waccamaw we think  
7 this is a doctrinal case masquerading as a property case.  
8 That really sums up our argument. And we think we're  
9 entitled to examine as to why they really left the church or  
10 left -- or reaffirmed their affiliation with the diocese as  
11 opposed to the national church or something that distanced  
12 them from the national church. And in each of these three  
13 cases we've asked the question, you know, what were you  
14 unhappy about or why did you leave and so forth, because they  
15 have offered testimony that the reason that they took action  
16 was that the Episcopal Church had taken action against their  
17 bishop or some similar or different reason or they just  
18 wanted to redo their bylaws, they thought it was time to  
19 clean it up, or they were wanting to protect their property.  
20 But when asked what are you protecting your property from,  
21 what are you afraid of, there's testimony that, well, we  
22 thought the church was going in the wrong direction, we  
23 didn't know what was going to happen, and we believe we're  
24 entitled to ask about that.

25 THE COURT: It's in the case. I mean, it ended up

1 getting asked.

2 MR. BEERS: Yes.

3 THE COURT: Because what you're talking about is you're  
4 certainly talking about questions and answers that occurred.  
5 What about that? Those responses, they were going in a  
6 direction that we didn't like, and that's so --

7 MR. ORR: Your Honor, as I recall, in the All Saints  
8 case the Court noted that the reason for the decision of the  
9 parish to leave or disaffiliate was not relevant to the case,  
10 so whether there were theological differences or doctrinal  
11 differences were irrelevant.

12 THE COURT: That's right. It's the Pearson case where  
13 the Court talks about that.

14 MR. ORR: Yes, ma'am.

15 THE COURT: Because it had to do with whether or not a  
16 certain pastor who was no longer a pastor was entitled to  
17 pension. And there were certain determinations made by the  
18 church that based upon certain admissions, he was not. And  
19 that really is not All Saints, that's really the Pearson  
20 case.

21 You know, I guess here's where my head is: There's so  
22 much of that testimony that's in the case, and I can't  
23 remember what the objections were at this point because  
24 precisely that language has been repeated so often, for what  
25 it's worth, I'm going to allow it.

1 MR. ORR: Yes, ma'am. Thank you.

2 THE COURT: Very well.

3 MR. BEERS: I think Mr. Platte has two.

4 MR. PLATTE: The first one is different. It's an  
5 objection to relevance and an objection to hearsay. It's for  
6 St. Helena and it's Pages 55, Lines 7 through 25, Page 56 in  
7 its entirety, and Page 57, Lines 1 through 3. The 30(b)(6)  
8 deponent was asked the thoughts of the congregation and I  
9 believe thoughts of the congregation is hearsay and should be  
10 inadmissible.

11 THE COURT: Goes to state of mind for other individuals  
12 too, so yes. Thanks.

13 MR. PLATTE: There you go, Your Honor (indicating).

14 THE COURT: Yes. 55 through 56 about what were the  
15 questions and what were the answers, that's just hearsay. So  
16 on the basis of hearsay that would be sustained, because he  
17 specifically says what were the questions and what were the  
18 answers.

19 MR. BEERS: This is a representative, authorized  
20 representative, of a parish that was a party to this case  
21 who's trying to describe what the sense and what the mood was  
22 in the congregation. I don't know how else to get at it.  
23 Doesn't seem to be hearsay in those circumstances.

24 THE COURT: Okay. What about 56, 23 through 57, 3?

25 MR. BEERS: I don't have it in front of me, Your Honor.

1 THE COURT: Okay. Very well. I would sustain the  
2 objection. I mean, it's really odd, you've got to read on to  
3 understand that he doesn't have any authority to even  
4 respond. It's really odd.

5 MR. BEERS: He was offered as somebody with authority.

6 THE COURT: You are so correct. But not the authority  
7 to give an opinion with regards to what the congregation was  
8 thinking, which is where he comes to in his answer. And I'm  
9 confident he wasn't offered for that reason; and if he was,  
10 that's hearsay. All right.

11 MR. PLATTE: Thank you. Your Honor. I'll leave that up  
12 because I'll have to hand up another one.

13 THE COURT: Okay.

14 MR. PLATTE: St. Jude Walterboro, and we have objection  
15 to relevance on Pages 17, Lines 20 through 23, all of Page  
16 18, and Page 19, Lines 1 through 20. The probative value of  
17 the third question, asking the same question the third time,  
18 is outweighed by its irrelevance. She gave the answer to the  
19 question a number of times, and he continued to ask the same  
20 question over and over again. And we would just say it's  
21 irrelevant and it's inflammatory and we would hand it up for  
22 the Court to look at and make the decision.

23 THE COURT: Page 17, Lines 20 through 23, all of Page  
24 18, and Page 19, Lines 1 through?

25 MR. PLATTE: 20. And just one correction on Page 17,