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STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

COURT OF COMMON PLEAS
CASE NO. 2013-CP-18-00013

THE PROTESTANT EPISCOPAL)
CHURCH IN THE DIOCESE OF)
SOUTH CAROLINA, THE TRUSTEES)
OF THE PROTESTANT EPISCOPAL)
CHURCH IN SOUTH CAROLINA,)
A SOUTH CAROLINA CORPORATE)
BODY, ET AL.,)

PLAINTIFFS,)

vs.)

THE EPISCOPAL CHURCH, (A/K/A)
THE PROTESTANT EPISCOPAL)
CHURCH IN THE UNITED STATES)
OF AMERICA); THE EPISCOPAL)
CHURCH IN SOUTH CAROLINA,)

DEFENDANTS.)

TRANSCRIPT OF RECORD

JULY 9, 2014
ST. GEORGE, SC

B E F O R E:

HONORABLE DIANE S. GOODSTEIN

Ruth L. Mott, RPR, CRR
Official Court Reporter

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1 (Plaintiff's Exhibits DSC-56 through DSC-59 premarked
2 for identification.)

3 (Defendant's Exhibits 1-6 premarked for identification.)

4 THE COURT: I would like to report before we begin this
5 morning that, if you will recall, there was a bit of a ruckus
6 next door, and as I know you know, there's criminal court
7 that's ongoing, and I saw the concern on everyone's faces
8 when we heard the outburst from next door. I just thought I
9 would report those were voices of joy. Apparently the Judge,
10 Judge Cothran, had granted the bond that was requested, and
11 that was the family's relief and joy. Sounded like agony to
12 me, but I did want to report that it was -- those were voices
13 of joy, for what it's worth.

14 Come on back around.

15 Good morning.

16 THE WITNESS: Good morning.

17 THE COURT: All right. Plaintiffs ready to proceed?

18 MR. RUNYAN: Plaintiffs are ready, Your Honor.

19 THE COURT: Wonderful. The defendants?

20 MR. TISDALE: Your Honor, may I?

21 THE COURT: Yes, sir.

22 JAMES BARTON LEWIS, JR.,

23 having been previously duly sworn, testified as follows:

24 CROSS-EXAMINATION BY MR. TISDALE:

25 Q. Good morning, Canon Lewis.

1 A. Good morning.

2 Q. Got a few questions for you this morning. Hope it won't
3 be too long.

4 A. Makes two of us.

5 Q. We have agreement.

6 Canon Lewis, yesterday in your testimony Mr. Runyan
7 asked you about a document that was called constitution of
8 the diocese from some early date, 1785, perhaps. Do you
9 recall that?

10 A. The constitution, I believe, was dated 1786.

11 Q. Oh, okay. '86. Do you recall that?

12 A. Yes, I do.

13 Q. Do you have the exhibits that you used yesterday before
14 you?

15 A. Yes, sir.

16 Q. Could you take that one out? That's Exhibit 41A. It's
17 this paper, three pages (indicating).

18 A. All right.

19 Q. You obviously have read that document, I presume?

20 A. I have.

21 Q. And does the word diocese appear anywhere on any of
22 these three pages? You said it was a constitution of a
23 diocese, I think?

24 A. That is correct.

25 Q. And my question to you is, does the word diocese appear

1 anywhere in the document?

2 A. Not that I can see.

3 Q. Okay. Have you reviewed other aspects of the book that
4 it was bound in? Obviously, it was a later binding than the
5 document itself, but have you reviewed the other documents in
6 the binder?

7 A. Yes, I have.

8 Q. And did you see reference to anything else about the
9 1786 convention or constitution being for a diocese?

10 A. I do not recall.

11 Q. Thank you. Now, I want to talk to you a little bit
12 about the trademarks that you had testified that you -- I
13 think you applied for.

14 A. Yes, sir.

15 Q. In, I think, 2010. Do you have those trademarks? I
16 think they were referred to yesterday.

17 A. They're in this stack of documents somewhere. If you'll
18 give me an exhibit number, I can --

19 Q. It looks like 46A through E.

20 A. Mine seems to go from 44 to 47, unless they've gotten
21 shuffled, if you'll give me a moment.

22 Q. Well, I have a copy you can look at if you need to.

23 A. That would be of some help. Thank you.

24 Q. This is the only copy I have with me right this minute,
25 but you might -- I might be able to question you without

1 looking at it.

2 Did you sign the application for those trademarks?

3 A. Yes, sir.

4 MR. TISDALE: Your Honor, I have the application for
5 these trademarks that I would like to introduce. Would you
6 prefer that we mark them for identification at this stage, or
7 if they're admissible, let them go on into evidence?

8 THE COURT: Let's inquire if there's going to be an
9 objection. Then we'll mark them for identification purposes.
10 Otherwise, we'll put them --

11 MR. TISDALE: They'll be in evidence?

12 THE COURT: Yes.

13 MR. TISDALE: Okay.

14 THE COURT: Is there an objection to the application?

15 MR. TISDALE: We've marked them preliminarily as
16 exhibits -- Defendant's Exhibit 1 through 4.

17 THE COURT: Let's just see if there's going to be an
18 objection.

19 MR. RUNYAN: No objection.

20 MS. GOLDING: No objection.

21 THE COURT: Very well. Then they'll be Defense
22 Exhibit 1 through 4 in evidence without objection.

23 (Defendant's Exhibits 1-4 admitted into evidence.)

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

25 MS. GOLDING: Do I understand that the defendants --

1 this is collective exhibits for both defendants?

2 THE COURT: I would think so.

3 Is that correct?

4 MR. TISDALE: We've agreed to do that to save difficulty
5 of who is who.

6 MS. GOLDING: Very good.

7 THE COURT: Absolutely. And if there's a reason at some
8 point that they need to be delineated, you just let us know;
9 otherwise, we'll just put it general defendants. But if
10 there's a reason, we'll handle that and we'll delineate that.

11 MR. TISDALE: Thank you.

12 Q. Canon Lewis, have you been able to look at Exhibits 1
13 through 4, defendants?

14 A. Yes.

15 Q. What are these?

16 A. These are application for registration of trademark or
17 service mark.

18 Q. And let's look at No. 1, if we can.

19 A. Yes, sir.

20 Q. What is this an application for specifically?

21 A. For the mark the Diocese of South Carolina and logo it
22 says.

23 Q. What's the date of this application made to the State of
24 South Carolina?

25 A. October 29, 2010.

1 Q. Did you sign the application?

2 A. That is correct.

3 Q. In what capacity did you sign it?

4 A. I signed by title as canon to the ordinary since that is
5 my working title most days, but I was at this point the
6 registered agent of the diocese as well.

7 Q. Were you an officer of the corporation, the plaintiff
8 corporation?

9 A. I am its registered agent.

10 Q. I understand that. Were you an officer?

11 A. I am not an elected officer at that point, I do not
12 believe.

13 Q. So you signed this as registered agent or as canon to
14 the ordinary, one or the other?

15 A. That's correct.

16 Q. And part of this application says that -- on the top of
17 page 2, that the date of the first use anywhere was what
18 date?

19 A. The date of first use for that service mark, the Diocese
20 of South Carolina, to the best of our ability to determine,
21 it was 1869.

22 Q. And that goes for the logo as well?

23 A. No, it does not. There was confusion in the application
24 process that resulted in the logo being submitted under the
25 same date as that service mark, the Diocese of South

1 Carolina. Not sure why that happened or how it happened, but
2 that was in error.

3 Q. Was this application filed on behalf of the plaintiff
4 corporation, the Protestant Episcopal Church in the Diocese
5 of South Carolina?

6 A. That is correct.

7 Q. And you're saying it was first used in 1769 -- I mean,
8 excuse me, 1869?

9 A. 1869. To the best of my knowledge on researching
10 documents and journals, the Diocese of South Carolina was
11 used as a service mark of the diocese at least that far back.

12 Q. Now, when was the corporation formed, the Protestant
13 Episcopal Church in the Diocese of South Carolina?

14 A. 1973.

15 Q. All right. Could you tell us, if you know, how the
16 corporation acquired this from whoever had it beginning in
17 1869 since it wasn't formed until 1973?

18 A. Not being an attorney, I'm not able to answer that
19 question for you.

20 Q. Have you asked anybody about it?

21 A. No, I have not.

22 Q. All right. So you're unable to tell us whether or not
23 the corporation the Protestant Episcopal Church in the
24 Diocese of South Carolina has been assigned this mark, has
25 bought the mark, has been licensed the mark in any way?

1 A. I'm not competent to answer that question, sir.

2 Q. All right. How would we find that out?

3 A. I would suggest you speak with legal counsel.

4 Q. Anyone in particular?

5 A. I believe Mr. Logan would have been a good place to
6 start with that line of questioning.

7 Q. Okay. So now let's look at what's been marked as
8 Defendant's Exhibit 2 without objection.

9 A. Yes, sir.

10 Q. Did you sign this application?

11 A. Yes, sir, I did.

12 Q. Did you sign it in the same capacity as you signed
13 Exhibit 1?

14 A. That's correct.

15 Q. And as a registered agent?

16 A. That's correct.

17 Q. Or canon to the ordinary, as it says here?

18 A. Yes, sir.

19 Q. If you were signing as registered agent, why didn't you
20 put that on the application?

21 A. It was a document that I was asked to sign, and my habit
22 is to sign things as canon to the ordinary.

23 Q. Who asked you to sign this document?

24 A. This was prepared for us by legal counsel.

25 Q. Which legal counsel?

1 A. David Cox, if I recall correctly.

2 Q. All right. Now, what is this particular application for
3 Exhibit 2?

4 A. To register the mark the Episcopal Diocese of South
5 Carolina.

6 Q. And was the applicant in this case also the Protestant
7 Episcopal Church in the Diocese South Carolina?

8 A. That's correct.

9 Q. The corporation?

10 A. The corporation.

11 Q. That was formed in 1973?

12 A. Incorporated in 1973, yes.

13 Q. So would you be able to give us a better answer as to
14 how it was acquired by the corporation?

15 A. No, sir.

16 Q. Now, when was the first use of this particular mark?

17 A. What we've presented in evidence in the registration
18 process was 1997.

19 Q. Okay.

20 A. So at least that far back --

21 Q. All right.

22 A. -- it was in common use.

23 Q. Look at what's been marked and entered into evidence as
24 Exhibit 3, if you will.

25 A. Yes, sir.

1 Q. Did you likewise sign this application in the same
2 capacity as the other two?

3 A. Yes, I did.

4 Q. When did you report to the State of South Carolina --
5 well, first of all, what's the mark for?

6 A. The Protestant Episcopal Church in the Diocese of South
7 Carolina.

8 Q. And what did you report to the State as the first use of
9 this name?

10 A. 1821.

11 Q. All right. And did you know of any evidence in this
12 case, or do you know how the corporation acquired this -- the
13 right to use this mark from whoever had it in 1821 to 1973?

14 A. Pardon me, would you please clarify your question. I
15 thought I heard two questions there.

16 Q. If you did, I'm sorry.

17 Are you able to tell us how the corporation that you've
18 applied, in whose name you applied, was able to acquire this
19 mark from whoever had it before 1973 when the corporation was
20 formed?

21 A. To my knowledge, no one had it before, but how the
22 diocese comes to have it is a legal question I am not
23 competent to answer.

24 Q. Okay. Now, coming to Defendant's Exhibit 4, what does
25 this seek to get a service mark for?

1 A. The seal of the Diocese of South Carolina.

2 Q. And a copy of it is attached in black and white, I
3 believe?

4 A. Yes, that is correct.

5 Q. And without going into a lot of detail because we've
6 already covered it, but did you apply for this in the same
7 capacity as you applied for the other three?

8 A. That is correct.

9 Q. And you're not an officer of the corporation?

10 A. I am not an elected officer of the corporation.

11 Q. You're a registered agent?

12 A. Correct.

13 Q. When was this service mark, being the seal of the
14 diocese, first used?

15 A. The seal was initially approved and first used in 1911,
16 and in its final form as it's presented here in 1930.

17 Q. And would your testimony be the same, that you don't
18 know how the corporation claimed or acquired the right to use
19 it?

20 A. That's correct.

21 Q. And apply for a service mark for it?

22 A. That is correct.

23 Q. Now, Canon Lewis, do you know whether or not the
24 plaintiff corporation, the Protestant Episcopal Church in the
25 Diocese of South Carolina, has acquired any permission in any

1 form, agreement, assignment, purchase, license, anything
2 else, from the Episcopal Church to use the marks covered by
3 these applications and trademarks?

4 A. Has the diocese, the corporation, gotten permission from
5 the national church?

6 Q. The national church.

7 A. For the use of these registered trademarks?

8 Q. Yes.

9 A. None that I'm aware of, sir.

10 Q. Would you know it if they had?

11 A. Not necessarily, no.

12 Q. Do you know whether or not the Episcopal Church, the
13 national church, has made any assignment of any of these
14 marks to the Protestant Episcopal Church in the Diocese of
15 South Carolina?

16 A. Not to my knowledge.

17 Q. I want to ask you briefly about Plaintiff's Exhibit 9.
18 It's the nonprofit corporation articles of amendment. If you
19 don't have it, I have a copy.

20 A. Please, sir.

21 Q. It was an exhibit, I think, used yesterday. Could have
22 been in Mr. Logan's testimony.

23 A. I believe so.

24 Q. You're familiar with this document, Canon Lewis?

25 A. I have seen this document, yes, sir.

1 Q. All right. And this is dated what date?

2 A. This is dated -- stamped March 13, 2013.

3 Q. That's at the top on the left, but that's from the
4 Secretary of State. Look at the second page and see the date
5 of the application.

6 A. October 19, 2010.

7 Q. All right. And do you recognize this as an application
8 to the Secretary of State of South Carolina to amend the
9 articles of a nonprofit corporation?

10 A. Yes, sir.

11 Q. And who signed this?

12 A. This is signed by Mark Lawrence.

13 Q. All right. Now, Bishop Lawrence, you've testified
14 earlier, was not a member of the standing committee, was he?
15 You might not have testified to that, but let me ask you --

16 A. I've not testified to that.

17 Q. -- was he a member of the standing committee?

18 A. The bishop has seat and voice but no vote in meetings of
19 the standing committee.

20 Q. The standing committee's actually a council of advice to
21 the bishop, isn't it?

22 A. By some definitions, yes.

23 Q. In fact, that's what the canon says, isn't it?

24 A. Some canons say that, yes, sir.

25 Q. Okay. Now, he was not a member of the standing

1 committee, and while we're on the subject, do you know how
2 the standing committee got to be a board of directors of this
3 corporation?

4 A. If you're looking for a legal rationale for how that
5 came to be, no, sir, I cannot answer that question.

6 Q. I'm not looking for -- I just want to know what you know
7 about it, if anything.

8 A. I know that bylaws were adopted in the fall of 2010 that
9 named the standing committee as being the board of directors
10 of the diocese.

11 Q. Who authorized the standing committee, either by canon,
12 constitution or any other authority, to be board of directors
13 of the diocese, of the corporation?

14 A. I do not know of any such authorization.

15 Q. Wouldn't you know of it if there had been an
16 authorization for that act?

17 A. If there had been explicit action on someone's part, I
18 probably would, yes.

19 Q. But you know of none?

20 A. I know of none.

21 Q. Okay. Now, so can we agree that Bishop Lawrence was not
22 a member of the standing committee? You don't need to look
23 at the paper to answer that, I don't think.

24 A. No, but it helps me to take a moment to reflect before I
25 answer that question.

1 Q. Go ahead and reflect.

2 A. I believe that would be correct.

3 Q. That Bishop Lawrence is not a member of the standing
4 committee?

5 A. Yes, sir.

6 Q. So therefore, even if it was legal to have the standing
7 committee as the board of directors of the plaintiff
8 corporation, he would not have been a member of the board of
9 directors, would he, because he wasn't a member of the
10 committee?

11 A. I don't believe so at that time.

12 Q. That's fine. Now, in what capacity did he sign this
13 application, Defendant's Exhibit -- Plaintiff's Exhibit 9, to
14 change the purpose of the plaintiff corporation?

15 A. As the bishop of the diocese and president of diocesan
16 convention.

17 Q. Where does it say that he signed it as bishop of the
18 diocese in this document?

19 A. He simply is, sir.

20 Q. I understand that.

21 A. If you look at his signature, you will see at the front
22 end of his name a cross there. That is a standard
23 designation for a signature by a bishop of the church.

24 Q. Does this document contain a reference anywhere that
25 Bishop Lawrence signed this document as bishop of the

1 diocese?

2 A. It does not.

3 Q. It does not. We're in agreement on that?

4 A. That this document does not say that explicitly, no.

5 Q. That's what my question was.

6 All right. Now, in what capacity does it say he signed
7 it?

8 A. It says president.

9 Q. And does it say what he's president of?

10 A. The document here does not.

11 Q. All right. And he certainly wasn't president of this
12 corporation, was he, this plaintiff's corporation?

13 A. No, sir.

14 Q. Okay.

15 A. He's bishop and president of the diocesan convention.

16 Q. I was just asking you what the document said. I
17 appreciate your response to it.

18 A. Yes, sir.

19 MS. GOLDING: Your Honor, I'm going to make an objection
20 to that colloquial. The witness has a right to make an
21 explanation.

22 MR. TISDALE: Of course he does.

23 MS. GOLDING: Mr. Tisdale, by his response just now, was
24 basically intimidating that all I want is your answer. I
25 don't think that's appropriate on behalf of counsel.

1 MR. TISDALE: I withdraw that question.

2 THE COURT: All right. Well, let me see if I can be of
3 assistance.

4 If you're asked a yes-or-no question and you can answer
5 the question with a yes or no, I would ask you to do that.
6 However, having said that, if you need to give an
7 explanation, yes, however, I would like to explain, that's
8 certainly appropriate.

9 THE WITNESS: Thank you, Your Honor.

10 THE COURT: Very well.

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

12 THE COURT: Yes, sir.

13 MR. TISDALE: Your Honor, next I want to hand to the
14 witness a proposed exhibit which is marked Defendant's
15 Exhibit 5 which is entitled Application for Recognition of
16 Exemption Under Section 501(c)(3) of the Internal Revenue
17 Code.

18 THE COURT: Give them a moment just to take a look at
19 it.

20 MR. TISDALE: Yes.

21 MR. RUNYAN: No objection.

22 MS. GOLDING: No objection.

23 MR. TISDALE: No objection, Your Honor.

24 THE COURT: Very well. So Exhibit No. 5 is in evidence
25 without objection, Defendant's Exhibit No. 5 is in evidence

1 without objection. You may proceed.

2 (Defendant's Exhibit 5 admitted into evidence.)

3 MR. TISDALE: Thank you.

4 Q. You're familiar with this document, Canon Lewis?

5 A. Yes, sir, I am.

6 Q. And just what is it?

7 A. An application for recognition of exemption under
8 Section 501(c) of the Internal Revenue Code.

9 Q. And who were you filing this -- on whose behalf were you
10 filing this? First of all, did you file this?

11 A. Yes, sir, that is correct.

12 Q. And on whose behalf did you file it?

13 A. The Protestant Episcopal Church in the Diocese of South
14 Carolina.

15 Q. The plaintiff corporation?

16 A. That's correct.

17 Q. And if you look at -- there are some numbers at the
18 bottom of the page on the right. If you look at the one that
19 has the last four numbers 6790.

20 A. Yes, sir.

21 Q. Did you sign this application?

22 A. That is correct.

23 Q. And on what date did you sign it?

24 A. October 21, 2011.

25 Q. And in what capacity did you sign it?

1 A. I have signed it, as is my custom, as canon to the
2 ordinary.

3 Q. Same as trademark applications, correct?

4 A. That is correct.

5 Q. Now, look at page 6782, if you will.

6 A. Yes, sir.

7 Q. Would you look at paragraph No. 10 on that page.

8 A. Yes, sir.

9 Q. And read it, please, if you will, in the record.

10 Now, when it says do you or you publish on and so forth,
11 that's referring to the plaintiff corporation, correct?

12 A. Correct.

13 Q. Go ahead and read it for us, if you would.

14 A. Do you or will you publish, own or have rights in music,
15 literature, tapes, artwork, choreography, scientific
16 discoveries or other intellectual property? If yes, explain.
17 Describe who owns or will own any copyrights, patents or
18 trademarks where fees are or will be charged, how the fees
19 are determined and how many items are or will be produced,
20 distributed and marketed.

21 Q. Now, I think you testified you signed this on
22 October 21st, 2011, correct?

23 A. That is correct.

24 Q. And how did you answer that question, No. 10?

25 A. I mistakenly answered no to that question.

1 Q. You can explain it, but how did you answer the question?

2 A. No.

3 Q. All right. Do you wish to explain it?

4 A. I would wish to explain. Thank you, sir.

5 Q. Well, go right ahead.

6 A. When this application was being completed, it was done
7 with the assistance of an accountant who like myself is not
8 completely versed in all the nuances of the law. And in
9 reading this, trademarks was an item that slipped by us. It
10 will be noted that later in the application one of the
11 evidences of incorporation and identity that was included
12 were the trademarks, and particularly the seal of the
13 diocese. It was never intended to exclude or suggest that
14 those were not items that were part of the intellectual
15 property of the diocese. It was simply a question of being
16 unaware of that being covered when this application was
17 completed.

18 Q. Did anybody in the plaintiff corporation management
19 review this before you filed it?

20 A. It had some review. I cannot recall who reviewed it at
21 that time.

22 Q. How many people reviewed it?

23 A. I do not recall.

24 Q. Canon Lewis, was this application submitted to the
25 Internal Revenue Service?

1 A. That is correct.

2 Q. And was the exemption granted?

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

4 Q. Has the Internal Revenue Service ever been informed or
5 advised that this application was false in that regard?

6 A. That it was in error in that regard, no, sir, not to my
7 knowledge.

8 Q. Well, it's certainly not a true statement, is it?

9 A. It was an error.

10 Q. Okay. And has the exemption been granted?

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

12 Q. With regard -- moving on to a different subject, with
13 regard to the resolutions that the diocese -- when I say
14 diocese, I mean plaintiff's corporation -- adopted in its
15 conventions in 2010 and 2011 --

16 A. Yes, sir.

17 Q. -- you testified at some length about those yesterday, I
18 think, didn't you?

19 A. Yes, sir.

20 Q. Was the Episcopal Church, the national church, ever
21 informed of the substance and planned action on these
22 resolutions by anyone?

23 MS. GOLDING: Your Honor, I'm going to make an
24 objection. I'm not sure that this witness is competent to
25 testify what everybody else in the world told the national

1 church.

2 MR. TISDALE: I'm asking him if he knows anything about
3 it, Your Honor. That's all, if he knows somebody did.

4 THE COURT: The question is do you know at this point.
5 That is all, Mr. Lewis. Not what did they say, but do you
6 know. That's a different question because, depending on what
7 your response is, there may or may not be an objection that I
8 would need to handle. So the question is do you know if
9 there were.

10 THE WITNESS: I do not.

11 MR. TISDALE: Thank you.

12 Q. Canon Lewis, you testified at some length yesterday
13 about when the plaintiff corporation, Protestant Episcopal
14 Church in the Diocese of South Carolina, decided to depart
15 the Episcopal Church, that the Episcopal Church in South
16 Carolina had a series of meetings and put out various notices
17 and so forth. That was in the fall of 2012, was it not?

18 A. That is correct.

19 Q. All right. And do you agree that Her Honor's injunction
20 in this case to prohibit the use of some of the things that
21 were previously used was issued on or about January 23rd,
22 2013?

23 A. That is correct.

24 Q. Okay. Do you know anything about some federal trademark
25 registrations that were filed by the diocese, diocese, the

1 plaintiff corporation?

2 A. I was given to understand that such application had been
3 made, but that's the extent of my knowledge.

4 Q. Do you know whether or not those applications were
5 granted or withdrawn?

6 A. I do not know.

7 Q. Do not know.

8 MR. TISDALE: Excuse me, will Your Honor give us
9 30 seconds, please?

10 THE COURT: Certainly.

11 Q. Canon Lewis, when you became a priest -- a deacon and
12 priest in the Episcopal Church, the national church, did you
13 take an oath to --

14 MR. RUNYAN: Your Honor, we would object to this line of
15 questioning, and the basis for that is relevance. The issues
16 here are the right of the entity the Protestant Episcopal
17 Church in the Diocese of South Carolina to withdraw its
18 association from an unincorporated association and also the
19 interest, if any, that the Episcopal Church, the Episcopal
20 Church in South Carolina, might have in the real personal
21 property of the diocese and the parishes. Whether Mr. Lewis,
22 when he became a priest and was ordained, stated a
23 declaration or signed a declaration is completely irrelevant
24 to those issues.

25 MS. GOLDING: Your Honor, on behalf of all remaining

1 plaintiffs, I believe all the attorneys join in that
2 objection, Your Honor.

3 THE COURT: All right.

4 MR. TISDALE: Excuse me one second, please, Your Honor.

5 THE COURT: Certainly.

6 MR. TISDALE: Your Honor, we believe this is entirely
7 relevant and that Your Honor will be satisfied before the end
8 of this case that it is indeed relevant evidence whether or
9 not he took an oath to conform to the doctrine, discipline
10 and worship of the Episcopal Church. And so what we would
11 propose to do is proffer this exhibit, once he identifies it,
12 and ask you to consider it before the end of the trial as to
13 whether it's relevant or not. It's up to you as to whether
14 it is ultimately, but we would like to get it in the record
15 in form of a proffer.

16 THE COURT: Even if I disallow it, it ought to be
17 proffered for purposes of appeal, clearly.

18 MR. TISDALE: Yes.

19 THE COURT: Counsel, let me hear from you in that
20 regard.

21 MR. RUNYAN: As long as it's marked in some way to
22 indicate it's not an exhibit.

23 THE COURT: It will simply be for identification
24 purposes and a proffer.

25 MR. TISDALE: Let's put it for identification only, one

1 that will be with the clerk.

2 THE COURT: Yes.

3 MR. TISDALE: Thank you.

4 THE COURT: And we'll note it in the record that this is
5 part of defendant's proffer --

6 MR. TISDALE: Yes.

7 THE COURT: -- at this point.

8 MR. TISDALE: Yes, Your Honor.

9 THE COURT: Very well.

10 Q. Do you recall testifying about this particular oath that
11 you avow in your deposition?

12 MR. RUNYAN: Your Honor, I --

13 MR. TISDALE: It's proffered.

14 MR. RUNYAN: Is this part of the proffer?

15 MR. TISDALE: All this is part of the proffer. That's
16 what the Judge ruled.

17 Q. Do you recall talking about this in your deposition?

18 MS. GOLDING: Your Honor, I would also object to any
19 references to his deposition. That's an improper way of
20 questioning the witness based on a deposition.

21 MR. TISDALE: I was just trying to refresh his
22 recollection a little bit.

23 THE COURT: I gotcha. It may not need that.

24 MR. TISDALE: Okay.

25 THE COURT: It may not need that.

1 Q. Look at Defendant's Exhibit 6, Canon Lewis.

2 A. Yes, sir.

3 Q. And what is the first page?

4 A. First page of this Exhibit says the Book of Common
5 Prayer.

6 Q. Is that, to your knowledge, a copy of the title page of
7 the current Book of Common Prayer?

8 A. Yes, sir.

9 Q. Now, when did you become a deacon in the Episcopal
10 Church?

11 A. I was ordained in 1994.

12 Q. Where were you ordained?

13 A. That would be here in South Carolina by Bishop Salmon.

14 Q. Now, if you will look at the last page on this Exhibit 6
15 for identification, do you see the question that Bishop
16 Salmon asked you?

17 A. Yes, sir, I do.

18 Q. Which is the second paragraph from the bottom?

19 A. Yes, sir.

20 Q. Would you read what the Bishop said to you.

21 A. Will you be loyal to the doctrine, discipline and
22 worship of Christ as this church has received them, and will
23 you, in accordance with the canons of this church, obey your
24 bishop and other ministers who may have authority over you
25 and your work.

1 Q. On that occasion, did you answer the question?

2 A. I did, sir.

3 Q. And what was your answer?

4 A. I am willing and ready to do so, and I solemnly declare
5 that I do believe the holy scriptures of the Old and New
6 Testaments to be the word of God and contain all things
7 necessary to salvation, and I do solemnly engage to conform
8 to the doctrine, discipline and worship of the Episcopal
9 Church.

10 Q. All right. Now, let's turn to -- could you have been
11 ordained a deacon in the Episcopal Church without making that
12 vow or oath?

13 A. I do not believe so.

14 Q. All right. Now, let's turn to page 524 -- 525, which is
15 titled the ordination of a priest. When did you become a
16 priest in the Episcopal Church?

17 A. That would be later in 1994.

18 Q. And who ordained you a priest in the Episcopal Church?

19 A. That would be Bishop Salmon.

20 Q. Did Bishop Salmon on that occasion, looking at page 526,
21 ask you the same question that he asked of you when you were
22 ordained a deacon?

23 A. That is correct.

24 Q. And what was your response to Bishop Salmon?

25 A. The same as when I was ordained a deacon.

1 Q. Go ahead -- for the record, since we're proffering this,
2 go ahead and read it, if you will.

3 A. I am willing and ready to do so, and I solemnly declare
4 that I do believe the holy scriptures of the Old and New
5 Testaments to be the word of God and to contain all things
6 necessary to salvation, and I do solemnly engage to conform
7 to the doctrine, discipline and worship of the Episcopal
8 Church.

9 Q. Are you presently a priest of the Episcopal Church?

10 A. No, sir, I'm not.

11 Q. Have you been relieved of those duties and
12 responsibilities?

13 A. That is correct.

14 Q. All right. And when did that occur?

15 A. I believe that occurred in late summer of 2013.

16 MS. GOLDING: Your Honor, is that the conclusion of the
17 proffer?

18 THE COURT: I don't know.

19 MR. TISDALE: Hold on just one second, if you would.

20 Your Honor, the proffer should have ended right before I
21 asked him was he any longer a priest in the Episcopal Church.
22 That is not proffered because that is just asking what his
23 situation is right now. Doesn't have anything to do with the
24 oaths.

25 MR. RUNYAN: I think that's irrelevant. I don't think

1 it -- whether he is or is not a priest in the Episcopal
2 Church doesn't have anything to do with whether the diocese
3 can leave or whether you --

4 THE COURT: Let me stop for just a second. In other
5 words, it was your belief that it was part of the proffer,
6 which is, Ms. Golding, why you stood up to say now we're
7 finished with the proffer; is that correct?

8 MS. GOLDING: Correct.

9 THE COURT: What you're telling me is that if you had
10 known that the proffer was ended, you would have objected to
11 the prior question; is that correct?

12 MS. GOLDING: That's correct.

13 MR. RUNYAN: That's correct.

14 THE COURT: I understand. And the basis would be that
15 of relevance, whether or not he is --

16 MR. RUNYAN: The basis is relevance, yes, Your Honor.

17 THE COURT: I understand. Whether or not he is
18 currently a priest is of no relevance to these proceedings.

19 MR. RUNYAN: Right, that's correct.

20 MR. TISDALE: That is your ruling, Your Honor?

21 THE COURT: I was just figuring out where we were
22 procedurally.

23 MR. TISDALE: Oh, I thought that you were --

24 THE COURT: No, I have not. Tell me what the relevance
25 is.

1 MR. TISDALE: The relevance is simply that he is no
2 longer a priest in the Episcopal Church, and that's relevant.
3 And he is carrying on his ministry in some other way, and I
4 don't see anything irrelevant about that. It's just part of
5 the story of his life.

6 THE COURT: All right. Yes, sir.

7 MR. RUNYAN: He's not a party. Whether or not he's a
8 priest doesn't have anything to do with the action of a
9 diocese in voting to leave and whether that was done
10 properly. And it doesn't have anything to do with whether
11 they have any interest in the real or personal property. And
12 those are the issues.

13 THE COURT: Very well.

14 MR. TISDALE: He calls himself a priest, so we're
15 entitled to know that, but he's not a priest of the Episcopal
16 Church.

17 THE COURT: I understand. I'm with you completely. I'm
18 going to allow the question because at this point, as I hear
19 the testimony, there is an argument that could be made in
20 that this witness has testified to matters which may be in
21 dispute. It may go to bias. That would be the basis of my
22 allowing that question and for no other reason other than the
23 potentiality that it could enter into testimony with regards
24 to bias. And on that basis, I will allow that last question
25 for that reason.

1 Now, so that our record is clear, we are now finished
2 with the proffer; is that correct?

3 MR. TISDALE: Excuse me, Your Honor?

4 THE COURT: We're finished with the proffer --

5 MR. TISDALE: Yes.

6 THE COURT: -- is that correct?

7 MR. TISDALE: Yes.

8 THE COURT: The proffer is now ended?

9 MR. TISDALE: Yes.

10 THE COURT: Just so we're tidy, the exhibit for
11 identification purposes is Exhibit No. 6, isn't it?

12 MR. TISDALE: 6.

13 THE COURT: 6 for identification purposes, and we've
14 given that to our court reporter? I just want to be sure we
15 don't lose it.

16 MR. TISDALE: We'll get it from the witness to give to
17 the reporter.

18 THE COURT: Thank you. You may proceed.

19 MR. TISDALE: I'm finished, Your Honor.

20 THE COURT: You're finished. Very well.

21 Yes, sir.

22 CROSS-EXAMINATION BY MR. BEERS:

23 Q. Canon Lewis, you may know, my name is David Beers and I
24 represent the national church.

25 A. Yes, sir.

1 Q. Let's go back to when you were ordained as a deacon in
2 1994. Where was that?

3 MS. GOLDING: Your Honor, we would again object, along
4 with the same --

5 THE COURT: I understand. And we're now back into a
6 proffer?

7 MR. BEERS: No, I wasn't going to ask him about -- he
8 just testified he was ordained as a deacon in '94. I'm not
9 going to --

10 THE COURT: That was part of the proffer, sir.

11 MR. BEERS: If I could just ask another couple of
12 questions, I think I could allay Ms. Golding's concerns.

13 THE COURT: Well, it sort of doesn't work that way.
14 You've sort of got to tell me now instead of saying hold up
15 and let me ask the questions.

16 MR. BEERS: I want to ask him something about his
17 compensation when he first went to work.

18 THE COURT: You want to ask him about his compensation
19 when he went to work?

20 MR. BEERS: Yeah.

21 THE COURT: And the relevancy is?

22 MR. BEERS: It relates to his pension and the pension
23 plan about which there's been testimony, particularly from
24 the chancellor.

25 THE COURT: I'm going to deny that, but you certainly

1 may proffer the testimony if you wish.

2 Q. All right. What was your first job as an ordained
3 person?

4 A. I was called to be the rector of St. Jude's in
5 Walterboro, South Carolina.

6 Q. Just for fun, can you remember how much you were paid?

7 A. I have no recollection of how much I was paid at that
8 time.

9 Q. Did you remember whether you were paid something in cash
10 and then something for a housing allowance?

11 A. That is correct.

12 Q. And has that pattern continued throughout your ordained
13 ministry?

14 A. That pattern has continued.

15 Q. And so do you understand that you were given a certain
16 amount of compensation, a portion of which you were allowed
17 to deduct from your income tax?

18 A. Yes, sir.

19 Q. Now, your employer paid premiums to the church pension
20 fund based upon your total compensation; is that right?

21 A. Yes, sir, that is correct.

22 Q. And each of your employers was required to do that by
23 the canons of the church relating to the church pension fund;
24 is that correct?

25 A. That is correct.

1 Q. Now, and you had -- your employment by the Diocese of
2 South Carolina before it purported to disaffiliate from the
3 Episcopal Church, continued to pay premiums to the pension
4 fund on your behalf?

5 A. I do believe that pension contributions were made on my
6 behalf through sometime in 2012.

7 Q. 2012, all right. And are your rights under the pension
8 program vested?

9 A. Yes, they are. That's correct.

10 Q. Have you retired for purposes of the church pension
11 fund?

12 A. No, I have not.

13 Q. But some day, presumably, you will?

14 A. Presumably, yes, God willing.

15 Q. And will receive a pension from the pension fund?

16 A. Yes, sir.

17 Q. Could you fish out for me Exhibit 45A.

18 A. Yes, sir, if you'll give me a moment. The pile is deep.

19 All right, sir, I have 45A before me.

20 Q. Would you look at the second page, and if you would go
21 down the page with me, one, two, three, four, five, six,
22 seven -- the seventh whereas.

23 A. Yes, sir.

24 Q. All right. Now, before I ask you a question about that,
25 can you tell us again what that document is?

1 A. This document was resolution R-1 passed at the special
2 convention of the Diocese of South Carolina in October of --
3 I mean, November of 2012.

4 Q. And it was passed?

5 A. And it was passed.

6 Q. Now, turn to the seventh whereas.

7 A. Yes, sir.

8 Q. Do you see where it says that repeated actions by the
9 leadership and the general convention of TEC, the national
10 church?

11 A. Yes, sir.

12 Q. Do you see where that is? And do you see that this
13 resolution says that those actions were -- violated the
14 church's own constitution and canons?

15 A. Yes, sir.

16 Q. And then you see where it says that those actions have
17 been repugnant to the plain teaching of scripture?

18 A. Yes, sir.

19 Q. Now, could you -- I know you've testified about some of
20 this before, but could you summarize for me what actions of
21 the general convention you believe or you understand or you
22 perceive that your convention believed were contrary to the
23 plain teachings of scripture?

24 A. Yes, sir. How long a list would you like?

25 Q. Well, give me whatever you want.

1 A. Very good. Yes, sir. To start --

2 Q. Are you referring to a piece of paper?

3 A. I have a timeline here to remind me of dates.

4 MR. RUNYAN: Judge, I don't even think it's relevant for
5 proffer. He's asking him about religious beliefs, which just
6 simply don't belong here.

7 MR. BEERS: They introduced this document in evidence,
8 Your Honor.

9 THE COURT: The document being the convention notice?

10 MR. BEERS: Resolution in which they state that there
11 were actions taken by the national church that were repugnant
12 to the plain teachings of scripture. I'd like to know what
13 those are. And he's already -- both the chancellor and
14 Canon Lewis have referred to some of these, and I'd just like
15 to sort of see if I can get Canon Lewis's understanding as to
16 what they were.

17 THE COURT: It's my understanding that the documents
18 that were introduced, such as you're mentioning this
19 particular document regarding that meeting, that they were
20 introduced for the purpose of talking about whether or not
21 the marks and the trademarks, the use was being violated in
22 some form or fashion, that's my understanding, and not with
23 regards to, if you will, the underlying ecclesiastic merit or
24 lack thereof of the meeting. I didn't take that evidence to
25 be evidence which was offered as a commentary on the

1 underlying religious ecclesiastic tenor or otherwise, so his
2 opinion about the relationship between that meeting and
3 scripture is really of no moment here. And I know this is a
4 proffer, but our law is so very clear that when I enter into
5 those discussions even it's very clear to me that our law
6 simply doesn't allow it, that you're now into the separation
7 of church and state.

8 MR. BEERS: But, Your Honor, we're going to contend in
9 this case that the very subject we're talking about does not
10 entered into any kind of first amendment thicket, that there
11 is a doctrinal dispute here, and there is a dispute over the
12 governance and polity of the Episcopal Church that the Court
13 is going to, in our view, will have to wrestle with, and
14 that's why we're trying to get the facts out. And both Mr.
15 Logan and Canon Lewis have said what some of the concerns
16 were that led to the decision to disaffiliate, and I just
17 want to ask him to fill in some blanks.

18 THE COURT: I think they didn't. I think they said that
19 there were decisions that were made with which there was a
20 group of individuals that they did not agree with, and that
21 was as far as they went, and as a result of that feeling then
22 certain other actions were taken. As I understand the
23 testimony, that was as far as the plaintiffs had gone, at
24 least to this point, with regards to, as you say, any
25 doctrinal concerns. So the law does not allow me, nor do I

1 believe that our courts under the All Saints decision and
2 Jones vs. Wolf, for example, allow this Court to get into the
3 doctrinal determinations. It is what it is. And whether or
4 not the courts like it, don't like it, agree or disagree,
5 truly is of no moment. The determinations that I will make
6 will not be on that basis. They will be on the basis of, as
7 you say, corporate governance, our corporate law, and not
8 with regards to the ecclesiastic or doctrinal beliefs,
9 whatever they may be. I'm not allowed that, and that wades
10 into, in my mind, the separation of church and state. That
11 was a lot of explanation to get back around to what this
12 witness may think of a meeting and how it relates to the holy
13 scripture is really of no moment and no moment with regards
14 to the proffer.

15 MR. BEERS: Well, if the Court please, please understand
16 that we have a profound disagreement, with all due respect to
17 you, and under Jones v. Wolf, the Supreme Court provides
18 certain safeguards under the first amendment. And we're not
19 here to ask Canon Lewis what he believes or what -- or ask
20 this Court to get into a discussion of who's right and who's
21 wrong, but we are here to discuss the nature of the dispute
22 between the Episcopal Church, the national church, and the
23 diocese and the parishes. And we have a view that the Court
24 must deal with our contention that in disputes of this kind
25 this Court is required by the First Amendment to defer to

1 decisions made by the national church, even as they affect
2 the property of the church.

3 The other side, obviously, disagrees and is trying to
4 confine this case to one of completely secular terms, and we
5 don't agree. And I take it -- I mean, I understand where
6 you're coming from, but I must say once more, this is a
7 profound breach, a profound moment in the course of this
8 litigation, and we respectfully believe that proper would
9 be -- given the importance of this issue and the difficulty
10 of having to get back and do this all over again, if you
11 conclude or anybody else concludes that your perception is
12 wrong, we think that it would be appropriate to continue with
13 this under a proffer, if nothing else.

14 THE COURT: And the proffer that you -- the question, as
15 I understand the question that you've asked him, is tell me
16 how you believe a particular meeting was in violation of the
17 holy scripture. Isn't that the question?

18 MR. BEERS: I'm asking -- just taking the words from
19 their own convention, what acts of the Episcopal Church does
20 he understand the diocese, diocese, believed were so in
21 violation of scripture that it warranted them to
22 disaffiliate? Just what identification of them, not a
23 discussion about what they're about, not a discussion whether
24 he personally believes that, but what is the basis of this
25 decision?

1 THE COURT: Yes, sir, that's not relevant. Thank you.

2 MR. BEERS: Thank you. That's all I have.

3 THE COURT: It's not relevant in regards to a proffer,
4 in my mind. Thank you. All right.

5 Any further questions, Mr. Beers?

6 MR. BEERS: I apologize.

7 THE COURT: That concludes all of your questions?

8 MR. BEERS: Absolutely. I thought I made that clear. I
9 apologize. I'm done.

10 THE COURT: Redirect.

11 REDIRECT EXAMINATION BY MR. RUNYAN:

12 Q. Mr. Lewis, could you get Defendant's Exhibit 5, which is
13 the application for recognition of exemption to the IRS, in
14 front of you, please, sir.

15 A. Yes, sir.

16 Q. You were asked some questions about a statement made
17 with respect to the absence of trademarks. Do you recall
18 that?

19 A. Yes, sir.

20 Q. Could you turn to page 06811?

21 A. Yes, sir.

22 Q. Was that document attachment to the application?

23 A. Yes, sir, it was.

24 Q. What is that document?

25 A. That is the service mark registration for the name the

1 Protestant Episcopal Church in the Diocese of South Carolina.

2 Q. So attached to the application for recognition of
3 exemption was, in fact, a service mark that you've testified
4 previously to here before?

5 A. That is correct.

6 Q. You were also asked about the original constitution of
7 the diocese, and I believe you were asked if there were any
8 words in that document that had the word diocese in it?

9 A. Yes, sir.

10 Q. I'm going to hand you a document, please, sir, ask you
11 if you've seen that or something like that before?

12 A. Yes, this is the cover of the convention journals from
13 1785 to 1799.

14 Q. Would you just flip through it and tell me if it has the
15 appearance of a copy of the original that we looked at
16 yesterday?

17 A. Yes, sir, it does.

18 MR. RUNYAN: I offer that into evidence.

19 THE COURT: Any objection?

20 MR. TISDALE: We have no objection.

21 MR. RUNYAN: Plaintiff's Exhibit 56.

22 THE COURT: In evidence without objection.

23 (Plaintiff's Exhibit DSC-56 admitted into evidence.)

24 Q. Mr. Lewis, would you read the cover of that document,
25 please, sir.

1 A. It says minutes of conventions, Protestant Episcopal
2 Church, Diocese of South Carolina, 1785 to 1799.

3 Q. Mr. Lewis, I'm going to hand you a document. I ask you
4 if you would identify it, please, sir.

5 A. This is -- the cover says Journal of the 183rd Annual
6 Meeting of the Convention Held in 1973, Holy Trinity Church,
7 Charleston.

8 Q. What convention?

9 A. The Protestant Episcopal Diocese of South Carolina.

10 Q. That's my only copy, so let me borrow it a minute, show
11 it to Mr. Tisdale.

12 MR. TISDALE: It's the journal?

13 MR. RUNYAN: It's the journal.

14 MR. TISDALE: I have no objection. '73?

15 MR. RUNYAN: 1973.

16 MR. TISDALE: You don't have a copy, do you?

17 MR. RUNYAN: No, I don't, but I'll get you one.

18 MR. TISDALE: Okay.

19 MR. RUNYAN: That'll be Plaintiff's Exhibit 57.

20 THE COURT: And was there an objection?

21 MR. TISDALE: No objection.

22 MS. KOSTEL: No objection.

23 THE COURT: 57 in evidence without objection.

24 (Plaintiff's Exhibit DSC-57 admitted into evidence.)

25 MR. TISDALE: He said he'll give us a copy.

1 Q. Mr. Lewis, I'm going to hand you this document, ask you
2 to look at the page that I have it open to.

3 A. Yes, sir.

4 Q. For the record, if you would read the number at the
5 bottom right-hand corner.

6 A. The page number of the journal is page 129.

7 Q. Is there anything on that page that has to do with the
8 creation of the corporation known as the Protestant Episcopal
9 Church in the Diocese of South Carolina? You may have to
10 turn the page.

11 Mr. Lewis, let me have it back, see if I can help you,
12 sir.

13 A. Thank you.

14 Q. Direct your attention to page 129 of this journal, the
15 last paragraph. Could you tell me, please, sir, if there
16 were any proposed resolutions from the committee on
17 constitution and canons?

18 A. The last paragraph says the chair called for the first
19 report of the committee on the constitution and canons.

20 Mr. Thomas S. Tisdale, Jr. reported that the committee on
21 constitutions and canons under Article 12 of the constitution
22 and canon 30 received -- I mean, Article 12 of the
23 constitution and of canon 30 received the following proposed
24 amendments to the constitution and canons for its
25 consideration.

1 Q. And then is there a list of amendments after that?

2 A. I see one, two, three, four, five, six amendments.

3 Q. Turn to the next page. Does the list continue, and is
4 there one concerning the incorporation of the diocese, top
5 left page?

6 A. I'm afraid I'm not tracking with you.

7 Q. Just read that first top left page paragraph, please.

8 A. Yes, sir. It says, Mr. Tisdale reported the committee
9 on constitution and canons had also received for
10 consideration the following: A new standing resolution 14
11 having to do with the board of trustees of Porter Academy, a
12 resolution having to do with incorporation of the diocese and
13 a resolution amending Section 10 of Rule of Order No. 1.

14 Q. There's another yellow sticky on a page further back.
15 Would you turn to that, please, and tell us the page number.

16 A. That would be page 141.

17 Q. Do you see on there the resolution for incorporation of
18 the diocese recorded?

19 A. Yes, sir, I do.

20 Q. Does it have the resolution printed in its entirety?

21 A. Yes, sir, I believe so.

22 Q. All right. Thank you, sir.

23 Can you tell by looking there if the resolution passed?

24 A. I believe it says here it was seconded and approved.

25 Q. Thank you, sir. Hand you a document, ask you if you can

1 identify this.

2 A. Yes, sir.

3 Q. Would you tell us what that is?

4 A. Copy of the lease agreement between the cathedral and
5 the Diocese of South Carolina.

6 Q. Lease of what?

7 A. The property on which the diocesan offices sit.

8 Q. All right. Does it contain a cover letter?

9 A. It does.

10 Q. Who is the author of the cover letter?

11 A. Thomas S. Tisdale, Jr.

12 Q. Is it on stationery?

13 A. That is correct.

14 Q. Do you see the seal at the top?

15 A. Yes, sir, I do.

16 Q. Do you recognize that seal?

17 A. I do.

18 Q. What is that?

19 A. It is the seal of the Diocese of South Carolina.

20 Q. Is there an indication to the left of what office the
21 signer has with the diocese at that time?

22 A. It says office of the chancellor.

23 MR. RUNYAN: Offer it into evidence.

24 MR. TISDALE: No objection.

25 MS. KOSTEL: No objection.

1 THE COURT: Very well.

2 MR. RUNYAN: It's Diocese Exhibit 58. I'll just publish
3 the date of the cover letter from Mr. Tisdale to the Very
4 Reverend Lynwood C. Magee, Cathedral of St. Luke and
5 St. Paul, dated May 11, 1983. The attached lease agreement
6 is dated May 9, 1983.

7 MR. TISDALE: What exhibit number is it?

8 MR. RUNYAN: 58.

9 (Plaintiff's Exhibit DSC-58 admitted into evidence.)

10 MR. RUNYAN: That's all for me, Your Honor.

11 MS. GOLDING: Just one.

12 THE COURT: Yes, ma'am.

13 REDIRECT EXAMINATION BY MS. GOLDING:

14 Q. Mr. Lewis, with respect to Defendant's Exhibit No. 5,
15 the document that was submitted to the IRS, when did you
16 personally -- when did you discover this error that you
17 testified about? Was it recent?

18 A. Very recent.

19 Q. When we say very recent, just about a month or so ago?

20 A. About a month or so ago, yes.

21 MS. GOLDING: Thank you. No further questions, Your
22 Honor.

23 THE COURT: Anybody else from the side of the
24 plaintiffs?

25 All right. Recross.

1 MR. TISDALE: Just one second, please, Your Honor.

2 THE COURT: Sure.

3 MR. TISDALE: One quick question, Your Honor.

4 RE-CROSS-EXAMINATION BY MR. TISDALE:

5 Q. With respect to Plaintiff's Exhibit 58 which was just
6 put into evidence about the cathedral, lease with the
7 cathedral, do you see that, Canon Lewis?

8 A. Yes, sir.

9 Q. Look at page 4 of that lease.

10 A. Yes, sir.

11 Q. Who signed this lease on behalf of the diocese?

12 A. It appears to be C. FitzSimons Allison.

13 Q. And below the signature line, does it have the capacity
14 listed in which he signed?

15 A. It says bishop.

16 MR. TISDALE: All right. Nothing further, Your Honor.

17 THE COURT: Mr. Beers.

18 MR. BEERS: Well, I don't have any cross because I'm not
19 allowed to, but -- by your ruling. So I'm not here for
20 cross. I'm here to ask you a question.

21 THE COURT: Of course you can cross.

22 MR. BEERS: I'm sorry, on the issue that I care about
23 that we've talked about. But Ms. Kostel reminds me that
24 there are two things I should have said on the question of
25 whether we should be entitled to a proffer.

1 THE COURT: You had a proffer.

2 MR. BEERS: No, you think that -- the questions that --
3 the issues I want to raise you have said are not even
4 relevant to a proffer, and I accept that.

5 THE COURT: Right, the ones when you asked about, tell
6 me how you believe the meeting violated the holy scriptures.

7 MR. BEERS: Correct.

8 THE COURT: Yes, sir, that's correct.

9 MR. BEERS: Ms. Kostel reminds me that there are two
10 passages from the Supreme Court's decision in All Saints,
11 Waccamaw that she thinks that I should bring to your
12 attention, at least for the record.

13 THE COURT: Thank you.

14 MR. BEERS: The Court first discussed an earlier
15 decision by the Supreme Court of South Carolina, Church of
16 God versus Pearson -- sorry, other way around, Pearson versus
17 Church of God, where the Supreme Court explained that courts
18 may not engage in resolving disputes as to religious law,
19 principle, doctrine, discipline, custom or administration.
20 Courts cannot avoid adjudicating rights growing out of civil
21 law. And in resolving such civil law disputes, courts must
22 accept as final and binding the decision of the highest
23 religious judicatories as to religious law, principle,
24 doctrine, discipline, custom and administration.

25 Then the Supreme Court went on to say that under

1 Pearson, where a civil court is presented an issue which is a
2 question of religious law or doctrine masquerading as a
3 dispute over church property or corporate control, the court
4 must defer to the decisions of the proper church judicatories
5 insofar as it concerns religious or doctrinal issues.

6 We believe that this is a question of religious law,
7 doctrine, polity and so forth, all of which we would like to
8 present evidence about masquerading as a dispute over church
9 property. Thank you.

10 THE COURT: Thank you very much. That was great for the
11 record, but I'm not prepared to change my ruling on that
12 basis.

13 Very well. And no other recross.

14 MR. BEERS: No, Your Honor.

15 THE COURT: You may step down.

16 Good time for a break. Let's say a 20-minute break. I
17 will see you all back about 25 till 12:00.

18 (Recess held.)

19 THE COURT: All right.

20 MS. GOLDING: I can go ahead and call the next witness,
21 Your Honor. I'll call Mr. Kunes, please, Mr. Bob Kunes.

22 ROBERT M. KUNES,
23 being first duly sworn, testified as follows:

24 THE COURT: If you could just state your name for the
25 record again for us, please.

1 THE WITNESS: Surely. My name is Robert M. Kunes.

2 THE COURT: And can you spell your last name.

3 THE WITNESS: K-U-N-E-S.

4 THE COURT: Thank you.

5 Your witness.

6 MS. GOLDING: Thank you.

7 DIRECT EXAMINATION BY MS. GOLDING:

8 Q. Mr. Kunes, can you please tell us where you reside?

9 A. I reside at 1573 Fairway Drive in Charleston.

10 Q. And how long have you been a resident of Charleston?

11 A. Since 1985.

12 Q. And can you give us the benefit of your educational
13 background?

14 A. I have an undergraduate degree in English from the
15 University of South Carolina, 1970; juris doctorate in law,
16 1973; master's in tax law, 1975.

17 Q. And are you licensed to practice by the South Carolina
18 Supreme Court?

19 A. I am.

20 Q. And how long have you been licensed to practice law?

21 A. Since 1973.

22 Q. And what is your specialty or the type of law you
23 primarily practice?

24 A. I do a fair amount of trust and estate work and some
25 corporate work.

1 Q. Are you associated or affiliated with a law firm?

2 A. I am. The firm is called Evans, Carter, Kunes &
3 Bennett.

4 Q. Where's that law firm located?

5 A. 115 Church Street in Charleston.

6 Q. Are you associated or do you attend a church?

7 A. I do. I attend St. Michael's.

8 Q. Where is St. Michael's?

9 A. St. Michael's office location is 71 Broad. It's the
10 corner of Broad and Meeting Street.

11 Q. And how long have you been in attendance at
12 St. Michael's?

13 A. I've been a member there since 1986.

14 Q. And have you been in any type of positions in
15 St. Michael's, any type of leadership roles in that parish?

16 A. I've served on the vestry, both as junior and senior
17 warden.

18 Q. Currently are you a member of the governance in
19 St. Michael's?

20 A. I'm not now.

21 Q. Currently are you associated with the corporation, the
22 Trustees of the Protestant Episcopal Church in South
23 Carolina?

24 A. I am.

25 Q. And what is your position with that corporation?

1 A. I am a trustee -- excuse me, I am the treasurer of that
2 organization.

3 Q. And that organization is a plaintiff in this lawsuit; is
4 that correct?

5 A. Yes, ma'am.

6 Q. That organization, that South Carolina corporation, is
7 there a board of directors?

8 A. There is.

9 Q. And are you a member of the board of directors?

10 A. I am.

11 Q. And what is the purpose of that corporation?

12 A. The corporation was chartered by the legislature by an
13 act in 1880 to hold title to property, receive assets under
14 wills or gifts made by individuals or other organizations.

15 Q. Let me hand you what's already been admitted as
16 Plaintiff's Diocese Exhibits 13 and 14. Just for the record,
17 can you identify Exhibits 13 and 14?

18 A. Exhibit 13 contains a copy of an act to grant certain
19 powers to the bishop and standing committee of the Protestant
20 Episcopal Church of the Diocese of South Carolina. And
21 Exhibit 14 is an act to amend an act entitled an act to grant
22 certain powers to the bishop and standing committee of the
23 Protestant Episcopal Church of the Diocese of South Carolina.

24 Q. To your knowledge, has either of those statutory
25 provisions, the enactments of the South Carolina General

1 Assembly, have they been rescinded, amended or revised up to
2 the present?

3 A. I'm not aware of any changes beyond these two documents.

4 Q. With respect to the board of directors of the plaintiff
5 trustees, how were those members selected?

6 A. The board members are elected by the diocesan
7 convention.

8 Q. And that is the annual diocesan convention?

9 A. That's correct.

10 Q. With respect to the functioning or the relationship of
11 the plaintiff trustee with the plaintiff diocese, can you
12 describe that to the Court?

13 A. The trustee -- excuse me, that corporation, as the
14 legislation indicates, is charged with holding property or
15 other assets that are given to it. Some of those assets are
16 given specifically for uses related to what the diocese does.

17 Q. How long have you been a member of the board of
18 directors for the plaintiff trustees?

19 A. I was elected to the board in March of 2010.

20 Q. And how long have you been a treasurer of the plaintiff
21 trustees?

22 A. I'm not certain, but I think since 2011.

23 Q. As the trustee primarily what is your responsibility
24 with respect to the plaintiff trustees as a board of
25 directors -- as a treasurer, excuse me, as the treasurer of

1 the plaintiff trustees what are your responsibilities?

2 A. The bylaws define the responsibilities of the treasurer,
3 which include overseeing funds received and things of that
4 nature.

5 Q. Let me hand you exhibits -- Plaintiff Diocese
6 Exhibits 15, 16 and 17. And can you identify those
7 documents, please?

8 A. Exhibit 15 is labeled, Bylaws, Trustees of the
9 Protestant Episcopal Church in South Carolina, a Corporation.
10 Exhibit 16 is identified as bylaws of the Trustees of the
11 Protestant Episcopal Church in South Carolina, a corporation.
12 Exhibit 17 is bylaws of the Trustees of the Protestant
13 Episcopal Church in South Carolina, a corporation.

14 Q. With respect to Exhibit 17, what is the date of that?

15 A. This is dated January 4th, 2013.

16 Q. In those bylaws dated January 2013 who was the president
17 of the plaintiff trustees?

18 A. Article 2 says, under the section captioned officers,
19 Mark J. Lawrence shall be president of the corporation.

20 Q. Do you have knowledge of any other governing documents
21 of the plaintiff trustee other than the two statutes and the
22 three sets of bylaws?

23 A. I do not.

24 Q. And today does your plaintiff trustees, is it governed
25 outside by any documents other than the statutes and the

1 bylaws?

2 A. No. The corporation is governed by state law chartered
3 in these three sets of bylaws.

4 Q. Thank you. Can you identify essentially some of the
5 properties that the plaintiff trustees owns or operates or
6 has dealings with?

7 A. There are two basic classes of resources that the
8 corporation owns. One is real estate. The second is
9 marketable securities.

10 Q. Let me give you what's marked as Plaintiff's Exhibit
11 No. 30. Plaintiff's Diocese Exhibit No. 30 is a deed dated
12 1951. Do you know the property that's referenced in the deed
13 which is Plaintiff's Diocese Exhibit 31?

14 A. In scanning this exhibit, it appears to be a deed
15 related to the property on Seabrook Island commonly known as
16 Camp St. Christopher.

17 Q. What entity owns that property that is known as Camp
18 St. Christopher?

19 A. The corporation, the Trustees of the Protestant
20 Episcopal Church of South Carolina.

21 Q. To your knowledge does the national church, does it have
22 any type of rights, to your knowledge, as to that property?

23 A. To my knowledge it does not.

24 Q. With respect to the governance of the plaintiff
25 corporation, does the national church have any type of voice

1 with respect to the governance of that plaintiff corporation?

2 A. It does not.

3 Q. With respect to the governance, does the national church
4 have any type of veto power with respect to the plaintiff
5 corporation?

6 A. It does not.

7 Q. Do you know if any outside entity has any type of veto
8 power over the plaintiff trustees?

9 A. Any outside entity? No, I'm not aware that there is
10 any.

11 MS. GOLDING: Indulge the Court for just a moment.

12 THE COURT: All right.

13 Q. Please tell us the difference between restricted and
14 unrestricted assets of the plaintiff corporation.

15 A. There's some assets that were given with restrictions as
16 to usage. Those obviously are segregated and used only for
17 the purposes for which given. Restricted assets would be
18 available for any use by the corporation consistent with its
19 purpose.

20 Q. Is there a percentage of the amount of assets of the
21 plaintiff trustees as to restricted versus unrestricted?

22 A. I don't recall off the top of my head. I'd have to look
23 at a financial statement.

24 Q. With respect to restricted assets, can you provide us a
25 few examples?

1 A. Well, as I mentioned a moment ago, there really are two
2 classifications of assets, real estate and marketable
3 securities. There are some securities that were given with
4 designations for use for educational purposes or things of
5 that sort.

6 MS. GOLDING: Thank you. Please answer any questions
7 the defendants may have.

8 THE COURT: Cross-examination, Mr. Tisdale.

9 CROSS-EXAMINATION BY MR. TISDALE:

10 Q. Mr. Kunes, good morning.

11 A. Good morning.

12 Q. I just have a couple of questions for you.

13 A. Yes, sir.

14 Q. With regard to the governing documents, governing
15 documents that affect the operation of the trustees, I think
16 you said the trustees were elected by the convention of the
17 diocese?

18 A. Yes, sir.

19 Q. So the constitution and canons of the Diocese of South
20 Carolina would certainly have something to do with the
21 operation of that board of trustees, wouldn't it?

22 A. If I understand your question correctly, yes. Again,
23 the legislature provided in the legislation how the members
24 of the trustee corporation would be selected.

25 Q. Right. And it's also contained in the constitution and

1 canons of the diocese to perpetuate that, is it not?

2 A. I have not reviewed those. I do not know.

3 Q. Have not reviewed them.

4 Now, the trust that you are trustee of, it holds
5 property, as you've testified. It does manage that property,
6 does it not, in a proper way?

7 A. It does. As a matter of clarification, again, it's a
8 corporation chartered by the legislature, but it's known as
9 the trustees. So there's a little confusion in the title.

10 Q. But my point is, the property that you hold in trust is
11 managed by the board of the trustees?

12 A. Yes, sir.

13 Q. Now, the trust, does it not -- does anything provide a
14 way to change a beneficiary of the trust, or is it set?

15 MS. GOLDING: Your Honor, I'm going to make an
16 objection. The witness has already testified it's not a
17 trust. It's a South Carolina corporation. So this line of
18 testimony, at the best, is confusing.

19 MR. TISDALE: He's a trust lawyer. I'm just asking him
20 do they have the power, the trustees of the diocese, to
21 change the beneficiary of the trust. I think that takes care
22 of her objection.

23 MS. GOLDING: There's no foundation for what the trust
24 is. That's the problem, there is no trust.

25 THE COURT: I understand the objection. If you could --

1 I will ask you, for my purposes, if you could lay some
2 foundation questions, I think that would be helpful for me.

3 Q. Mr. Kunes, you've testified that you hold and manage
4 property and that the authority for doing that is under the
5 act of legislature in 1880 --

6 A. Yes, sir.

7 Q. -- is that correct?

8 And that is the basic foundational governing document of
9 that trust that you all manage, right?

10 A. Of the corporation, yes, sir.

11 Q. Corporation.

12 Does anyone have authority in that context to change the
13 beneficiary of the trust from one person or corporation to
14 another?

15 MS. GOLDING: Your Honor, I again object. He has not
16 identified the trust.

17 MR. TISDALE: It's the property that they hold and
18 manage as trustees of the diocese.

19 THE COURT: When you asked him about the trust, he said,
20 yes, the corporation. And it can't be, yes, the corporation
21 because the corporation is not the trust. And so again I
22 find myself needing some foundational information. I'm with
23 you, and I think I know where you're going, and that would be
24 good information for me. I want that information, but I
25 don't think it is -- they're not trustees in the typical and

1 normal -- as I understand it.

2 MR. TISDALE: We believe they are.

3 THE COURT: You can work your way there. I guess maybe
4 that's why I'm asking for some foundational information,
5 because right now I think they're a corporation.

6 MR. TISDALE: Your Honor, I'll do the best I can.

7 THE COURT: Go for it.

8 Q. The trustees are governed by a corporation, right?

9 A. The legislature, again, created the corporation known as
10 the Trustees of the Diocese of South Carolina.

11 Q. In 1880?

12 A. Yes, sir.

13 Q. Is there any provision in the documents creating this
14 corporation that allow the change of the beneficiary of the
15 property that you all manage?

16 A. I would presume the legislature would have to change the
17 articles to modify any beneficiaries.

18 Q. Well, the question to you is, do you know whether it
19 provides that power, the corporate grant?

20 A. I'm not aware the corporate grant would provide that
21 power. To amend the articles, again, would require
22 legislative action.

23 Q. Has that been done?

24 A. I'm only aware of the two acts that Ms. Golding asked me
25 about earlier.

1 Q. Do you know whether or not such power to change
2 beneficiary is within any of the those two statutes?

3 MS. GOLDING: Your Honor, there again, the foundation
4 has not been set as to the existence of who any beneficiaries
5 are, and the statutes are silent as to beneficiaries.

6 THE COURT: I understand.

7 MR. TISDALE: And I read from Exhibit 14, which is the
8 statute of 1880, as amended.

9 MS. GOLDING: Are you going to publish the whole --

10 MR. TISDALE: No, I'm just going to publish -- I'm going
11 to ask him a question about it.

12 MS. GOLDING: May I provide the witness the statutes?

13 THE COURT: You may.

14 MR. TISDALE: Certainly.

15 MS. GOLDING: Thank you.

16 Q. This is Act No. 612, Mr. Kunes, and I think this might
17 answer our question, part of it. Do you see the first
18 paragraph of this statute?

19 A. Section 1 or the whereas clause?

20 Q. The whereas clause.

21 A. Yes, sir.

22 Q. Could you read -- it's a very long sentence. In fact,
23 it's a whole paragraph, but just read about six lines of
24 that. I'll tell you when you can stop.

25 A. Whereas in and by an act entitled, An Act to Grant

1 Certain Powers to the Bishop and Standing Committee of the
2 Diocese of South Carolina, approved February 20th, 1888, the
3 bishop and members of the standing committee for the time
4 being of the Protestant Episcopal Church for the Diocese of
5 South Carolina --

6 THE COURT: Got to slow down just a little bit for my
7 court reporter.

8 THE WITNESS: I'm sorry.

9 -- standing committee for the time being of the
10 Protestant Episcopal Church for the Diocese of South Carolina
11 and their successors in office were appointed trustees --

12 Q. All right. This is what I want to emphasize, the next
13 line.

14 A. -- for the purpose of holding in trust any property
15 heretofore given or acquired for objects connected with said
16 church and said diocese.

17 Q. All right. Now, that is the charge from the corporate
18 act to the board you're on, right?

19 A. I'm sorry, that's the what?

20 Q. That's what your responsibilities are as defined by this
21 statute.

22 A. That's a whereas clause. The statute's obviously
23 contained in the subsequent sections.

24 Q. Now, is there anything in here that allows -- first of
25 all, let me ask you this background question: Do the

1 trustees, the corporation, hold property for others for a
2 beneficiary?

3 A. Does the corporation hold property for others?

4 Q. For a beneficiary. Who is the beneficiary of this?

5 A. There have been funds contributed to the corporation
6 that are restricted in the sense of their use, and there are
7 other unrestricted assets.

8 Q. Right. Well, does anyone get the benefit of the income
9 from the gain on the trust?

10 A. Yes, sir.

11 Q. Who?

12 A. The restricted funds are disbursed consistent with the
13 documents that create those restricted funds. Other funds
14 that are produced by the income or growth in the corpus are
15 distributed from time to time by the corporation to the
16 diocese.

17 Q. Diocese?

18 A. Yes, sir.

19 Q. And has that been the case all along in the history of
20 this corporation?

21 A. I only know since my time as a member of the board of
22 trustees -- excuse me, board of directors, but yes.

23 Q. Well, since then, give us the answer to that.

24 A. The answer would be that since I've been a member of the
25 board of that corporation, there have been distributions

1 consistent with restricted gifts and other distributions to
2 the diocese.

3 Q. So would it be fair to say, then, that the property held
4 by the corporation is used for the benefit of others?

5 A. For the benefit of others, yes, sir.

6 Q. All right. So that's what I was trying to get at.

7 Now, is there any provision in anything that you know
8 that would allow a change of the beneficiary of this
9 corporation?

10 A. Again, absent legislative action, I think the
11 corporation's purposes are set forth in these documents.

12 Q. All right. And so far as you know, have they been
13 changed in any way by the general assembly?

14 A. No, sir, I'm not aware they have.

15 MR. TISDALE: Thank you very much.

16 THE COURT: Thank you.

17 Ms. Kostel.

18 MS. KOSTEL: Yes.

19 THE COURT: Yes, ma'am.

20 CROSS-EXAMINATION BY MS. KOSTEL:

21 Q. Good afternoon, Mr. Kunes.

22 A. Good afternoon.

23 Q. Mary Kostel for the national church.

24 A. I need to ask you, I'm a little hard of hearing at my
25 age, so if you don't mind speaking a little more loudly, I'd

1 appreciate it.

2 THE COURT: We've got a microphone right here. I'm
3 going to put it a little bit closer to the podium.

4 Q. See if this works. Is that better?

5 A. A little bit.

6 Q. Okay. I'll just kind of bring it up on the podium.

7 Let's try this.

8 A. All right.

9 Q. Mr. Kunes, I think you testified that the only governing
10 documents of the trustees corporation were its -- were the
11 acts incorporating it and bylaws; is that correct?

12 A. That's correct.

13 Q. You're aware that the canons of the diocese also contain
14 provisions governing the trustees corporations, correct?

15 A. I'm not aware of that.

16 Q. Oh, you're not aware of that. Okay. Thank you.

17 And -- but you've been a trustee?

18 A. I've been a member of the board of the corporation.

19 Q. You've been a member of the board of the corporation?

20 A. Correct.

21 Q. And you're not familiar with the canons governing the
22 trustees corporation?

23 MS. GOLDING: Object to the form of the question. I
24 don't think there exist any canons that govern the trustee
25 corporation.

1 MS. KOSTEL: I'll rephrase it.

2 THE COURT: Okay.

3 Q. You're not aware of any canons in the diocesan canons --
4 you do know what I'm talking about when I refer to the
5 diocesan canons?

6 A. I do, but I -- I've had no reason to review those. I'm
7 not aware of any provisions in those documents.

8 MS. KOSTEL: Okay. Thank you. Nothing further.

9 THE COURT: Very well. Redirect.

10 MS. GOLDING: Nothing, Your Honor.

11 THE COURT: Very well. Thank you, sir. You may step
12 down.

13 Call your next witness, please.

14 MR. RUNYAN: Your Honor, I have one exhibit that I'd
15 like to offer into evidence. It's a summary that was used
16 yesterday in the chart, summary of Mr. Lewis's testimony of
17 the voting in convention.

18 MR. TISDALE: We just think it's for demonstrative
19 purposes, Your Honor. It shouldn't be an exhibit.

20 MR. RUNYAN: Summaries of testimony as demonstrative
21 purposes are admissible. We would ask that it be admitted.

22 THE COURT: Summaries certainly are allowed of other
23 information, and I'll allow the exhibit for demonstrative
24 purposes. In other words, it is the testimony that would be
25 the evidentiary part of it, but for demonstrative purposes,

1 I'll admit the exhibit.

2 MR. RUNYAN: Diocese Exhibit 59.

3 THE COURT: Meaning that it will be helpful to me to
4 have that demonstrative aid. Yes.

5 (Plaintiff's Exhibit DSC-59 admitted into evidence.)

6 THE COURT: All right. Now your next witness.

7 MR. RUNYAN: Just a couple of things I'd like to
8 publish, and then we'll have another witness.

9 THE COURT: All right.

10 MR. RUNYAN: I'm publishing from the Episcopal Church in
11 South Carolina's responses to the Protestant Episcopal Church
12 in the Diocese of South Carolina's Requests for Admissions
13 dated October 3, 2013, Request No. 6. The Episcopal Church
14 in South Carolina attempted to revise the constitution and
15 canons of the Protestant Episcopal Church in the Diocese of
16 South Carolina on January 26, 2013 and March 9, 2013.
17 Answer, admitted.

18 No. 7, the Episcopal Church in South Carolina used the
19 website <http://www.episcopaldioceseofsc.org> on or after
20 October 17, 2012 and continued to use the website until
21 around July 15, 2013 by directing web visitors to that site
22 when web visitors entered www.episcopalchurchsc.org. Answer,
23 admitted.

24 No. 16, the Episcopal Church in South Carolina operates
25 or has operated a bank account at BB&T in the name "Episcopal

1 Diocese of South Carolina". Answer, admitted.

2 MR. CAMPBELL: Your Honor, if I may have just a second
3 to get set up since I'm back in the gallery.

4 THE COURT: Certainly.

5 MR. CAMPBELL: Your Honor, may it please the Court, for
6 the record, since I've been in the back, Pierce Campbell,
7 Turner Padgett Law Firm in Florence. I represent three
8 plaintiffs in this case, All Saints Protestant Episcopal
9 Church, Incorporated, St. Bartholomew's Episcopal Church and
10 Church of the Holy Cross in Stateburg, South Carolina. If I
11 may call my witness.

12 THE COURT: I was going to ask you to please call your
13 witness.

14 MR. CAMPBELL: Thank you, Your Honor. Ms. Iris Hodge.

15 MR. TISDALE: Your Honor, could we inquire as to what
16 named plaintiff this witness will be testifying for?

17 THE COURT: I gather, for All Saints, St. Bartholomew's
18 and the third church.

19 MR. CAMPBELL: Your Honor, I believe her testimony will
20 speak for herself. I mean, she's not obviously a member of
21 all three churches, so I don't want the record to be
22 confusing as to that. I represent all of those churches, but
23 she is not a part of all of those organizations.

24 THE COURT: I understand. Mr. Campbell, is there a
25 particular parish or a particular party that her testimony

1 will be most relevant to, or do you believe that her
2 testimony will be relevant to all of these matters?

3 MR. CAMPBELL: No, Your Honor, she's a member of
4 All Saints Parish, one of the plaintiffs that I represent.

5 THE COURT: So you believe that her testimony will be
6 most relevant to All Saints?

7 MR. CAMPBELL: I believe so, Your Honor. I don't think
8 there's any -- perhaps it might be relevant to the diocese or
9 trustees in some way, but it would not relate to other
10 parishes.

11 THE COURT: I hope that's helpful.

12 MR. HOLMES: For clarification, she's being called on
13 behalf of All Saints, that party?

14 THE COURT: That is my understanding.

15 MR. HOLMES: Thank you.

16 (Plaintiff's Exhibits AS-1 through AS-9 premarked for
17 identification.)

18 IRIS LANGSTON HODGE,
19 being first duly sworn, testified as follows:

20 MR. TISDALE: Your Honor, just for clarification only,
21 are we moving now to the parish plaintiffs for testimony as
22 opposed to the corporation, diocese corporation?

23 THE COURT: I don't know the answer to that, but we are
24 there at the moment for sure, I think.

25 You may proceed.

1 MR. CAMPBELL: Thank you, Your Honor. May it please the
2 Court?

3 THE COURT: Yes.

4 DIRECT EXAMINATION BY MR. CAMPBELL:

5 Q. Would you state your name, please, for the record.

6 A. My name is Iris Langston Hodge.

7 Q. Ms. Hodge, where do you live?

8 A. I live in Florence, South Carolina.

9 Q. If you don't mind me asking for the record, how old are
10 you?

11 A. I'm 72 years old.

12 Q. What do you do for a living, Ms. Hodge?

13 A. I'm a retired insurance agent. I owned my own agency in
14 Florence, South Carolina.

15 Q. What kind of agency was that?

16 A. It's a Nationwide Insurance Agency.

17 Q. And how long did you have that agency?

18 A. 34 years.

19 Q. Before that did you have another job or career?

20 A. Yes, I did. I lived in Durham, North Carolina, and I
21 worked for Duke Medical School. I was director of their
22 grants and contracts program.

23 Q. And are you a member of a parish?

24 A. Yes, I am.

25 Q. What parish?

1 A. All Saints, Florence.

2 Q. And how long have you been a member at All Saints,
3 Florence?

4 A. About 30 years.

5 Q. And while you've been a member of the parish All Saints,
6 Florence, have you held any positions of leadership or
7 authority?

8 A. Yes, I have.

9 Q. What are those positions?

10 A. I've been a member of the vestry. I've been a senior
11 warden, and I've been a junior warden.

12 Q. And what does the vestry do?

13 A. The vestry is the board of directors of the corporation.

14 Q. Generally what does the vestry do in that function?

15 A. Well, we have meetings monthly to take care of the
16 business of the corporation. We review financial reports and
17 so forth.

18 Q. Thank you. And I believe you said that you were the
19 senior warden; is that correct?

20 A. I have been the senior warden.

21 Q. And when were you last senior warden?

22 A. When was I last? Last year.

23 Q. What does the senior warden do?

24 A. The senior warden is considered to be the rector's
25 warden.

1 Q. And who is the rector?

2 A. Father Karl Burns.

3 Q. Is he the clergy for the parish?

4 A. Yes.

5 Q. And you said you've been the junior warden as well; is
6 that correct?

7 A. I am the junior warden now.

8 Q. Now?

9 A. Mm-hmm.

10 Q. What does the junior warden do?

11 A. The junior warden is considered to be the peoples'
12 warden, and in some instances we handle the buildings and
13 grounds.

14 Q. Okay. And where is All Saints Parish located?

15 A. It's on Cherokee Road in Florence, South Carolina.

16 Q. Is that the same location that it's always been?

17 A. Yes, it is.

18 Q. I'm going to show you a photograph, if we could. Can
19 you see that photograph in front of you?

20 A. Yes, I can.

21 Q. Is that a picture of the property belonging to
22 All Saints Parish?

23 A. Yes, that's our church and our parishioners.

24 Q. Is that an accurate representation of what your parish
25 property looks like?

1 A. Yes, it is. It's Palm Sunday of this year.

2 Q. Approximately how many members does your parish have?

3 A. Approximately 125 to 130.

4 Q. And when was All Saints started?

5 A. All Saints was started back in 1958.

6 Q. And how did it come to begin?

7 A. Florence had begun to grow. St. John's in Florence had
8 some parishioners who thought it was time to plant another
9 church in Florence, and there were about 20 couples who got
10 together to start this church and met for that reason.

11 Q. And you should have some documents there before you. Do
12 you see a document marked as Plaintiff's AS-1? For the
13 record, this is All Saints 1.

14 A. Yes, I do.

15 Q. Are you familiar with that document?

16 A. Yes, I am.

17 Q. What is that?

18 A. It's a certificate of incorporation by the Secretary of
19 the State of South Carolina.

20 MR. CAMPBELL: I move to admit All Saints 1 into
21 evidence.

22 THE COURT: Have you shared that document with the
23 defendants?

24 MR. CAMPBELL: I have, Your Honor.

25 MR. TISDALE: No objection.

1 MS. KOSTEL: No objection.

2 THE COURT: Very well.

3 (Plaintiff's Exhibit AS-1 admitted into evidence.)

4 Q. Ms. Hodge, has All Saints existed as a South Carolina
5 corporation since 1958?

6 A. Yes, they have.

7 Q. And what is the purpose of that corporation?

8 A. It's stated, the purpose of the said proposed
9 corporation is to do all and any -- to do any and all things
10 required to further the work of our Lord Jesus Christ, the
11 Diocese of South Carolina and the service to the individual
12 communities making up the corporate body (as read).

13 Q. Has that purpose ever changed?

14 A. No, it has never changed.

15 Q. And does your corporation have a board of directors?

16 A. Yes, we do.

17 Q. Who is it?

18 A. The vestry.

19 Q. And where are the board of directors' responsibilities
20 set out?

21 A. They're set out in the bylaws of our parish.

22 Q. Does your corporation have any officers?

23 A. Yes, we do.

24 Q. What are they?

25 A. The rector is the president. The senior warden is the

1 vice president, and we have a treasurer and a secretary.

2 Q. And where are those offices set out?

3 A. In the bylaws.

4 Q. Does All Saints Protestant Episcopal Church, Inc. own
5 any real estate?

6 A. Yes, we do.

7 Q. Do you see a document before you marked as All Saints 2?

8 A. I do.

9 Q. Do you know what that document is?

10 A. This is the deed for the property we're located on for
11 Cherokee Road.

12 Q. Approximately how much land is it there on Cherokee?

13 A. It's five, five and a half acres.

14 MR. CAMPBELL: I move to put this deed into evidence as
15 All Saints 2.

16 MR. TISDALE: No objection.

17 MS. KOSTEL: No objection.

18 THE COURT: Very well.

19 (Plaintiff's Exhibit AS-2 admitted into evidence.)

20 Q. Is that the same property that All Saints has operated
21 on since the time it received this deed?

22 A. Yes, it is.

23 Q. What's the date of this deed, for the record?

24 A. November 1958.

25 Q. Does All Saints own any other real estate?

1 A. No, we do not.

2 Q. Over the years has it owned other real estate?

3 A. Yes, we have.

4 Q. Like what type of real estate has it owned?

5 A. We've owned a lot that was given to us, and we have
6 owned a house for the rector.

7 Q. But you don't own those anymore?

8 A. No, we do not.

9 Q. What happened to them?

10 A. We've had the lot for sale for some time and it finally
11 sold. And it was not located conveniently to our property,
12 and so we've had it on the market for a while. The rector's
13 home we sold. Financially, it was not a good situation for
14 our church.

15 Q. There's a document before you marked as AS-3. Do you
16 see that document?

17 A. Yes, I do.

18 Q. Can you identify that document?

19 A. This is a quitclaim deed we received.

20 Q. Who received?

21 A. The rector of our church received this.

22 Q. Who did the rector receive it from?

23 A. It came from our diocese. I don't know what individual
24 mailed it to him.

25 MR. CAMPBELL: I would move to admit All Saints 3 into

1 evidence.

2 THE COURT: Any objection?

3 MR. TISDALE: No objection.

4 MS. KOSTEL: No objection.

5 THE COURT: Very well.

6 (Plaintiff's Exhibit AS-3 admitted into evidence.)

7 Q. Ms. Hodge, do you know what the purpose of this
8 quitclaim deed was?

9 A. If I understand it correctly, the purpose of a quitclaim
10 deed is to show that the person presenting it to the other
11 person is stating if they have any rights to that, that they
12 are giving those rights to someone else, but to my knowledge
13 the diocese has no rights to All Saints Church.

14 Q. And did All Saints Church record this deed?

15 A. Yes, we did.

16 Q. Did there come a time in 2012 where you were aware of a
17 dispute between the Diocese of South Carolina and the
18 national church?

19 A. Yes.

20 Q. And what did you understand that the diocese had done?

21 A. The diocese had disassociated from the national church.

22 Q. And how did you come to learn that?

23 A. Through correspondence from our rector and from the
24 actions at the convention.

25 Q. And did the leadership of All Saints at the time discuss

1 those issues?

2 A. Yes, we did.

3 Q. And did the vestry decide to do anything?

4 A. Yes, we did.

5 Q. What did the vestry decide to do?

6 A. We had a called meeting of the vestry in December and --

7 Q. December of what year?

8 A. December of 2012.

9 Q. Do you see a document before you marked as All Saints 4?

10 A. I do.

11 Q. Can you identify that document?

12 A. This is the email that went out to all the vestry
13 members alerting them of a meeting that would take place on
14 December 6th of 2012.

15 Q. Who's the email from?

16 A. Father Karl Burns.

17 Q. Is that your rector?

18 A. Yes, it is.

19 Q. Who did it go to?

20 A. It went to all members of the vestry, including our -- I
21 believe our treasurer and our secretary as well.

22 Q. Did you receive that email?

23 A. I did.

24 MR. TISDALE: Can she identify her name on this just for
25 record purposes.

1 Q. Ms. Hodge, do you see your name on the address line of
2 this email?

3 A. Yes. It's hodge1941@gmail.

4 MR. TISDALE: Thank you.

5 Q. And there are some documents stapled to this email.
6 What are those documents?

7 A. Yes. I beg your pardon?

8 Q. Do you know why those documents were attached to this
9 email?

10 A. This was the resolution that we were going to consider
11 at our meeting, and Father Karl wanted us to have this to
12 review before the meeting.

13 Q. And does the email on the heading note that there were
14 two attachments to it? Is there a line that says
15 attachments?

16 A. Oh, I'm sorry. Yes, it says attachments.

17 Q. What does that line note?

18 A. It says, All Saints' commitment to continue diocese
19 relationship document and motion of declaratory suit.

20 Q. And are those the two documents that are attached?

21 A. Yes, they are.

22 MR. CAMPBELL: I move to admit All Saints 4 into
23 evidence, please.

24 THE COURT: Any objection?

25 MR. TISDALE: No objection.

1 MS. KOSTEL: No objection.

2 THE COURT: Very well.

3 (Plaintiff's Exhibit AS-4 admitted into evidence.)

4 Q. Ms. Hodge, the meeting that was noticed for December 9,
5 2012, did that meeting actually occur?

6 A. Yes, it did.

7 Q. And were you present at that meeting?

8 A. I was present at that meeting.

9 Q. And what happened at that meeting?

10 A. We discussed the attached form, and the vestry voted to
11 sign this form and make it a part of our records.

12 Q. For the record, if you could clarify, what form did you
13 mean?

14 A. The commitment to continue diocesan relationship.

15 Q. Do you see a document marked AS-5?

16 A. Yes.

17 Q. Can you identify that document?

18 A. That is the document I'm talking about, the commitment
19 to continue diocesan relationship.

20 Q. And did the vestry take action on that document at the
21 December 9, 2012 meeting?

22 A. Yes, we did.

23 Q. In summary, what was the purpose of that resolution?

24 A. The purpose of that resolution was to show our support
25 to Bishop Lawrence and to the Diocese of South Carolina and

1 their decision to disassociate with the national church.

2 Q. Did it have any other purposes?

3 A. It also -- excuse me a minute. It also declared that we
4 would be a part of the declaratory suit.

5 Q. Do you see a document before you marked as AS-5?

6 A. I do.

7 Q. And could you read the last paragraph on the first page
8 that begins with, resolved that we. Do you see that
9 paragraph?

10 A. Yes, I do.

11 Q. Could you read the first four lines of that.

12 A. Okay. Resolved that we, the undersigned vestry and
13 clergy of All Saints Episcopal Church, hereby declare that we
14 no longer are in any relationship with the Episcopal Church,
15 nor are we in union with the Episcopal Church, but the
16 remaining affiliation with the -- remain affiliated with the
17 Protestant Episcopal Church of the Diocese of South Carolina.

18 MR. CAMPBELL: I would move to admit All Saints 5 into
19 evidence.

20 THE COURT: Any objection?

21 MR. TISDALE: No objection.

22 MS. KOSTEL: No objection.

23 THE COURT: Very well.

24 (Plaintiff's Exhibit AS-5 admitted into evidence.)

25 Q. Ms. Hodge, did the vestry sign the document marked as

1 All Saints 5?

2 A. Yes, we did.

3 Q. Did everybody agree with this resolution?

4 A. Yes, we did.

5 Q. Was there any dissent?

6 A. No.

7 Q. Did All Saints Parish decide to take any additional
8 action regarding the diocese's disaffiliation with the
9 national church?

10 A. Yes, we did. After passing this resolution it became
11 evident that we needed to make some changes in our bylaws.

12 Q. And do you see a document marked as AS-6 before you?

13 A. Yes, I do.

14 Q. Were these the bylaws that were in effect at that time?

15 A. Yes, these were.

16 MR. CAMPBELL: I move to admit All Saints 6 into
17 evidence.

18 THE COURT: Any objection?

19 MR. TISDALE: No objection, except they're not signed.
20 I guess she could verify.

21 Q. Ms. Hodge, does All Saints have a practice of signing
22 its bylaws?

23 A. No, unfortunately, we don't.

24 Q. Have you reviewed most of All Saints' corporate
25 documents?

1 A. I have.

2 Q. Are there other significant documents that are unsigned?

3 A. Yes, there are.

4 Q. And are these an accurate depiction of what the bylaws
5 were at the time that the resolution was passed?

6 A. Yes, these came from our official records.

7 MR. CAMPBELL: Thank you. I move to admit All Saints 6
8 into evidence.

9 THE COURT: Does that remove any concerns on behalf of
10 the defendants?

11 MR. TISDALE: No objection.

12 MS. KOSTEL: No objection.

13 THE COURT: Very well.

14 (Plaintiff's Exhibit AS-6 admitted into evidence.)

15 Q. Ms. Hodge, in the bylaws that were then in effect,
16 All Saints 6, is there a section about amendments?

17 A. Yes, there is.

18 Q. What do the bylaws require to be amended?

19 A. Under article 8, is that what you're referring to?

20 Q. If that's the article in amendments, yes, ma'am.

21 A. It says, no alteration or repeal of these bylaws shall
22 be made unless upon motion for that purpose is made at one
23 and referred to in consideration of the subsequent meetings
24 of the congregation (as read).

25 Q. So does that require two meetings of the congregation to

1 change the bylaws?

2 A. Yes, it does.

3 Q. And did the parish have meetings to change the bylaws?

4 A. Yes, we did.

5 Q. And how were those meetings of the congregation noticed?

6 A. The rector of our congregation gave an announcement of
7 these meetings one week prior to the meetings from the
8 chancel.

9 Q. From the where, I'm sorry?

10 A. From the pulpit.

11 Q. Did you use a different word the first time? I just
12 didn't hear you.

13 A. From the chancel.

14 Q. What is the chancel, for the record?

15 A. It's where he speaks and normally delivers his messages.

16 Q. Basically the front of the church?

17 A. Right.

18 Q. And is that what the bylaws require for notice of
19 congregational meetings?

20 A. Yes, that is written in the bylaws.

21 Q. And were you present when he made that announcement?

22 A. Yes, I was.

23 Q. When did he make the announcement?

24 A. He made it one week prior to our first meeting, which
25 was January the 13th.

1 Q. One week before that would have been January 6th?

2 A. Right.

3 Q. What year is this?

4 A. In 2013.

5 Q. And you were present when he made that announcement?

6 A. I was.

7 Q. Did he describe what the purpose of the specially called
8 congregational meeting would be?

9 A. Yes. He described it, and he also indicated that the
10 bylaws would be available if anyone wanted to take them as we
11 left church or if they had any questions.

12 Q. How did he describe what the changes would be?

13 A. He described that the Diocese of South Carolina had --
14 was no longer affiliated with the national church and we were
15 changing our bylaws to take any affiliation from the national
16 church out of it.

17 Q. And copies were provided to people who wanted them?

18 A. They were. Copies were available to people who wanted
19 them. We did not pass them out.

20 Q. But they were available in the church?

21 A. They were.

22 Q. And did the special meetings occur?

23 A. Yes, they did.

24 Q. When was the first meeting?

25 A. The first meeting was January the 13th, 2013.

1 Q. And were you present at that meeting?

2 A. I was.

3 Q. And was a quorum present for that meeting?

4 A. Yes, it was.

5 Q. What do your bylaws require for a quorum?

6 A. 25 people.

7 Q. What happened at the January 13th, 2013 special meeting?

8 A. Father Karl explained all the changes that were to be
9 made in the bylaws. We passed the bylaws out to parishioners
10 to have copies of, and those changes were highlighted so that
11 they could follow as he was explaining them.

12 Q. And was there discussion about the issues, the
13 proposals?

14 A. There was minimum discussion with the parishioners, but
15 we didn't have many questions.

16 Q. Did the people who had questions have the opportunity to
17 voice?

18 A. Yes.

19 Q. Do you see a document before you marked as All Saints 7?

20 A. I do.

21 Q. Can you identify that document?

22 A. This is the minutes from that called meeting that I was
23 referring to.

24 Q. On what date?

25 A. January the 13th, 2013.

1 Q. And are these minutes an accurate representation of what
2 occurred at that meeting?

3 A. Yes, they are.

4 Q. These minutes are unsigned, aren't they?

5 A. Yes, they are.

6 Q. Are most of All Saints' minutes unsigned?

7 A. Yes, they are. It is official. We got it out of our
8 official records, but they were unsigned.

9 MR. CAMPBELL: I move to admit All Saints 7 into
10 evidence.

11 THE COURT: Any objection?

12 MR. TISDALE: No objection.

13 MS. KOSTEL: No objection.

14 THE COURT: Very well. All Saints now 1 through 7 are
15 in evidence without objection.

16 (Plaintiff's Exhibit AS-7 admitted into evidence.)

17 Q. How did the vote at the first meeting on January 13th
18 turn out?

19 A. It was a unanimous vote to accept the changes that were
20 presented.

21 Q. All changes to the bylaws?

22 A. All changes to the bylaws.

23 Q. And were you present at the second meeting?

24 A. I was.

25 Q. When was that?

1 A. The second meeting took place on January the 14th.

2 Q. And has it been noticed also?

3 A. Yes, it has. It was noticed the Sunday before, and it
4 was announced at the -- when he made the first announcement
5 that we would have two meetings.

6 Q. He announced both meetings at the same time?

7 A. He did.

8 Q. And was a quorum present at the January 14th, 2013
9 meeting?

10 A. Yes, a quorum was present at that time.

11 Q. Okay. And what happened at that meeting?

12 A. At that meeting Father Karl asked if there were any
13 other questions and discussions, and to my knowledge there
14 were not, and so we started reconfirming each section that
15 was being changed and for an agreement on the past vote that
16 we had made.

17 Q. For the bylaw amendments?

18 A. Yes.

19 Q. And was there any objection raised by any member of the
20 parish at that meeting?

21 A. No, there was not.

22 Q. Do you see a document marked as All Saints 8?

23 A. I do.

24 Q. And is that -- what is that document?

25 A. This is the minutes of -- official minutes for the

1 called parish meeting on January 14th, 2013.

2 Q. And are those minutes an accurate representation of what
3 occurred at that meeting?

4 A. Yes, it is.

5 Q. And they are unsigned as well, are they not?

6 A. Yes.

7 Q. But are these the official minutes from that meeting?

8 A. These are the official minutes, yes.

9 Q. Kept in All Saints' corporate records?

10 A. Right.

11 MR. CAMPBELL: I move to admit All Saints 8 into
12 evidence.

13 MR. TISDALE: No objection.

14 MS. KOSTEL: No objection.

15 THE COURT: Very well.

16 (Plaintiff's Exhibit AS-8 admitted into evidence.)

17 Q. Ms. Hodge, do you see a document marked as All Saints 9
18 in front of you?

19 A. Yes, I do.

20 Q. What is that document?

21 A. This is the bylaws of All Saints Episcopal Church as
22 they were revised in 2013.

23 Q. At those two meetings you just described?

24 A. Yes.

25 Q. Are these the bylaws that are still in effect today?

1 A. Yes, it is.

2 MR. CAMPBELL: I move to admit All Saints 9 into
3 evidence.

4 THE COURT: Any objection?

5 MR. TISDALE: No objection.

6 MS. KOSTEL: No objection.

7 THE COURT: All Saints 9 is in evidence without
8 objection.

9 (Plaintiff's Exhibit AS-9 admitted into evidence.)

10 Q. Ms. Hodge, does the national church have any right to
11 control the activities of All Saints Parish?

12 A. Not to my knowledge.

13 Q. Has All Saints Parish ever sought permission from the
14 national church to do anything?

15 A. Not to my knowledge.

16 Q. Has the national church ever indicated to All Saints
17 Parish that it needs their consent to do anything?

18 A. Not to my knowledge.

19 Q. Does All Saints have any ongoing relationship with the
20 national church?

21 A. No.

22 Q. Are you familiar with an organization known as the
23 Episcopal Church in South Carolina?

24 A. Yes.

25 Q. And do you understand that to be a diocesan organization

1 of some kind?

2 A. The Episcopal Church of South Carolina?

3 Q. The Episcopal Church in South Carolina.

4 A. In South Carolina. It's my understanding they are not a
5 member of the South Carolina diocese.

6 Q. Do you understand that's an organization led by
7 Bishop VonRosenberg?

8 A. I do.

9 Q. And does All Saints Protestant Episcopal Church,
10 Incorporated have any relationship with that organization
11 known as the Episcopal Church in South Carolina?

12 A. No, we do not.

13 Q. Have you ever had any relationship with them?

14 A. No, we have not.

15 Q. Have you ever participated with them in any fashion?

16 A. No, we have not.

17 Q. Has All Saints used the name All Saints Protestant
18 Episcopal Church, Incorporated or All Saints Parish since its
19 inception?

20 A. We've used our corporate name and we've used the parish
21 name as well.

22 Q. And have you ever given anyone else permission to use
23 that name?

24 A. No, we have not.

25 Q. Have you ever authorized the Episcopal Church in South

1 Carolina to use your name?

2 A. No, we have not.

3 Q. Have you ever authorized the Episcopal Church in South
4 Carolina to list your parish on their website?

5 A. No, we have not.

6 Q. Is All Saints Protestant Episcopal Church, Incorporated
7 a parish of the Episcopal Church in South Carolina?

8 A. No, we are not.

9 Q. Have you ever been?

10 A. No, we have not.

11 Q. Has All Saints Protestant Episcopal Church, Incorporated
12 ever participated in any convention or other meeting called
13 by the Episcopal Church in South Carolina?

14 A. No, we have not.

15 Q. Have you ever sent delegates to any meeting of that
16 organization?

17 A. No, we have not.

18 Q. Did the vestry become concerned about delegates
19 attending meetings of the Episcopal Church in South Carolina?

20 A. Yes, there was some concern about that.

21 Q. What was the concern?

22 A. We didn't have delegates going there and we didn't want
23 any confusion about that.

24 Q. Did you have reason to believe there might be confusion?

25 A. If I remember correctly, we might have been listed

1 somewhere as a church under that, and we have never given
2 permission to have that done.

3 Q. And you were not a church under that organization?

4 A. No, we were not.

5 Q. Did you or did you not want to send delegates to their
6 meeting?

7 A. No, we did not.

8 Q. Did the vestry take official action stating that?

9 A. I'm not sure.

10 Q. Do you recall any resolutions the vestry may have made?

11 A. Yes, we had a resolution. That was at the called vestry
12 meeting.

13 MR. CAMPBELL: I have no further questions, Ms. Hodge.
14 Thank you. If you would answer any questions they may have.

15 THE COURT: First of all, any questions by any of the
16 plaintiffs?

17 MR. RUNYAN: None from the diocese.

18 THE COURT: Very well. All right. And I'm looking
19 for --

20 MS. GOLDING: No questions, Your Honor. Thank you.

21 THE COURT: Very well. Mr. Tisdale.

22 MR. TISDALE: Any chance of taking our lunch break at
23 this time? It would help us with examination, I think.

24 MR. CAMPBELL: Your Honor, Ms. Hodge has to be on the
25 road. She has other responsibilities.

1 THE COURT: We were going to take a break at 1, so if
2 you could proceed, I would appreciate it.

3 MR. TISDALE: Ms. Kostel will go first.

4 THE COURT: Thank you. Just don't let me forget now and
5 go back.

6 CROSS-EXAMINATION BY MS. KOSTEL:

7 Q. Good afternoon, Ms. Hodge.

8 A. Good afternoon.

9 Q. Hi. I'm Mary Kostel for the national church.

10 You testified about parish bylaws, correct?

11 A. Yes.

12 Q. Were you familiar with the bylaws before they were
13 amended in 2010?

14 A. Yes, I was.

15 Q. And so you were aware that before they were amended in
16 2010, they stated that we, meaning All Saints Parish, are
17 bound by the constitution and canons of the national church;
18 is that right?

19 A. Yes, that was in our preamble, I believe.

20 Q. Yes, it was.

21 And are you aware that that was adopted by the parish in
22 1985?

23 A. Yes.

24 Q. Does your -- does All Saints have permission from the
25 Episcopal Church to use its name, the Episcopal Church?

1 A. When you say do we have permission from the Episcopal
2 Church, are you speaking of the national church?

3 Q. Yes.

4 A. No.

5 Q. And does your parish have permission from the national
6 church to use its trademark?

7 A. No.

8 Q. Or its seal, shields or anything like that?

9 A. Not at this time, since we've had the disassociation
10 with the national church.

11 MS. KOSTEL: Okay. That's all my questions. Thank you.

12 THE COURT: Mr. Tisdale.

13 CROSS-EXAMINATION BY MR. TISDALE:

14 Q. Ms. Hodge, just a couple of questions, please.

15 Were there any people in the All Saints Parish,
16 All Saints Episcopal Church, when this dispute in 2012 came
17 up, who did not want to leave the Episcopal Church?

18 A. Not to my knowledge.

19 Q. Okay. And did you have any contact from any outside
20 people, when this dispute arose, to encourage you to leave
21 the Episcopal Church, your parish?

22 A. No.

23 Q. Did not?

24 A. Hm-mm.

25 MR. TISDALE: Thank you.

1 Thank you, Your Honor.

2 THE COURT: Very well. All right. Redirect.

3 MR. CAMPBELL: Yes, Your Honor, very briefly.

4 REDIRECT EXAMINATION BY MR. CAMPBELL:

5 Q. Ms. Hodge, Ms. Kostel asked you if you had permission to
6 use the phrase the Episcopal Church. Do you recall that
7 question?

8 A. Yes.

9 Q. Does All Saints Protestant Episcopal Church use the
10 phrase the Episcopal Church?

11 A. We use All Saints Protestant Episcopal Church,
12 Incorporated. Is that what you mean?

13 Q. The specific phrase, the Episcopal Church, does your
14 parish use that phrase?

15 A. No, we do not.

16 Q. Have you used it at all since 2012?

17 A. No, we have not.

18 Q. Had you stopped using it before 2012?

19 A. Yes, we have.

20 Q. And do you know what the national church's seal is?

21 A. Yes.

22 Q. And does All Saints Parish use the seal of the national
23 church?

24 A. We have before, but we don't use it anymore.

25 Q. Have you used it since 2012?

1 A. No, we have not.

2 Q. On anything?

3 A. No.

4 Q. Had you stopped using it before 2012?

5 A. I'm not sure. I don't think we had, but we did stop at
6 that point.

7 MR. CAMPBELL: Thank you. No further questions.

8 THE COURT: Recross.

9 MS. KOSTEL: Yes, just one question.

10 RE-CROSS-EXAMINATION BY MS. KOSTEL:

11 Q. Ms. Hodge, I think you testified that All Saints since
12 2012 has used the name Protestant Episcopal Church, has used
13 that phrase in its nomenclature; is that right?

14 A. Our corporate name is All Saints Protestant Episcopal
15 Church, Incorporated, and that's what I was referring to.

16 Q. That's the name you have used since 2012; is that
17 correct?

18 A. Well, we haven't changed our corporation name at all.

19 Q. So the answer is yes, correct?

20 A. That's correct.

21 MS. KOSTEL: Thank you.

22 THE COURT: All right. Mr. Tisdale.

23 MR. TISDALE: No, thank you, Your Honor.

24 THE COURT: Very well. You may come down.

25 Call your next witness, please. Does that wrap it up

1 for you right now, Mr. Campbell?

2 MR. CAMPBELL: It does, Your Honor. That's all I have
3 right this minute.

4 THE COURT: Very well. Thank you.

5 MR. MCCARTY: I'm Keith McCarty, Your Honor. I
6 represent Christ St. Paul's Episcopal Church.

7 THE COURT: All right, sir, if you'd please call your
8 witness.

9 MR. MCCARTY: I call Reverend Craige Borrett.

10 (Plaintiff's Exhibits CSP-1 through CSP-16 premarked for
11 identification.)

12 CRAIGE NORTON BORRETT,
13 being first duly sworn, testified as follows:

14 THE COURT: If you'd please state your full name for our
15 record again, and spell your last name.

16 THE WITNESS: Craige Norton Borrett, B-O-R-R-E-T-T.

17 THE COURT: Thank you.

18 Your witness.

19 THE WITNESS: Your Honor, if it matters, my first name
20 is a unique spelling. It's C-R-A-I-G-E.

21 THE COURT: Thank you.

22 DIRECT EXAMINATION BY MR. MCCARTY:

23 Q. Reverend Borrett, would you please tell the Court where
24 you live.

25 A. I live at 5005 Chapel Road, Yonges Island, South

1 Carolina.

2 Q. And obviously you have a position with this church, so
3 why don't you go ahead and tell us what your position is with
4 Christ St. Paul's.

5 A. I'm the rector of Christ St. Paul's.

6 Q. And how long have you had that position?

7 A. Roughly 22 years.

8 Q. What are your job duties in that position?

9 A. It's a small parish. I am pretty much the chief bottle
10 washer and cook. I do a lot of -- tons of things. As a part
11 of my responsibilities, I take spiritual responsibility for
12 the members of the parish, I open and close the parish
13 frequently, I do all -- I do -- I lead and run vestry
14 meetings, I do all the administrative tasks of the church, I
15 just do a lot of stuff.

16 Q. All right. As a rector did you come to learn about the
17 history of Christ St. Paul's?

18 A. I have.

19 Q. Would you tell us a little bit about it.

20 A. We were -- as a parish, we were founded as a part of the
21 church act, and we were one of the -- those parishes that
22 were founded -- I believe it's in the 1700s that we were
23 founded, and we have had a long history, about 300 years
24 since then.

25 Q. You have in front of you a set of documents. The first

1 document which is CSP Exhibit 1, would you please take a look
2 at that?

3 A. Okay.

4 Q. Do you recognize what that document is?

5 A. I believe I do.

6 Q. Can you tell us what that is?

7 A. I believe it's the statutes of the church act itself.

8 Q. And what date is that statute?

9 A. 18th day of December 1708.

10 Q. Is our parish -- Christ St. Paul's Parish mentioned in
11 that statute?

12 A. We were founded at that time as St. Paul's Stono, and
13 yes, we're there.

14 Q. Could you tell the Court what paragraph that is?

15 A. It's a legal document that I'm not positive how to
16 describe it. It appears in paragraph 3 on the third page --
17 or second page.

18 MR. MCCARTY: That's sufficient.

19 Move to admit Exhibit 1 into evidence, Your Honor.

20 THE COURT: Any objection?

21 MR. TISDALE: None, Your Honor.

22 MS. KOSTEL: No.

23 THE COURT: Very well.

24 (Plaintiff's Exhibit CSP-1 admitted into evidence.)

25 Q. Where's the church located?

1 A. Currently we're at 4981 Chapel Road.

2 Q. How many members do we have?

3 A. Our average Sunday attendance, which is how we keep
4 track of it -- because of being a parish for so long, we have
5 lots of members, but our average Sunday attendance is roughly
6 212.

7 Q. Would you tell us a little bit about how the history
8 evolved from 1708 up to the present.

9 A. The church was founded on the water at that time as a --
10 one of the colonial parishes, and with the growth and
11 development and the change of the community, it has had
12 movements throughout those various years in different
13 locations, moving around and having a diverse and rich
14 history throughout the community with different locations.
15 At one point the parish also -- where the Christ Church came
16 was in the 1800's a different part of the geographical parish
17 bounds had Christ Church established, and so it continued to
18 minister and flourish, and at one point they then
19 re-established over in the geographic area where we currently
20 are in the same parish bounds. The chapel of ease had
21 developed and grew as well as its own parish, which would
22 have been St. Paul's, and they merged together about 50 -- 40
23 or 50 years ago.

24 Q. Basically, has this parish continuously existed since
25 1708 in one form or fashion?

1 A. Yes, it has.

2 Q. Has it continuously carried out its religious purposes
3 since then?

4 A. Yes, it has.

5 Q. Would you please look at CSP Exhibit 2 for me, please.
6 Can you identify that document?

7 A. The Articles of Incorporation of a nonprofit corporation
8 in the State of South Carolina.

9 Q. And is this the Articles of Incorporation of Christ
10 St. Paul's?

11 A. Yes, it is.

12 Q. And how did this document come into being in 1997?

13 A. At the request of our treasurer that we should have
14 incorporation within the state, so it was done following his
15 request.

16 Q. And has Christ St. Paul's been continuously incorporated
17 since 1997?

18 A. Yes, we have.

19 MR. MCCARTY: Move to admit Exhibit No. 2 into evidence,
20 Your Honor.

21 THE COURT: All right. Any objection?

22 MR. TISDALE: None, Your Honor.

23 MS. KOSTEL: No objection.

24 THE COURT: Very well. Christ St. Paul's No. 2 is in
25 evidence without objection.

1 (Plaintiff's Exhibit CSP-2 admitted into evidence.)

2 Q. Reverend, does the church have officers?

3 A. Yes, it does.

4 Q. Would you please describe for the Court what those are.

5 A. We have me as the rector. I have a senior warden. I
6 have a junior warden, clerk and a treasurer.

7 Q. And I assume all those officers have duties; is that
8 correct?

9 A. They do.

10 Q. And are the positions and the duties set out in the
11 bylaws?

12 A. Yes, they are.

13 Q. Does the church own any property?

14 A. Yes, we do.

15 Q. Can you tell me basically how many pieces of property
16 the church owns at this time?

17 A. I believe that we currently own five pieces of property.

18 MR. MCCARTY: Your Honor, can I confer with my counsel
19 just for a moment?

20 THE COURT: Sure.

21 (Counsel confer.)

22 MR. MCCARTY: Exhibits 3, 4, 5, 6 and 7, Your Honor,
23 represent deeds to pieces of property owned by the church.

24 MR. TISDALE: And we have no objection.

25 THE COURT: Very well.

1 MS. KOSTEL: No objection.

2 THE COURT: Very well. In other words, you're going to
3 mark each of the deeds numbers 3, 4, 5, 6 and 7?

4 MR. MCCARTY: They're previously marked as that,
5 Your Honor, for the Court, and I didn't know, I just wanted
6 him to testify.

7 (Plaintiff's Exhibits CSP-3 through CSP-7 admitted into
8 evidence.)

9 Q. Is this the property owned by the church?

10 A. Yes, it is.

11 Q. Does the church own any other property?

12 A. Not that I'm aware of.

13 Q. In each of those exhibits -- would you please take a
14 look at the front of each of those exhibits. On each of
15 those you'll find a quitclaim deed; is that correct?

16 A. Correct.

17 Q. Could you please tell us how those quitclaim deeds came
18 into being, to your knowledge?

19 A. To my knowledge the diocese prepared these quitclaim
20 deeds and offered them to us and we accepted them.

21 Q. Did the diocese have any interest in the property owned
22 by Christ St. Paul's?

23 A. We believe not.

24 Q. Did Christ St. Paul's request these deeds?

25 A. We did not.

1 Q. Is there any reason -- when these deeds were received,
2 did you question the diocese or anything?

3 A. We did not.

4 Q. Thank you. Did there come a time when you knew the
5 diocese had a dispute with the national church?

6 A. Yes, there was.

7 Q. Was this issue discussed amongst the church leadership?

8 A. Yes, it was.

9 Q. Church leadership, would you describe who the church
10 leadership was who discussed it?

11 A. Well, it was specifically discussed by the leadership of
12 the parish, the vestry in particular, but it was discussed
13 amongst the greater part of the congregation as well.

14 Q. All right. And did the vestry decide to take action
15 regarding this matter?

16 A. The vestry did.

17 Q. And would you please look at what's been marked as CSP
18 Exhibit No. 8 for me, please.

19 A. Yes.

20 Q. And would you please read the second sentence on the
21 sixth paragraph.

22 A. Beginning with Keith McCarty?

23 Q. Beginning with the word Terry. Want me to show you?

24 A. I think I might not have the right document.

25 Q. Terry (indicating).

1 A. Okay. I have it.

2 Q. Could you read that for the Court?

3 A. Terry made a motion for Keith to write a resolution from
4 the vestry of Christ St. Paul's showing our support to
5 Bishop Lawrence and our intent on staying with the Diocese of
6 South Carolina. The motion was seconded by Francis Toby, and
7 all agreed. Members of the vestry are to sign this
8 resolution.

9 Q. Now, let me back up a little bit.

10 What is the document from which you're reading?

11 A. This is the minutes of the vestry meeting of
12 November 11th, 2012.

13 Q. Was this a regularly called vestry meeting?

14 A. I believe it was.

15 Q. Would you please tell the Court how vestry meetings are
16 regularly called in the church?

17 A. Vestry meetings are held monthly on a regular basis on,
18 I believe it's the second Monday of the month.

19 Q. Is that on a regular basis?

20 A. On a regular basis.

21 Q. All right.

22 MR. MCCARTY: Your Honor, I move to admit Exhibit 8 into
23 evidence.

24 MR. TISDALE: No objection.

25 MS. KOSTEL: No objection.

1 THE COURT: Very well.

2 (Plaintiff's Exhibit CSP-8 admitted into evidence.)

3 Q. Reverend, would you please turn to CSP Exhibit No. 9 for
4 me.

5 A. Yes, sir.

6 Q. Have you got that?

7 A. I do.

8 Q. Have you seen that before?

9 A. Yes, I have.

10 Q. And what is it?

11 A. It's a certificate of corporate resolution authorizing
12 commitment to continue the diocesan relationship.

13 Q. Is this the resolution that grew out of the meeting on
14 the previous exhibit?

15 A. I believe it is.

16 Q. Was this document signed?

17 A. Yes, it is.

18 Q. Would you please turn to page 2 and 3 and take a look at
19 the signatures.

20 A. Yes, sir.

21 Q. And who are the members -- or are you familiar with the
22 members who signed it?

23 A. Yes, I am.

24 Q. Who are they?

25 A. They're the wardens and the members of the vestry and

1 myself.

2 Q. And what's the date that they signed?

3 A. There's some various dates that they actually signed.

4 Most are signed on December 2nd. One vestry member failed to
5 sign and came back on December 27th and signed.

6 Q. What was the purpose of the resolution?

7 A. The purpose of the resolution was for the vestry to
8 declare our commitment to remain with the Diocese of South
9 Carolina, I believe.

10 Q. Any other purpose?

11 A. To declare that we are no longer in any way affiliated
12 with or in union with the Episcopal Church, but to remain
13 affiliated with the Protestant Episcopal Church in the
14 Diocese of South Carolina, not in union with the national
15 church.

16 Q. All right. Did you make the congregation aware of the
17 vestry's actions?

18 A. Yes, I did.

19 Q. How did you do it?

20 A. In various formats. We notified them by newsletter. We
21 told them on Sunday morning and other informal ways as well.

22 Q. Would you please take a look at CSP Exhibit No. 10,
23 please.

24 A. I have it.

25 Q. Do you recognize that document?

1 A. I do.

2 Q. What is it?

3 A. This is the copy of our weekly newsletter, and it's
4 January 6th through the 12th edition in which it is a
5 letter from -- on the cover page is a letter from me
6 explaining the actions of the vestry and to begin to give
7 notice for a special called meeting of the vestry of the
8 congregation.

9 Q. Okay. Who gets this document?

10 A. All members of the parish and lots of other people
11 throughout the community and probably the country.

12 MR. MCCARTY: Move to admit CSP Exhibit No. 10 into
13 evidence.

14 THE COURT: Any objection?

15 MR. TISDALE: What is it?

16 MR. MCCARTY: It's the bulletin.

17 MR. TISDALE: No objection.

18 MS. KOSTEL: No objection.

19 THE COURT: Very well.

20 (Plaintiff's Exhibit CSP-10 admitted into evidence.)

21 Q. Did the parish take any other actions regarding the
22 diocese disassociating with the national church?

23 A. As a result of that, in that same document I just was
24 referring to, we announced the actions as a result of that
25 that would require some changes to our bylaws so that they

1 would be in conformity with where we were, and so we made
2 notice of those at our upcoming congregational meeting.

3 Q. Look back at Exhibit No. 10, the second page -- I'm
4 sorry, to the first page.

5 A. Yes, sir.

6 Q. Read the paragraph midway down the thing. It's marked
7 with an asterisk.

8 A. Mm-hmm.

9 Q. Would you please read that for the Court.

10 A. As a result of the vestry's action, we will need to make
11 a couple of changes to our bylaws so that they will be in
12 conformity with our new status. These two changes will be
13 presented at our upcoming annual congregational meeting
14 Sunday, January 13th.

15 Q. Would you flip to the second page of that document, and
16 on the second box down there, would you please identify that
17 for the Court.

18 A. This is from our Sunday morning bulletin, and it is also
19 giving notice of the annual congregational meeting Sunday,
20 January 13th.

21 Q. Would you please look at what's been previously provided
22 to you as CSP Exhibit No. 11. Can you please identify that
23 document.

24 A. These are the bylaws of Christ St. Paul's Church.

25 Q. Were those the bylaws that were in effect at the time

1 that you noticed the meeting mentioned in the previous
2 exhibit?

3 A. I believe they are.

4 Q. Okay. Now, it's been brought up before, so let's clear
5 it up. These bylaws aren't signed at the end, are they?

6 A. No, they are not.

7 Q. Are there other documents that have been put forward in
8 the corporation that are submitted without signature?

9 A. That is correct.

10 Q. Thank you. Would you please turn to Article No. 9.
11 It's on the last page.

12 A. Yes, sir.

13 Q. And read Section 2.

14 A. Section 2 of Article 9, it says, no alteration,
15 amendment, addition or repeal of these bylaws shall be made
16 unless the same be proposed in writing at a congregational
17 meeting and adopted by a majority vote at the meeting in
18 which it is proposed and further adopted by a two-thirds vote
19 at the next congregational meeting to be held no sooner than
20 30 days following the first meeting.

21 Q. You may have already mentioned, but were these the
22 bylaws that were in effect at the time that you noticed them
23 for the congregational meeting regarding the changes to these
24 bylaws?

25 A. I believe they were.

1 MR. MCCARTY: I move to admit Exhibit No. 11 into
2 evidence, Your Honor.

3 THE COURT: Any objection?

4 MR. TISDALE: No objection.

5 MS. KOSTEL: No objection.

6 THE COURT: Very well.

7 (Plaintiff's Exhibit CSP-11 admitted into evidence.)

8 Q. We've already talked about notice. Would you please
9 look at Exhibit No. 12 for me, please. I'm sorry, look back
10 at Exhibit No. 10 and ignore No. 12.

11 A. 10, you say?

12 Q. Yes.

13 A. Yes, sir.

14 MR. MCCARTY: For the record, it's the same exhibit,
15 Your Honor. I don't know how it got in there twice, but it's
16 there. So there's going to be a hole in my exhibits.

17 Q. That exhibit's already been admitted and we've already
18 talked about it. On the second page, is that the notice of
19 the congregational meeting?

20 A. Yes, sir.

21 Q. Was it stated that the bylaws in these two documents --
22 was it stated that a change in the bylaws was going to be
23 contemplated?

24 A. Yes.

25 Q. Did the annual meeting occur?

1 A. Yes, it did.

2 Q. Was a quorum present?

3 A. It was.

4 Q. What is a quorum in the Church of Christ St. Paul's,
5 according to the bylaws?

6 A. I believe according to the bylaws it's either 12 members
7 or 50 percent.

8 Q. Did the congregation vote to change the bylaws?

9 A. They did.

10 Q. What was the vote?

11 A. Unanimously.

12 Q. Would you please look at CSP Exhibit No. 13.

13 A. I have it.

14 Q. Can you identify that document for me?

15 A. The annual parish meeting minutes, I believe, is what
16 these are.

17 Q. What's the date on those?

18 A. January 13th of 2013.

19 Q. Would you please read paragraph No. 2 for me out of
20 that, the second paragraph.

21 A. I see. Bill Kirby made a motion to approve the two
22 bylaw changes to Article 1 and Article 9. The motion was
23 seconded by Terry Jenkins, and the congregation approved.

24 Q. Was there any objection to the proposed changes?

25 A. There was none.

1 Q. Did the parish schedule another vote on the proposed
2 changes?

3 A. We did.

4 Q. Would you please look at CSP Exhibit No. 14 for me,
5 please. What is that document that you're looking at?

6 A. This is another weekly newsletter of the parish.

7 Q. What's the date on that?

8 A. February 3rd through the 9th of 2013.

9 Q. And would you please turn to the second page of that
10 document? And in the box on the left, can you read that.
11 Tell us what that is.

12 A. It's an announcement announcing a special congregational
13 meeting. It reads, there is a special congregational meeting
14 scheduled for Sunday, February 17th at 9:15 a.m. This
15 meeting is for the second vote on the bylaw changes approved
16 at our annual meeting.

17 Q. Was the date of this proposed meeting outside the 30-day
18 window required by the bylaws?

19 A. It was greater than. Just to make sure I understand
20 your question, yes, it was more than 30 days.

21 MR. MCCARTY: Your Honor, I move to admit Exhibit No. 14
22 into evidence.

23 MR. TISDALE: No objection.

24 MS. KOSTEL: No objection.

25 THE COURT: Very well.

1 (Plaintiff's Exhibit CSP-14 admitted into evidence.)

2 Q. All right. Would you please look at -- first off, was
3 the meeting held?

4 A. Yes, it was.

5 Q. And please tell us what happened at the meeting with
6 regard to the change to the -- with regard to the proposed
7 change to the bylaws.

8 A. They were presented to the congregation and voted and
9 unanimously approved.

10 Q. Would you please look at CSP Exhibit No. 15 for me.
11 Could you tell us what that document is?

12 A. These are the minutes from that meeting.

13 Q. And, please, if you can summarize for the Court what
14 those minutes say.

15 A. It was -- the congregation met for the purpose of a
16 second vote on those proposed bylaw changes, and they were
17 made -- a motion was made and they were changed.

18 Q. Was there a quorum present?

19 A. There was.

20 Q. And what was the vote?

21 A. Unanimously again.

22 MR. MCCARTY: Thank you. Move to admit Exhibit No. 15
23 into evidence, Your Honor.

24 THE COURT: Any objection?

25 MR. TISDALE: No.

1 MS. KOSTEL: No objection.

2 THE COURT: Very well. Exhibit 15 in evidence without
3 objection.

4 (Plaintiff's Exhibit CSP-15 admitted into evidence.)

5 Q. Please look at CSP Exhibit No. 16 for me, would you,
6 Reverend?

7 A. Yes, sir.

8 Q. And can you identify for us what that document is?

9 A. I believe these are the current bylaws of the parish as
10 approved at that February 17th, 2013 meeting.

11 Q. Do they reflect the changes that were voted upon at the
12 two meetings by the congregation?

13 A. I believe I do. I believe we changed -- made a change
14 in Article 1 and a change in Article 9.

15 Q. That's correct.

16 Now, this document isn't signed either. Is that in
17 comport with the practices of the corporation Christ
18 St. Paul's?

19 A. It is.

20 Q. Does Christ St. Paul's have any relationship with the
21 national church as it's been described here in the last
22 couple of days?

23 A. We do not.

24 Q. Are you aware of any funds that Christ St. Paul's has
25 received from the national church?

1 A. I'm not aware of any.

2 Q. Does Christ St. Paul's use any of the marks of the
3 national church?

4 A. Do not.

5 Q. Is there any relationship at all between Christ
6 St. Paul's and the national church?

7 A. None that I'm aware of.

8 Q. Do you or any member of the vestry or the officers of
9 Christ St. Paul's attend conventions of the national church?

10 A. No, we do not.

11 Q. Have any members of your congregation been authorized --
12 not in the vestry, not in the leadership -- to attend
13 conventions of the national church?

14 A. I believe one of my assistants was elected and attended
15 a national convention many years -- several years ago.

16 Q. Was it before he was admitted, before he was a member of
17 Christ St. Paul's?

18 A. I believe it was while he -- well, he was just a
19 part-time assistant.

20 Q. All right. Have you ever authorized the use of the
21 parish name by the national church?

22 A. No, we have not.

23 Q. Have you ever authorized the national church to include
24 your name on its website?

25 A. No, we have not.

1 MR. MCCARTY: If you'll please give me about 30 seconds,
2 Your Honor?

3 THE COURT: Yes, sir.

4 Q. You mentioned one of your assistants was elected to go
5 to the national convention. Did Christ St. Paul's elect him?

6 A. No, we did not.

7 Q. Who did?

8 A. The Diocese of South Carolina.

9 MR. MCCARTY: Thank you. I don't have any further
10 questions. Please answer any questions for the other side.

11 THE COURT: Very well. Any questions, Mr. Tisdale?

12 MR. TISDALE: I think I'll defer to Ms. Kostel for the
13 time being.

14 THE COURT: Ms. Kostel.

15 CROSS-EXAMINATION BY MS. KOSTEL:

16 Q. Good afternoon, Father Borrett.

17 A. Good afternoon.

18 Q. Mary Kostel for the Episcopal Church. I think you've
19 figured that out by now.

20 A. Yes, ma'am.

21 Q. For the national church.

22 MS. KOSTEL: I'm sorry, Your Honor.

23 Q. You testified about parish bylaws?

24 A. Yes, ma'am.

25 Q. And you were on the vestry?

1 A. Yes, ma'am.

2 Q. So you're familiar with the bylaws as they existed
3 before they were amended, the bylaws you spoke about?

4 A. Yes, ma'am.

5 Q. And is it true that before they were amended, with the
6 documents that you looked at today, they stated that this
7 parish is organized for the purpose of operating an Episcopal
8 Church pursuant to the constitution and canons of the
9 Episcopal Church in the Diocese of South Carolina and of the
10 Episcopal Church in the United States now in force or as
11 hereafter may be adopted?

12 A. Yes, ma'am.

13 Q. And are you aware that those were adopted in 1980?

14 A. I believe they were.

15 Q. And, Father Borrett, were you also familiar with the
16 vestry handbook of your parish?

17 A. No, ma'am. We don't -- I've never used one.

18 Q. Are you aware that your parish produced a vestry
19 handbook?

20 A. I discovered that in my deposition.

21 Q. Okay. So before your deposition you had never seen it?

22 A. I had never used it or seen it, no, ma'am.

23 Q. Now, have you reviewed it since your deposition?

24 A. I have not. It was Monday.

25 Q. Yes, I'm painfully aware of that fact.

1 Okay. Father Borrett, since your parish -- since 2012
2 when your parish was no longer part of the Episcopal Church,
3 has it received permission from the Episcopal Church to use
4 any of the Episcopal Church's names?

5 MR. RUNYAN: Judge, I would interpose an objection to
6 this line of questioning. The Episcopal Church has a
7 counterclaim, actually several, Counts 2, 3, 4, 5 and 6 for
8 trademark infringement of a variety of types. It is only
9 against individual counterclaim defendants, and those
10 defendants are listed in paragraphs 5 and 6 -- 4 and 5 of
11 that counterclaim, and they are the same 24 to 36 individuals
12 that the Court previously denied a motion to add. So there
13 is no claim, and therefore no relevance, to a line of
14 questioning against the parish about infringement.

15 MS. KOSTEL: Well, we will move to amend our pleadings
16 to conform to the evidence, Your Honor, but this evidence is
17 certainly relevant to a trademark claim.

18 MR. RUNYAN: I think the point is that that's why I'm
19 making the objection.

20 THE COURT: That's the way that happens. In other
21 words, once -- if the issue is tried by consent, then the
22 motion could be made to amend for the purpose of conforming
23 to the evidence. That's why counsel is objecting at this
24 point, to keep that from happening. But let me mention, it's
25 1:00, and so even with that objection, if you don't mind,

1 after lunch let me know, perhaps this issue has arisen at
2 some other point, and if so I certainly want to hear that.

3 MS. KOSTEL: Thank you, Your Honor.

4 MR. MCCARTY: Your Honor, out of an abundance of
5 caution, I can't remember whether I moved to admit the final
6 Exhibit No. 16 into evidence.

7 MR. TISDALE: We don't have any objection to it even if
8 you didn't.

9 THE COURT: And there you have it.

10 (Plaintiff's Exhibit CSP-16 admitted into evidence.)

11 THE COURT: All right. We will reconvene at 2:30. And
12 see you all then. Have a good lunch.

13 (Lunch recess held.)

14 THE COURT: Ready to proceed?

15 MR. MCCARTY: Yes, Your Honor.

16 MS. KOSTEL: Yes, Your Honor.

17 THE COURT: Thank you. Cross-examination.

18 MS. KOSTEL: Good afternoon, Your Honor.

19 THE COURT: Good afternoon.

20 MS. KOSTEL: I think where we left off, Your Honor, was
21 a question about relevance.

22 THE COURT: Exactly.

23 MS. KOSTEL: Right, and the question that I had asked
24 Father Borrett was whether his parish, Christ St. Paul's, had
25 permission since 2012 to use the Episcopal Church's names and

1 marks. And I will now tell the Court how that question's
2 relevant.

3 First, the plaintiffs have alleged in their complaint
4 that the church has used Christ St. Paul's name in a variety
5 of ways that violates their rights, and any evidence that
6 Christ St. Paul's has used the Episcopal Church's name with
7 the Episcopal Church's permission would go to prove that. In
8 fact, the mark is the Episcopal Church's to license.

9 Should I continue?

10 THE COURT: Yes, because Mr. Runyan will probably speak
11 to that, so, yes, absolutely, let me hear all of your
12 grounds.

13 MS. KOSTEL: Secondly, the Episcopal Church in its
14 counterclaims contended that the parish -- for all the
15 parishes, but including Christ St. Paul's, that the property
16 held by -- or for the parish is held and may only be used for
17 the mission and benefit of the church and its subordinate
18 Episcopal Church diocese.

19 I think we all agree that a license to use a trademark
20 or any other kind of intellectual property is personal
21 property. And so to the extent that property has been
22 misused or not used as permitted, then that's part of our
23 claim against the parish.

24 THE COURT: And that language was general?

25 MS. KOSTEL: Yes.

1 THE COURT: It wasn't separated out?

2 MS. KOSTEL: Correct. It's all property.

3 THE COURT: Got it.

4 MS. KOSTEL: Yes.

5 THE COURT: And all parishes?

6 MS. KOSTEL: Correct.

7 THE COURT: Got it.

8 All right. Yes, Mr. Runyan.

9 MR. RUNYAN: First of all, what she just mentioned is
10 not anywhere in the counts that allege infringement. The
11 infringement counts are Count 2, 3, 4, 5 and 6, and they all
12 very specifically recite the name, the shield of the
13 Episcopal Church, and they make counterclaims against
14 individual defendants.

15 Secondly, as to the property, I will check on it, but my
16 recollection is that was not generic to all property. It was
17 real property and personal property. I don't remember it
18 breaking out or saying marks or intellectual property or
19 using those kind of words. Very clearly, however, in
20 Counts 2, 3, 4, 5 and 6 they're clearly talking about
21 intellectual property, and those are the only counts that are
22 alleged against -- involving trademarks, and they're alleged
23 against individuals. So I still don't think the issue is
24 joined by consent.

25 MS. KOSTEL: Mr. Runyan hasn't discussed the issue of

1 our defense now that it's relevant to our defense. And, in
2 fact, just because the church has made specific claims under
3 trademark and then made a more general claim regarding all
4 property does not mean that the property in the larger more
5 general claim does not include the property rights in the
6 more specific claims.

7 THE COURT: Yes, sir.

8 MR. RUNYAN: Well, it's an issue of whether we've
9 consented to this and whether the issues were joined in the
10 beginning, and they've not been joined on that issue from the
11 get-go as to the parishes, or the diocese for that matter.
12 And so if the question is, is it relevant, I don't think it's
13 relevant based on the pleadings that have been filed, and we
14 certainly have not consented to that. So I'll look at the
15 section that she's mentioned in terms of the property --
16 generic claims of property, but I don't think it mentions
17 marks or shields.

18 THE COURT: And the other issue, of course, is that it
19 is a defense to the claim by the parish that its rights and
20 its marks have been infringed.

21 MR. RUNYAN: I'm lost on that one I'm afraid. As I
22 understood it, the claim by the parishes were that certain
23 people or entities were using their marks, the parish marks.
24 I'm not sure how the defense you used our marks is a defense
25 to that. The question is we didn't -- their defense is, no,

1 we didn't use your marks, not, well, you used ours, because
2 they didn't allege you used ours -- I really don't get that.
3 I still don't get the relevance of that.

4 THE COURT: I understand.

5 MS. KOSTEL: Would you like to hear further?

6 THE COURT: No, but can you point him to the paragraph
7 that you just referred to me where it talked about the
8 general property issues?

9 MS. KOSTEL: Yes. It's the answer and counterclaims of
10 the Episcopal Church, not the Episcopal Church in South
11 Carolina.

12 THE COURT: I got it.

13 MR. RUNYAN: Could you give me a paragraph?

14 THE COURT: Is that a general answer, or is it the
15 counterclaim?

16 MS. KOSTEL: It's the answer and counterclaim. So we're
17 now in the counterclaim section.

18 THE COURT: And give me a paragraph.

19 MS. KOSTEL: Well, the paragraph numbers started over
20 with each count, Your Honor. I'll give you a page number
21 which is in Count 7, and Count 7 is as to All Saints, but all
22 the other parish counts -- which each parish then had a
23 following count where they incorporated by reference all the
24 claims. So I'll show you what's in All Saints.

25 THE COURT: Got it.

1 MR. RUNYAN: Could you give me a page number?

2 MS. KOSTEL: Yes, page 60.

3 MR. SMITH: Your Honor, to the extent that this issue
4 affects our client as well, I'd just like to point out in our
5 pleading, on page 54 of our pleading, our 11th defense is
6 non-ownership of trademarks. Plaintiffs are not the true and
7 lawful owners of the names, marks and trademarks in which
8 they claim ownership, and therefore they are entitled to no
9 relief.

10 Our 13th defense, authorization, any such use of the
11 defendants of the said names and marks is and has been lawful
12 and authorized use for which plaintiffs are entitled to no
13 relief.

14 And our 14th defense, invalidity, the rights and
15 interests claimed by the plaintiffs and the names and marks
16 that are subject of the complaint are and were derived by
17 plaintiffs wholly from and through defendants, and the rights
18 and interests therein claimed by plaintiffs against
19 defendants are therefore invalid and do not constitute a
20 basis for the relief sought.

21 THE COURT: Okay. That's it. That claim would
22 encompass it. Okay. Yes.

23 MS. KOSTEL: Okay. Thank you. So let me try to see if
24 I get the question right now.

25 Q. Father Borrett, does Christ St. Paul's have permission

1 from the Episcopal Church to use any of its official names or
2 marks?

3 A. Not that I'm aware of.

4 Q. And does Christ St. Paul's represent itself to the
5 public as an Episcopal Church or a Protestant Episcopal
6 Church?

7 A. No, ma'am.

8 Q. Did it before 2012?

9 A. Maybe a long time ago, but not for quite some time.

10 Q. But its name is Christ St. Paul's Episcopal Church?

11 A. Correct, that's its legal incorporated name.

12 Q. Father Borrett, I think you testified that the parish
13 decided to remain with the diocese in its decision to
14 withdraw from the Episcopal Church, correct?

15 A. I believe so.

16 Q. And is it your understanding that it was your
17 parish's -- the reason for the departure was a dispute with
18 the church over matters of doctrine?

19 MR. MCCARTY: Objection, Your Honor. I think that's
20 been covered already today. Aren't we staying away from
21 ecumenical matters?

22 MS. KOSTEL: Well, I'm not actually inquiring into the
23 actual doctrine, Your Honor.

24 THE COURT: If you will recall, there was some doctrinal
25 differences, and on the basis of those doctrinal differences,

1 then the following things happened. That's been testified to
2 by plaintiff, so you certainly can go into that, yes.

3 Overruled.

4 MS. KOSTEL: Right.

5 Q. So is that --

6 A. Phrase your question again, please.

7 Q. Yes, okay. You testified earlier today that your parish
8 joined with the diocese to withdraw itself from the national
9 church for reasons of doctrinal dispute with the Episcopal
10 Church; is that correct? I'm sorry, you testified that you
11 withdrew from the Episcopal Church along with the diocese,
12 correct?

13 A. We voted, as I believe, to remain with the diocese.

14 Q. Right, with the understanding that the diocese was
15 withdrawing from the Episcopal Church, correct?

16 A. That they had perhaps.

17 Q. Had perhaps or had?

18 A. They had, that they had.

19 Q. Right. And was it your parish's understanding that it
20 was joining with the diocese in that action for reasons
21 because of a doctrinal dispute with the Episcopal Church?

22 MR. MCCARTY: Renew my objection, Your Honor.

23 THE COURT: I have no problem with the question. One of
24 the concerns, and I apologize, the Episcopal Church being the
25 national church --

1 MS. KOSTEL: I'm sorry.

2 THE COURT: No, that's how you've studied this case.
3 It's okay. But because I've done that, I don't know that
4 it's exactly fair to the witness. It's the national church
5 and the corporate diocese, stayed with the corporate diocese
6 and withdrew from the national church.

7 MS. KOSTEL: Okay.

8 THE COURT: Because I've sort of done that.

9 MS. KOSTEL: Should I try it again?

10 THE COURT: I almost want to do it for you.

11 MR. MCCARTY: I don't know that she needs any help,
12 Your Honor.

13 THE COURT: That's because you all know it. You've
14 studied it. You've lived it, and here I've imposed different
15 terms, and that's a little confusing for witnesses and a
16 little bit unfair, but the -- and just again, for everyone's
17 edification, we have a corporate diocese and we've sort of
18 adopted the corporate diocese, which is the -- the corporate
19 diocese plaintiff -- I think we called it plaintiff diocese,
20 corporate diocese, and the unincorporated or the defendant
21 diocese or the unincorporated association, and then we've
22 talked about the national church. And I have sort of imposed
23 those terms.

24 THE WITNESS: I'm clear.

25 THE COURT: Okay. Good.

1 MS. KOSTEL: Okay. So I'll try again?

2 THE COURT: Go for it.

3 Q. I'm not going to restate what you testified to earlier,
4 that's in the record, but is it your understanding that your
5 parish -- your parish's decision to remain with the diocese
6 in its withdrawal from the national church was a result of a
7 doctrinal dispute with the Episcopal Church?

8 A. In thinking about the question and thinking back on when
9 this all took place, I might -- well, no, I would say that
10 for Christ St. Paul's the issue was the treatment of our
11 bishop and the actions that were taken against the bishop
12 that led us to take the actions that we did, ultimately took.

13 Q. And was Christ St. Paul's ever forced by the Episcopal
14 Church to do anything that it disagreed with doctrinally?

15 A. Can you give me some parameters what you mean by forced?

16 Q. Required.

17 A. None that I can think of off the top of my head.

18 Q. Okay. Thank you.

19 A. You're welcome.

20 Q. Sorry for the painful questioning.

21 A. No problem.

22 THE COURT: Mr. Tisdale.

23 MR. TISDALE: Just a few questions, Your Honor.

24 THE COURT: All right.

25 CROSS-EXAMINATION BY MR. TISDALE:

1 Q. Good afternoon, Father.

2 A. Good afternoon.

3 Q. You've perhaps covered this earlier, but have you served
4 on the standing committee?

5 A. Yes, sir, I have.

6 Q. And what were those dates?

7 A. I don't recollect.

8 Q. Well, was it in --

9 A. It was under Bishop Salmon's tenure as the bishop.

10 Q. It was under Bishop Salmon's tenure?

11 A. Yes, sir.

12 Q. Were you president of the standing committee at one
13 point?

14 A. Yes, sir, I was.

15 Q. When was that?

16 A. I'm thinking it might have been -- I really -- can I --
17 I don't want to guess. I don't honestly remember. It's been
18 several years.

19 Q. Was it in Bishop Salmon's tenure?

20 A. Yes, sir.

21 Q. Episcopate?

22 A. Yes, sir.

23 Q. And have you served on the trustees of the corporation,
24 the plaintiff's corporation?

25 A. I currently serve on the trustees.

1 Q. You do. When did you begin that service?

2 A. I believe it was five and a half years ago.

3 Q. Which would take us about to '09, 2009?

4 A. I think that sounds right.

5 Q. All right. During the time looking back to when you
6 were on the standing committee --

7 A. Yes, sir.

8 Q. -- do you recall or can you tell us whether or not the
9 standing committee ever conducted what are now called in the
10 minutes executive sessions?

11 A. I don't recall any.

12 Q. Don't recall any?

13 A. No, sir.

14 Q. Now, with regard to what you've heard testimony about,
15 I'm sure, and others, quitclaim deeds --

16 A. Yes, sir.

17 Q. -- you said that Christ St. Paul's received one or two
18 or maybe more?

19 A. Five, I believe.

20 Q. Five?

21 A. Yes, sir.

22 Q. And you accepted them all and recorded them, I presume?

23 A. Yes, sir.

24 Q. All right. Was that during the time that you were a
25 member of the board of trustees or the corporation's

1 trustees?

2 A. I believe it was.

3 Q. Trustee corporation?

4 Did you know anything as trustee or outside of being a
5 trustee, but were the trustees informed in advance about
6 these quitclaim deeds?

7 MS. GOLDING: Your Honor, I'm going to make an
8 objection. There are no trustees. It is a corporation that
9 has a board of directors, but the board of directors is not
10 known as -- a member is not known as a trustee.

11 MR. TISDALE: I'm not going to stand on the question
12 that way because she's objected, but the trust statute itself
13 says they hold property in trust, so I would assume that
14 makes them trustees, but I can get around that.

15 THE COURT: Okay.

16 Q. Father, when you were serving on the board of the
17 corporate -- corporate board of the trustees, were you ever
18 informed that the other corporation, the Protestant Episcopal
19 Church in South Carolina, was preparing to issue quitclaim
20 deeds?

21 A. Because I was sort of on both ends, I guess, I don't
22 recall --

23 Q. What do you mean both ends?

24 A. I was receiving one as a director of a church, so I had
25 information about receiving one.

1 Q. I mean, before you received it.

2 A. I had information it was coming, so I had that, but I
3 don't recall -- I can't recall if and when I heard anything
4 as a trustee about it.

5 Q. Do you recall anything about quitclaim deeds coming up
6 at a meeting, to use your words, when you were trustee?

7 A. I do not remember that.

8 Q. Okay. And were you involved in any way, shape or form
9 in the decision to grant quitclaim deeds?

10 A. No, sir.

11 Q. Were you informed about it by anyone outside of the
12 corporate trustees?

13 A. No.

14 Q. All right.

15 MR. TISDALE: One second, Your Honor, please.

16 THE COURT: Sure.

17 Q. In connection with your -- well, first let me ask you
18 this: Where does the standing committee get its authority to
19 do what it does?

20 A. I believe from the constitution and canons of the
21 Diocese of South Carolina.

22 Q. Exactly. And when you were on the standing committee
23 and the corporation representing the trustees, did you have
24 an opportunity to study the constitution and canons of the
25 diocese?

1 A. When you say and, I didn't serve on them at the same
2 time.

3 Q. No, I understand that.

4 A. Okay. I never spent a lot of time studying them, no,
5 sir.

6 Q. You have not?

7 A. No, sir.

8 Q. But you are familiar with the fact that you just
9 testified to, that whatever authority it has it gets from the
10 constitution and canons, the standing committee.

11 A. That's what I believe, yes.

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

13 Thank you, Father.

14 THE COURT: Redirect.

15 MS. GOLDING: Well, this is not redirect.

16 THE COURT: That's right. Exactly. That's right.

17 MS. GOLDING: I'm asking a question on behalf of
18 St. Luke's.

19 EXAMINATION BY MS. GOLDING:

20 Q. Reverend Borrett, isn't it a fact that any and all
21 disputes that your parish had with either the national church
22 or the defendant association was because your parish did not
23 believe that these defendants had any property rights in your
24 parish's property? Isn't that not correct?

25 A. That is correct.

1 Q. And is it a fact the major factor is the property issue?

2 MS. KOSTEL: Objection, leading. She's leading the
3 witness.

4 THE COURT: Yes.

5 MS. GOLDING: Well, this is not my witness. I assume
6 that I can cross-examine anyone that's not my witness,
7 Your Honor. I believe that's appropriate.

8 MR. MCCARTY: Your Honor, I think the objection to
9 leading was mine, and I didn't make it. He's my witness.

10 THE COURT: Well, here's where I am. Under the rules,
11 the rule with regards to cross-examination is are your
12 interests aligned. And --

13 MS. GOLDING: I'll withdraw, Your Honor.

14 THE COURT: All right. I'm not absolutely positively
15 certain, having heard their testimony, that they're on
16 absolutely all fours with your client.

17 MS. GOLDING: I agree.

18 THE COURT: Having said that, they are a whole lot
19 closer to you than they are them.

20 MS. GOLDING: I agree. Thank you, Your Honor.

21 THE COURT: Yes.

22 Q. With respect to any disputes that your parish had with
23 the defendants in this case, what was the primary dispute?

24 A. The primary dispute, the ownership of our property.

25 Q. Was there ever any time the position of your parish that

1 the national Episcopal Church had any ownership interest in
2 your parish's property?

3 A. None that I'm aware of.

4 MS. GOLDING: Thank you.

5 THE COURT: Anybody else have questions?

6 MR. MCCARTY: Nothing from me, Your Honor.

7 THE COURT: Very well. Do we have another parish?

8 MR. OXNER: Your Honor, we call Richard Bruce.

9 MR. TISDALE: Which parish?

10 MR. OXNER: Christ the King, Waccamaw.

11 (Plaintiff's Exhibits CTK-1 through CTK-19 premarked for
12 identification.)

13 RICHARD PATTEN BRUCE, III,
14 being first duly sworn, testified as follows:

15 THE COURT: Your witness, Mr. Oxner.

16 MR. OXNER: May it please the Court.

17 THE COURT: Yes, sir.

18 MR. OXNER: For the court reporter's benefit,
19 Harry Oxner of Oxner & Stacy for Christ the King, Waccamaw.

20 DIRECT EXAMINATION BY MR. OXNER:

21 Q. Mr. Bruce, where do you live?

22 A. I live in Pawleys Island, South Carolina.

23 Q. How long have you lived there?

24 A. For 12 years.

25 Q. And how old are you?

1 A. I am 60.

2 Q. Are you married?

3 A. I am.

4 Q. How long have you been married?

5 A. 31 years.

6 Q. And can you give us your education, please, sir.

7 A. I have a bachelor of industrial management from
8 Georgia Tech.

9 Q. And where do you currently work?

10 A. I work for The Litchfield Company.

11 Q. What do you do for The Litchfield Company?

12 A. I am a real estate broker.

13 Q. And how long have you been employed as a real estate
14 broker?

15 A. Nine years.

16 Q. Do you attend a church in Pawleys Island?

17 A. I do.

18 Q. What church do you attend?

19 A. Christ the King, Waccamaw.

20 Q. How long have you been attending Christ the King,
21 Waccamaw?

22 A. Since it was incorporated in June of 2010.

23 Q. Were you one of the original incorporators?

24 A. Yes, I was.

25 Q. I'm going to ask you to look at Exhibit 1. That's

1 Christ the King Exhibit 1.

2 MR. TISDALE: Do you have another copy?

3 Thank you.

4 Q. Is this the original Articles of Incorporation, a copy
5 of it?

6 A. Yes, it is.

7 Q. Does it have your signature on it?

8 A. It does.

9 Q. And does it list you as senior warden?

10 A. It does.

11 Q. And what is the name that this corporation was
12 incorporated under?

13 A. Christ the King, Waccamaw.

14 Q. Does it anywhere in this document refer to TEC or TECSC?

15 A. No.

16 Q. Does it refer to the Diocese of South Carolina?

17 A. No.

18 MR. OXNER: Your Honor, at this time we'd like to
19 introduce CTK No. 1 into evidence.

20 MR. TISDALE: No objection.

21 MS. KOSTEL: No objection.

22 THE COURT: All right. Very well. CTK Exhibit 1 is in
23 evidence without objection.

24 (Plaintiff's Exhibit CTK-1 admitted into evidence.)

25 THE COURT: And just with regards to plaintiffs, I just

1 anticipate that you all know these documents, and if you all
2 have any objection you all -- I'm not looking to you, and I'm
3 uncomfortable not doing that, but I figure you all know them.
4 So if I need to, you all need to speak up.

5 MR. RUNYAN: Understood, Your Honor.

6 Q. Did Christ the King, Waccamaw get its own EIN number
7 when it incorporated?

8 A. We did.

9 Q. Since the original incorporation in 2010 were the
10 Articles of Incorporation by Christ the King, Waccamaw ever
11 amended?

12 A. No.

13 Q. And that's until today, still have not been amended?

14 A. No.

15 Q. Does the corporation of Christ the King, Waccamaw have a
16 board of directors?

17 A. Yes.

18 Q. And who would that be?

19 A. The vestry.

20 Q. Did it have any corporate officers?

21 A. Yes.

22 Q. What type of corporate officers did it have?

23 A. The senior warden, junior warden, secretary, I mean
24 clerk and treasurer.

25 Q. And did the vestry ever adopt any bylaws?

1 A. Yes, we did.

2 Q. When did the bylaws get adopted? September 13, 2010?

3 A. Yes.

4 Q. Okay. I'd ask you to refer to Exhibit No. 6. Is that
5 the original bylaws that was executed by the vestry and you
6 as senior warden?

7 A. Yes, it was. Yes, it is.

8 MR. OXNER: At this time, Your Honor, we'd like to enter
9 into evidence CTK No. 6.

10 THE COURT: Any objection?

11 MR. TISDALE: None, Your Honor.

12 MS. KOSTEL: No objection.

13 THE COURT: Very well.

14 (Plaintiff's Exhibit CTK-6 admitted into evidence.)

15 MR. TISDALE: Can we see a copy of the bylaws?

16 MR. OXNER: Yes. You all were given all of these, but
17 here you go.

18 MR. TISDALE: Thank you very much.

19 Q. When you adopted these bylaws, this was done by the
20 vestry?

21 A. Yes.

22 Q. And at that time you all adopted the proper procedures
23 for future changes to the bylaws?

24 A. We did.

25 Q. And that's under, it appears to be, Section 15.1 and

1 Section 15.2 of the original bylaws?

2 A. I believe that is right. Yes.

3 Q. And what was the procedure for changing the bylaws in
4 the future if you ever wanted to change them?

5 A. They could be changed by a two-thirds vote of the vestry
6 or majority vote of the congregation with proper notice to
7 both.

8 Q. And did you, in fact, ever change the bylaws since 2010?

9 A. Yes, we did.

10 Q. And how many times did you change it?

11 A. Four.

12 Q. I'd ask you to look at CTK No. 7, and if you could tell
13 us what that is?

14 A. It is the Christ the King, Waccamaw vestry minutes dated
15 April 21st, 2012.

16 Q. And what did the vestry do at that time?

17 A. Well, as it relates to the bylaws?

18 Q. Yes, sir.

19 A. The rector brought up that the previous bylaws needed to
20 be amended and reflect some changes, and copies of those
21 changes were passed out, notice given to the vestry for a
22 vote at the next vestry meeting.

23 Q. And what was the major change in that set of bylaws?

24 A. To remove references to the national church from our
25 bylaws.

1 MR. OXNER: At this time I'd like to enter into evidence
2 Exhibit No. 7.

3 THE COURT: Any objection?

4 MR. TISDALE: No objection.

5 MS. KOSTEL: No objection.

6 THE COURT: Very well.

7 (Plaintiff's Exhibit CTK-7 admitted into evidence.)

8 Q. Did the vestry have a subsequent meeting to adopt those
9 bylaws?

10 A. Yes, we did.

11 Q. And is that contained in CTK No. 8?

12 A. Yes.

13 Q. And was a proper notice given of the change to the
14 bylaws?

15 A. Yes, both to the vestry and to the parish.

16 Q. And was the bylaws approved by the vestry at that time?

17 A. Yes.

18 Q. And how did that vote go?

19 A. Unanimous.

20 MR. OXNER: At this time we'd like to enter into
21 evidence Exhibit 8.

22 MR. TISDALE: No objection.

23 MS. KOSTEL: No objection.

24 (Plaintiff's Exhibit CTK-8 admitted into evidence.)

25 Q. At that time when you changed the bylaws, why did you

1 take out any reference to TEC?

2 A. Well, we had never paid any money to the national church
3 nor received any, and we've -- I, quite frankly, don't know
4 why we had it in there. It was an oversight when we did the
5 original bylaws.

6 Q. And did the original bylaws require you to conform to
7 any canons or constitution of TEC?

8 A. No.

9 Q. Did it require you to accede to the constitution and
10 canons of the Diocese of South Carolina?

11 A. Yes.

12 MR. OXNER: In just an abundance of caution, I believe
13 we've already entered the bylaws of Exhibit No. 9 into
14 evidence, but I want to make sure we have.

15 THE COURT: I was up to 8.

16 MR. OXNER: Up to 8?

17 THE COURT: Yes, sir.

18 MR. OXNER: Now we're at 9.

19 THE COURT: Any objection to No. 9?

20 MR. TISDALE: No objection.

21 MS. KOSTEL: No objection.

22 THE COURT: Very well.

23 (Plaintiff's Exhibit CTK-9 admitted into evidence.)

24 Q. All right. I now ask you to look at Exhibit No. 10.
25 Appears to be vestry minutes held on October 25th, 2012?

1 A. Yes.

2 Q. All right. And can you tell us, in regards to the
3 bylaws, what the vestry was attempting to do?

4 A. Our rector proposed that we make changes to the church's
5 bylaws and they were attached and are to be voted upon at the
6 next meeting on November 15th.

7 Q. And what were those changes? Were they more
8 housekeeping changes?

9 A. Yes, they were housekeeping, vestry, tenure, things like
10 that.

11 MR. OXNER: At this time we'd like to enter into
12 evidence Exhibit No. 10.

13 MR. TISDALE: No objection, Your Honor.

14 MS. KOSTEL: No objection.

15 THE COURT: Very well.

16 (Plaintiff's Exhibit CTK-10 admitted into evidence.)

17 Q. I want to ask you to look at CTK No. 11. Is this where
18 the vestry met on November 15, 2012, and did they approve the
19 bylaw changes that were discussed the month prior?

20 A. They did unanimously, yes.

21 MR. OXNER: Now we'd ask that CTK No. 11 be entered into
22 evidence.

23 MR. TISDALE: No objection, Your Honor.

24 MS. KOSTEL: No objection.

25 THE COURT: Very well.

1 (Plaintiff's Exhibit CTK-11 admitted into evidence.)

2 Q. Now I ask you to look at Exhibit No. 12, bylaws adopted
3 November 15th, 2012. Are you familiar with that document?

4 A. Yes.

5 Q. Can you tell us what occurred in that bylaw change?

6 A. These are where the housekeeping items were taken care
7 of, the vestry and some proxies in terms of annual meeting
8 and voting, et cetera.

9 Q. So those are the actual bylaws that were adopted?

10 A. Yes.

11 Q. After the notices we've already talked about in
12 Exhibit No. 10 and 11?

13 A. Yes.

14 MR. OXNER: We'd ask that Exhibit No. 12 be entered into
15 evidence.

16 THE COURT: Any objection?

17 MR. TISDALE: No objection.

18 MS. KOSTEL: No objection.

19 THE COURT: Very well.

20 (Plaintiff's Exhibit CTK-12 admitted into evidence.)

21 Q. If you'll please look at Exhibit No. 13.

22 Is that minutes of the vestry meeting held on
23 January 14, 2013?

24 A. Yes, it is.

25 Q. And are those minutes discussing further changes to the

1 bylaws?

2 A. Yes.

3 Q. And what type of changes were being done for this
4 change?

5 A. We were looking to remove references to the diocese from
6 our bylaws.

7 Q. And did the vestry meet again on January 27, 2013?

8 A. Well -- yes. Yes, they did.

9 Q. And at that time, did they approve the changes to the
10 bylaws?

11 A. Yes.

12 MR. OXNER: Your Honor, we'd like to enter into evidence
13 Exhibits No. 13 and 14.

14 THE COURT: 13 and 14.

15 MR. TISDALE: No objection.

16 MS. KOSTEL: No objection.

17 THE COURT: Very well.

18 (Plaintiff's Exhibits CTK-13 and CTK-14 admitted into
19 evidence.)

20 Q. If you'll look at Exhibit No. 15, which are the actual
21 bylaws that were changed, is that right?

22 A. Yes.

23 Q. And now we see that there is no accession clause in
24 these bylaws at all; is that right?

25 A. That's correct.

1 Q. And that's what the major change was there?

2 A. Yes.

3 MR. OXNER: Your Honor, we'd like to introduce into
4 evidence CTK No. 15.

5 MR. TISDALE: No objection.

6 MS. KOSTEL: No objection.

7 THE COURT: Very well.

8 (Plaintiff's Exhibit CTK-15 admitted into evidence.)

9 Q. If you'll look at Exhibit No. 16, we've got a series of
10 meetings that occurred and they're discussing, once again,
11 some bylaw changes; is that right?

12 A. Yes.

13 Q. And are they more housekeeping changes?

14 A. Yes.

15 MR. OXNER: Your Honor, we'd ask that CTK No. 16 be
16 entered into evidence.

17 THE COURT: Any objection?

18 MR. TISDALE: None, Your Honor.

19 MS. KOSTEL: No objection.

20 THE COURT: Very well.

21 (Plaintiff's Exhibit CTK-16 admitted into evidence.)

22 Q. And if you'll look at No. 17, CTK No. 17, is this where
23 the vestry approved those changes to the bylaws?

24 A. Yes, unanimously.

25 MR. OXNER: Your Honor, we'd enter into evidence Exhibit

1 No. 17.

2 THE COURT: Any objection?

3 MR. TISDALE: None, Your Honor.

4 MS. KOSTEL: No objection.

5 THE COURT: Very well.

6 (Plaintiff's Exhibit CTK-17 admitted into evidence.)

7 Q. If you'll please look at Exhibit No. 18, is that the
8 actual changes that were completed that we just discussed?

9 A. Yes.

10 Q. And they were adopted on January 20, 2014?

11 A. That is correct.

12 Q. Is that the last time that the bylaws have been changed
13 for Christ the King?

14 A. Yes.

15 Q. And have all these changes to the bylaws been done in
16 accordance with your governing documents?

17 A. Yes, they have.

18 Q. Has the procedure for the changes in the bylaws ever
19 been changed themselves, meaning the two-thirds vestry
20 approval and the notice provisions?

21 A. No.

22 Q. Has Christ the King, Waccamaw ever asked TEC or TECSC
23 for permission to change its bylaws?

24 A. No.

25 Q. Did it ever ask permission to incorporate Christ the

1 King, Waccamaw?

2 A. No.

3 Q. Is there any provision in the bylaws or articles that
4 prohibits any particular changes to the articles or bylaws?

5 A. No.

6 Q. Or ask anybody for -- do they need to have permission to
7 change those articles or bylaws?

8 A. No.

9 Q. Does Christ the King, Waccamaw own any property?

10 A. Yes.

11 Q. What type of property does it own?

12 A. We own just under seven acres with a 4,000 square foot
13 building on it on Highway 17 in Pawleys Island.

14 Q. And when did they purchase that property?

15 A. We purchased that in September of 2011.

16 Q. If you'll look at Exhibit No. 2, is that the deed --

17 A. I'm sorry, 2010. Excuse me.

18 Q. -- is that the deed that you all received when buying
19 that piece of property?

20 A. Yes.

21 Q. Does it in any way reference TEC or TECSC in that deed?

22 A. No.

23 Q. Or the diocese, for that matter?

24 A. No.

25 Q. And what name is the titled real estate in?

1 A. Christ the King, Waccamaw.

2 Q. And nowhere in this deed does it even say the word
3 Episcopal?

4 A. No.

5 MR. OXNER: At this time we'd like to enter into
6 evidence CTK No. 2.

7 MR. TISDALE: Without objection, Your Honor.

8 MS. KOSTEL: No objection.

9 THE COURT: Very well.

10 (Plaintiff's Exhibit CTK-2 admitted into evidence.)

11 Q. Does the Christ the King, Waccamaw have a mortgage?

12 A. We do.

13 Q. How much is that mortgage?

14 A. That mortgage currently is, I believe, \$550,000.

15 Q. Has TEC or TECSC ever helped pay the mortgage?

16 A. No.

17 Q. For that matter, has Christ the King, Waccamaw ever
18 received any money from TEC or TECSC for anything?

19 A. No.

20 Q. Did Christ the King, Waccamaw ever request permission
21 from TEC or TECSC to mortgage their property?

22 A. No.

23 Q. Talking about the money to and from TEC and TECSC, has
24 Christ the King, Waccamaw ever given or caused to give any
25 money to TEC or TECSC?

1 A. No.

2 Q. Has Christ the King, Waccamaw ever instructed the
3 Diocese of South Carolina not to give money to TEC or TECSC?

4 A. Yes.

5 Q. When did it do that?

6 A. On an annual basis.

7 Q. Since when?

8 A. Since June 7th of 2010.

9 Q. That was when you incorporated?

10 A. Yes.

11 Q. Has Christ the King, Waccamaw ever given or caused to be
12 given any money to TEC's charities such as the World Relief
13 Fund or United Thank Offering?

14 A. No.

15 Q. If you'll please look at Exhibit No. 3, is that a
16 quitclaim deed in to Christ the King, Waccamaw from the
17 Protestant Episcopal Diocese of South Carolina?

18 A. Yes.

19 Q. Did you all receive that quitclaim deed from the
20 Protestant Diocese of South Carolina?

21 A. We did.

22 Q. Did you record that quitclaim deed?

23 A. We did.

24 Q. What was your understanding as to what you were getting
25 in that quitclaim deed from the Protestant Diocese of South

1 Carolina?

2 A. Well, we felt, obviously, from the titled property, that
3 the diocese did not have any authority over that property,
4 but their rights were given to us, if those existed, in this
5 document.

6 MR. OXNER: Your Honor, at this time we would like to
7 introduce CTK Exhibit No. 3.

8 THE COURT: Any objection?

9 MR. TISDALE: We don't have any objection to that.

10 MS. KOSTEL: No objection.

11 THE COURT: Very well, it's in.

12 (Plaintiff's Exhibit CTK-3 admitted into evidence.)

13 Q. Thank you. If you'll now look at CTK Exhibit No. 19,
14 can you identify that document for us?

15 A. That is minutes from our vestry meeting on January 27th,
16 2013.

17 Q. And did it have a resolution in it?

18 A. It did. It had two resolutions.

19 Q. And what were you resolving in that resolution?

20 A. We were resolving our allegiance and support to the
21 bishop and the diocese, and our clear understanding, we were
22 not aligned with the national Episcopal Church.

23 MR. OXNER: We'd like to enter into evidence CTK No. 19.

24 MR. TISDALE: No objection.

25 MS. KOSTEL: No objection.

1 THE COURT: Very well.

2 (Plaintiff's Exhibit CTK-19 admitted into evidence.)

3 Q. Did Christ the King, Waccamaw ever have a sign saying
4 the Episcopal Church welcomes you?

5 A. No.

6 Q. Have you ever had any relationship with -- you, I mean
7 Christ the King, Waccamaw, ever had any relationship with
8 TECSC?

9 A. No.

10 Q. Did your parish or anyone from your parish go to TECSC's
11 convention?

12 A. No.

13 Q. Have you ever considered your parish to be a member of
14 TECSC?

15 A. No.

16 MS. KOSTEL: Excuse me, could we clarify what's meant by
17 TECSC? Thank you.

18 MR. OXNER: In most of the documents it's been referred
19 to as TECSC, which is the Episcopal Church, South Carolina.

20 MS. KOSTEL: You're not referring to the plaintiff
21 diocese?

22 MR. OXNER: No.

23 MS. KOSTEL: Okay. Thank you.

24 THE COURT: Unincorporated --

25 MR. OXNER: Unincorporated association of the Episcopal

1 Church, South Carolina.

2 THE COURT: Got it.

3 MR. TISDALE: In South Carolina.

4 MR. OXNER: In South Carolina.

5 Q. Has Christ the King, Waccamaw ever given any authority
6 to use its name to TECSC?

7 A. No.

8 Q. Has it ever given any authority to use its name or post
9 any materials on TECSC's website?

10 A. No.

11 Q. Does Christ the King have any relationship with TEC at
12 this moment?

13 A. No.

14 Q. Has it ever had a relationship with TEC since it was
15 formed in 2010?

16 A. No.

17 MR. OXNER: Madam Court Reporter, just for abundance of
18 safety, do you have 19 exhibits recorded?

19 THE REPORTER: There's 4 and 5 we don't have.

20 THE COURT: Have you all seen 4 and 5?

21 MR. TISDALE: What are they?

22 MR. OXNER: Minutes of the meeting and then the approval
23 of one of the bylaws.

24 MS. KOSTEL: No objection.

25 MR. TISDALE: We don't have any objection to 4 and 5.

1 MS. KOSTEL: No objection.

2 THE COURT: Very well.

3 (Plaintiff's Exhibits CTK-4 and CTK-5 admitted into
4 evidence.)

5 THE COURT: The intention is that Exhibits 1 through 19
6 are in evidence; is that correct?

7 MR. OXNER: That's correct.

8 MR. TISDALE: We agree.

9 THE COURT: Very well. All right. Now, I'm going to
10 begin on this side. Any questions from any of the other
11 plaintiffs? Yes.

12 MS. GOLDING: Thank you, Your Honor.

13 DIRECT EXAMINATION BY MS. GOLDING:

14 Q. With respect to your parish, what was your parish's
15 position as to the national church's claim that it had an
16 interest in your parish property or that it has an interest
17 in your parish property?

18 A. We felt like that was not true.

19 Q. And to your knowledge what interest, if any, does the
20 national church have in any of your parish property, whether
21 real or personal?

22 A. None.

23 Q. Is that dispute over the property a major factor with
24 respect to your parish's position?

25 A. Yes.

1 MS. GOLDING: No further questions, Your Honor.

2 THE COURT: All right. Now, cross-examination.

3 Did you have something?

4 MR. RUNYAN: I just have a quick clarification. The
5 relevance of the inquiry into the shield has to do with the
6 defense of the Episcopal Church in South Carolina. That's
7 what I understand the ruling to have been.

8 THE COURT: That's correct.

9 CROSS-EXAMINATION BY MS. KOSTEL:

10 Q. Okay. Good afternoon, Mr. Bruce.

11 A. Good afternoon.

12 Q. A couple of questions to follow up on your testimony.

13 You testified that Christ the King got its own EIN,
14 employer identification number, correct?

15 A. Yes.

16 Q. What did it do to ascertain its tax exempt status, do
17 you know?

18 A. Well, our understanding was that, as a church in South
19 Carolina, we are automatically tax exempt.

20 Q. Right. Did you ever issue a letter, for example, to a
21 parishioner or anyone else reflecting that their donation was
22 tax exempt, as often happens with tax exempt organizations?

23 A. I don't know.

24 Q. I believe that you testified that Christ the King never
25 had a relationship with the Episcopal Church, with the

1 national church, since the parish was formed in 2010; is that
2 correct?

3 A. Right.

4 Q. Okay. Are you aware that Christ the King is listed as a
5 parish in union with the diocese in the 2010 journal of the
6 diocesan convention? In union with the diocese.

7 A. Could you repeat that again to make sure?

8 Q. Sure. Are you aware that Christ the King was listed as
9 a parish in union with the Diocese of South Carolina?

10 A. I wasn't aware of that, no.

11 Q. And were you aware that Christ the King is listed in the
12 2010 Journal of the Diocese of South Carolina as having sent
13 deputies to that meeting of that convention, the diocesan
14 convention?

15 A. I'm not aware of that, but we did.

16 Q. Oh, you did?

17 A. Yes, I mean, we sent --

18 Q. You're aware of the fact, not that it's in the journal?

19 A. That's right.

20 Q. Fair enough. Then will you concede that Christ the King
21 was in union with the Diocese of South Carolina in 2010?

22 A. Yes.

23 Q. And are you aware that in 2010 the constitution of the
24 Diocese of South Carolina required a parish to, before it was
25 admitted into union with the convention, to provide evidence

1 of its willingness to conform to the constitution of the
2 Protestant Episcopal Church in the United States?

3 A. I was not aware of that.

4 Q. Do you know if Christ Church made that evidence?

5 A. I'm sorry?

6 Q. Do you know if Christ Church provided that evidence that
7 it was required to provide?

8 A. I don't know. I was not at that convention.

9 Q. Mr. Bruce, you testified about a vestry resolution in
10 January 2013 to withdraw or to, I guess, nullify its union
11 with the Episcopal Church, correct?

12 A. We didn't have a relationship with the Episcopal Church.

13 Q. Well --

14 A. It was to clarify -- I'm sorry, finish your question.

15 Q. Well, if I represented to you, and I think I can find
16 them, that vestry minutes indicate that -- of January 27,
17 2013 indicate that there was a resolution passed that the
18 parish was, quote, no longer in the Episcopal Church, nor are
19 we in union with the Episcopal Church.

20 A. Okay.

21 Q. And that was, in fact, adopted in January of 2013?

22 A. Yes.

23 Q. Okay. Was the reason that the vestry decided to adopt
24 that resolution because of doctrinal differences with the
25 Episcopal Church?

1 A. It was in support of our bishop and our diocese, and the
2 way that our bishop had been treated was the major basis for
3 that.

4 Q. The way the --

5 A. And our show of support.

6 Q. The way the bishop had been treated by?

7 A. By the national church.

8 MS. KOSTEL: Nothing further. Thank you.

9 THE COURT: All right. Now Mr. Tisdale.

10 MR. TISDALE: Just one second, please, Your Honor.

11 THE COURT: All right.

12 MR. TISDALE: Your Honor, we don't have any questions of
13 this witness.

14 THE COURT: All right. Very well. Redirect.

15 MR. OXNER: None, Your Honor.

16 THE COURT: Any other questions from the plaintiffs?

17 All right. You may come down. All right. Next.

18 (Plaintiff's Exhibits SAMP-1 through SAMP-29 premarked
19 for identification.)

20 LEWIS BLAKE MIDDLETON, JR.,

21 being first duly sworn, testified as follows:

22 THE COURT: Would you state your name again, please, for
23 us for the record.

24 THE WITNESS: Yes, ma'am, Lewis Blake Middleton, Jr.

25 THE COURT: All right. Your witness.

1 MS. JOHNSON: Your Honor, for the benefit of the Court
2 and court reporter, my name is Oana Johnson, and I represent
3 St. Andrew's, Mount Pleasant and St. Andrew's, Mount Pleasant
4 Land Trust, and I am with George Kefalos.

5 DIRECT EXAMINATION BY MS. JOHNSON:

6 Q. Mr. Middleton, you already stated your name for the
7 record, so that's not necessary anymore. Tell me, would you
8 be able to give us a brief history of St. Andrew's, Mount
9 Pleasant?

10 A. Yes.

11 Q. And before we go with that, where do you live?

12 A. I live at 171 Oak Point Landing Drive, Mount Pleasant,
13 South Carolina.

14 Q. How long have you lived there?

15 A. Since 1999.

16 Q. And you work for St. Andrew's, Mount Pleasant, correct?

17 A. That's correct.

18 Q. And you are the church administrator?

19 A. That's correct.

20 Q. How long have you been the church administrator?

21 A. Since 1999.

22 Q. How long have you been a member of St. Andrew's, Mount
23 Pleasant?

24 A. Since 1983.

25 Q. As a member of the church and before you became the

1 administrator have you held any leadership positions?

2 A. Yes.

3 Q. What were those?

4 A. I served on vestry two different terms.

5 Q. Can you tell us a little bit about your duties as the
6 church administrator?

7 A. I don't preach or teach, but everything else I manage to
8 have my hands on.

9 Q. Very well. Tell me how St. Andrew's, Mount Pleasant was
10 started.

11 A. It was -- the congregation was part of the Christ Church
12 Mount Pleasant that met in the old village of Mount Pleasant,
13 and they grew to the size where they wanted to build a
14 building and have their own clergy person.

15 Q. Where's the church located?

16 A. 440 Whilden Street.

17 Q. I'm going to show you a couple of pictures of the
18 church. That, can you see it?

19 A. That's the historic church on our property.

20 Q. Do you know how many -- about how many members the
21 church has?

22 A. Around 3200.

23 Q. You have a book of exhibits, I believe?

24 A. I don't.

25 MS. JOHNSON: May I approach the witness, Your Honor?

1 THE COURT: Of course, certainly.

2 Q. I'm going to ask you to refer your attention to Exhibit
3 No. 1. Can you identify that document?

4 A. That's the original certificate of incorporation from
5 1954.

6 Q. Is that when St. Andrew's, Mount Pleasant was first
7 incorporated?

8 A. Correct.

9 Q. And is that when it separated from Christ Church?

10 A. Correct.

11 MS. JOHNSON: I'm going to move to admit Exhibit 1 into
12 evidence.

13 MR. TISDALE: We have no objection.

14 MS. KOSTEL: No objection.

15 THE COURT: Got it. No objection. 1 is in.

16 (Plaintiff's Exhibit SAMP-1 admitted into evidence.)

17 Q. Can you tell us what the purpose of that document was?

18 A. The purpose of that document was to transact all
19 business and handle all matters connected with the Episcopal
20 Church of the parish of St. Andrew's Church, Mount Pleasant.

21 Q. Has St. Andrew's existed as a corporation since 1954?

22 A. Yes.

23 Q. Has it continued carrying its business since 1954?

24 A. That's correct.

25 Q. Tell me, does this corporation have a board of

1 directors?

2 A. It does.

3 Q. And who is it?

4 A. The vestry of the church.

5 Q. And how is that -- where is that set out?

6 A. That's in the bylaws and the corporate charter.

7 Q. Does the corporation have officers?

8 A. Yes.

9 Q. And where is that set out?

10 A. In the same documents.

11 Q. Who are the corporate officers?

12 A. The chairman, the senior warden, the junior warden,
13 secretary and treasurer.

14 Q. Who has the power to hold property and conduct business
15 on behalf of the corporation?

16 A. The vestry.

17 Q. What gives the vestry that power?

18 A. The same bylaws and corporate charter.

19 Q. To your knowledge, has St. Andrew's, Mount Pleasant
20 always followed its bylaws with regard to conducting its
21 business?

22 A. Yes.

23 Q. Does St. Andrew's Church own any property, any real
24 estate?

25 A. No.

1 Q. Who owns property, the property where the church
2 conducts its business?

3 A. St. Andrew's Church, Mount Pleasant Land Trust.

4 Q. Can you tell me when that trust was created?

5 A. June of 2009.

6 Q. Can you explain how the property was transferred to the
7 trust?

8 A. By deed.

9 Q. Who uses the property?

10 A. The church does.

11 Q. And does the church compensate the trust for the use of
12 the property?

13 A. Yes, it does.

14 Q. Can you direct your attention to Exhibit No. 8.

15 A. That's the trust document for St. Andrew's Church, Mount
16 Pleasant Land Trust.

17 Q. Tell me a little bit about the purpose of creating this
18 trust.

19 A. The purpose was to begin to prepare for campus planning
20 and expansion and our concerns with having -- being adjacent
21 to the historic district in Mount Pleasant, which was across
22 the street, and the historic church was the only piece on our
23 side of the street. And so we were trying to separate the
24 historic church from the rest of the church so we would not
25 necessarily have to deal with all the historic district

1 restrictions and also to put the property in a position that
2 the banks would be satisfied with to be able to lend us money
3 for future construction.

4 MS. JOHNSON: I move to introduce Exhibit 8 into
5 evidence.

6 THE COURT: Exhibit 8?

7 MS. JOHNSON: Yes.

8 THE COURT: Any objection?

9 MR. TISDALE: No, Your Honor.

10 MS. KOSTEL: No objection.

11 THE COURT: Exhibit 8 is in evidence without objection.

12 (Plaintiff's Exhibit SAMP-8 admitted into evidence.)

13 Q. Could you direct your attention to Exhibit 9.

14 A. Okay.

15 Q. Can you identify that document?

16 A. This is a mortgage the church holds from the trust.

17 Q. And that was entered into when?

18 A. June of 2009.

19 Q. It was at the time that the property was transferred to
20 the land trust, correct?

21 A. That's correct.

22 MS. JOHNSON: I move to admit Exhibit No. 9 into
23 evidence, Your Honor.

24 MR. TISDALE: No objection.

25 MS. KOSTEL: No objection.

1 (Plaintiff's Exhibit SAMP-9 admitted into evidence.)

2 THE COURT: Why don't you just stop for just a moment.
3 This might be a good time to take a very short break to just
4 let you show all the documents and then let you all read all
5 of the documents with regards to this witness, and then we'll
6 just put them all in at the same time. Looks like there's
7 not any objection, so maybe we can just do that.

8 MS. JOHNSON: Thank you, Your Honor.

9 THE COURT: Very well. And I tell you what, it's about
10 4:00 and I want to get as much in as we can, so let's see if
11 we can take 15 minutes.

12 (Recess held.)

13 THE COURT: Have you had an opportunity to show the
14 documents?

15 MS. JOHNSON: Yes, ma'am.

16 THE COURT: What numbers are they that you showed to
17 counsel?

18 MS. JOHNSON: I showed them 1 through 29.

19 THE COURT: And were there any objections?

20 MR. TISDALE: Your Honor, I'm happy to report there's no
21 objection.

22 THE COURT: 1 through 29.

23 MS. KOSTEL: No objection, Your Honor.

24 THE COURT: Thank you so much. We will go much faster
25 then. Thank you.

1 MS. JOHNSON: Thank you.

2 THE COURT: Yes, thank you.

3 (Plaintiff's Exhibits SAMP-1 through SAMP-29 admitted
4 into evidence.)

5 Q. Mr. Middleton, did the trust obtain a 501(c)(3) status?

6 A. Yes, it did.

7 Q. And that is identified in Exhibit 11, which is in
8 evidence?

9 A. That's correct.

10 Q. Can you direct your attention to Exhibits 28 and 29.

11 A. 28 and 29?

12 Q. Yes.

13 A. Okay. These are deeds for the property in Goose Creek
14 on our Goose Creek campus.

15 Q. And that is Exhibit 28?

16 A. Yes.

17 Q. And Exhibit 29?

18 A. These are the deeds for our property in Mount Pleasant.

19 Q. And St. Andrew's, Mount Pleasant Land Trust owns all
20 that property?

21 A. Correct.

22 Q. Can you describe the property at St. Andrew's, Mount
23 Pleasant?

24 A. We -- on the corner of Whilden and Venning Street, on
25 one side of Venning Street is our historic church.

1 Q. The one we just showed?

2 A. That's correct. Then behind it is a larger ministry
3 center building with two other buildings attached to it, and
4 then behind that is a day school. Then across the street
5 from Venning is our parking lot.

6 Q. Very well. What about the property in Goose Creek,
7 describe that a little bit.

8 A. There's a church there, there's a converted house that
9 acts as parish hall, and a parking area.

10 Q. Can you tell me, did St. Andrew's at any time request
11 permission from the diocese to buy, sell or mortgage its
12 property?

13 A. St. Andrew's Church?

14 Q. Yes.

15 A. Yes.

16 Q. When was that?

17 A. In March/April of 2009.

18 Q. Okay. And was that the only time that St. Andrew's --

19 A. The only one that I'm aware of.

20 Q. What did St. Andrew's Church request permission from the
21 diocese to do?

22 A. To alienate our property.

23 Q. Can you direct your attention to Exhibit 14, please.

24 A. Okay.

25 Q. Is that the consent from the diocese for St. Andrew's,

1 Mount Pleasant Church to alienate its property?

2 A. That's correct.

3 Q. Did St. Andrew's believe that it needed the diocese's
4 consent to alienate its property?

5 A. No.

6 Q. What was the purpose of the request, where was the
7 property going?

8 A. The property was going into the trust, and we just
9 wanted to cross our T's and dot our I's just to make sure.

10 Q. Can you take a look at Exhibit 27.

11 A. That's the quitclaim deed we received from the diocese.

12 Q. Do you know what the purpose of this deed was?

13 A. I assume that, if they thought they had any interest in
14 our property, they were relinquishing any interest in our
15 property.

16 Q. When did you receive this deed?

17 A. We got this -- this was in December of the year after
18 this was done, which was -- we got it in 2012.

19 Q. Okay. So you received this deed in December of 2012?

20 A. Correct.

21 Q. Did you know that a deed was being sent to you?

22 A. No, we were unaware of it being done.

23 Q. You didn't -- did you ask for it?

24 A. No.

25 Q. What did you do with it once you received it?

1 A. We recorded it.

2 Q. Now, at some point St. Andrew's, Mount Pleasant decided
3 that it was going to disassociate itself from the Diocese of
4 South Carolina; is that correct?

5 A. Correct.

6 Q. Can you tell me a little bit about the reasons for
7 disassociating without going into any religious --

8 A. Well, we were looking at what was going on in the
9 national scene of the church and decided we wanted to part
10 from that.

11 Q. Okay. Were you -- did it have anything to do with your
12 property?

13 A. It did.

14 Q. What was your concern about your property?

15 A. We were concerned that they may try to claim that the
16 property was theirs.

17 Q. And was that one of the main reasons for seeking
18 disassociation from the diocese?

19 A. Yes.

20 Q. Did the vestry decide to take action regarding this?

21 A. It did.

22 Q. And what did it do?

23 A. March 10th, 2010, at a vestry meeting three resolutions
24 were passed.

25 Q. Will you direct your attention to Exhibit 15.

1 A. Which one?

2 Q. 15.

3 A. 15?

4 Q. Yes, sir.

5 A. This is the vestry meeting minutes of the meeting on
6 March 10, 2010.

7 Q. And can you tell me what the resolutions were in that?

8 A. One was to approve a plan of merger with St. Mary's
9 Church in Goose Creek to send the amended and restated
10 corporation bylaws to the congregation to approve and to
11 change the certificate of incorporation, changing the name
12 and changing the purpose.

13 Q. Can you tell me a little bit about why you were looking
14 to change the name?

15 A. Well, the original name was the Vestry and Church
16 Wardens of the Episcopal Church in the Parish of St. Andrew's
17 Church, Mount Pleasant. We just changed it simply St.
18 Andrew's Church, Mount Pleasant.

19 Q. Were you known as St. Andrew's Church, Mount Pleasant?

20 A. Yes.

21 Q. Okay. These minutes, the Exhibit 15 we were just
22 looking at, are not signed. Do you know if they came from
23 your archives?

24 A. Yes.

25 Q. They did. Okay.

1 Was this -- was the vestry meeting on March 10, 2010 the
2 only meeting where the change of the bylaws and the change in
3 the name of the corporation were discussed?

4 A. No, there were other meetings subsequent to that.

5 Q. Would you please take a look at Exhibit 17.

6 A. These are the minutes from the first reading of the
7 proposed changes to the bylaws and the corporate charter
8 changes.

9 Q. And were these voted upon by the vestry?

10 A. No. Our bylaws only state that they would be read at
11 one meeting and discussed and read and voted on at the second
12 meeting.

13 Q. Very well. Can you take a look at Exhibit 18.

14 A. These are the vestry minutes from March 28th, 2010.

15 Q. And, again, those come from your archives?

16 A. Yes.

17 Q. And can you tell me what resolutions were discussed at
18 that meeting?

19 A. Resolutions that were discussed and passed were to
20 withdraw from the Episcopal Church and to affiliate with the
21 Anglican Church of North America and to change our vestry
22 meeting times.

23 Q. Do you know if notice was sent -- first of all, let me
24 ask you this: Did you have a special corporate meeting to
25 vote on the changes to the bylaw and the name change?

1 A. We did.

2 Q. And was notice sent to anyone?

3 A. It was sent to the members of the congregation by mail
4 on March 12th.

5 Q. And were you the person that mailed the notices?

6 A. I physically dropped them in the mailbox.

7 Q. And will you look at Exhibit 16.

8 A. 16? This is a notice that was mailed on March 10th.

9 Q. Okay. And the notice identifies the resolutions that
10 were to be voted on, correct?

11 A. It does.

12 Q. Did the meeting occur?

13 A. Yes, it did.

14 Q. Was it recorded?

15 A. It was.

16 Q. Will you look at Exhibit 19.

17 A. This is a record of the minutes of that meeting that
18 day.

19 Q. Did the congregation vote on the amendments to the
20 bylaw?

21 A. Yes, they did.

22 Q. Did the congregation vote on the name change?

23 A. They did.

24 Q. Will you take a look at Exhibit 22.

25 A. This is a report from our certified public accountants

1 reporting the voting of the congregation at that meeting on
2 March 28th.

3 Q. What was the first resolution that they were voting on?

4 A. First resolution was to accept the proposed amended and
5 restated bylaws.

6 Q. How did the -- can you tell us how the congregation
7 voted?

8 A. They voted 669 in favor and 13 opposed.

9 Q. What was the second resolution?

10 A. The second resolution was to approve the changes to the
11 corporate charter.

12 Q. And how did the congregation vote?

13 A. Same votes, 669 to 13.

14 Q. And what was the third resolution?

15 A. Third resolution, to ratify the vestry's decision to
16 affiliate with the Anglican Church of North America.

17 Q. And how did they --

18 A. They voted 663, opposed 18.

19 Q. Subsequent to that meeting did you make any changes to
20 your corporate documents?

21 A. Well, we -- once we approved the bylaws, we were done
22 with that, we filed those with the Secretary of State.

23 Q. Okay. Let me ask you to look at Exhibit 21.

24 A. 21?

25 Q. Yes.

1 A. This is the Articles of Amendment to our corporate
2 charter.

3 Q. Okay. And how -- what was the purpose of that, of
4 those?

5 A. This is where we officially filed to make the changes in
6 name and purpose.

7 Q. Okay. Can you take a look at Exhibit 23.

8 A. This is a copy of the bylaws that we passed at that
9 March 28th corporate meeting.

10 Q. Can you point me to the changes in those bylaws?

11 A. Section 1 shows the corporate name St. Andrew's Church,
12 Mount Pleasant, definition of membership, an article about
13 the meetings and elections.

14 Q. Now, can you take a look at Exhibit 6.

15 A. This is the amended bylaws that were amended on
16 December 5th, 2004.

17 Q. And will you look at the last page of that exhibit,
18 Article 8.

19 A. Okay.

20 Q. Can you read that?

21 A. No alterations shall take place in these bylaws or any
22 rule adopted unless the same be read and debated at one
23 meeting of the congregation and debated and accepted at
24 another by a majority of the members present at each of such
25 meetings respectively.

1 Q. Is that why you called the congregational meeting, to
2 adopt the changes to the bylaws?

3 A. Yes.

4 Q. I'm going to -- I want you to look at Exhibit No. 2.

5 A. This is a copy of the original bylaws from 1954.

6 Q. Can you tell me if these bylaws contain an accession
7 clause?

8 A. They do not.

9 Q. To the Diocese of South Carolina?

10 A. They do not.

11 Q. To the national church?

12 A. They do not.

13 Q. How about Exhibit 4?

14 A. These are the amended bylaws from 1996.

15 Q. Can you tell me if there's an accession clause in those
16 to the diocese?

17 A. There is not.

18 Q. To the national church?

19 A. There is not.

20 Q. How about in Exhibit No. 6?

21 A. Number?

22 Q. 6.

23 A. There is not.

24 Q. There is no accession clause to the diocese, correct?

25 A. Never have been in any of our documents.

1 Q. Are you aware of any funds received by St. Andrew's from
2 the national church?

3 A. I am not.

4 Q. Has SAMP given to the national church any funds?

5 A. No.

6 Q. Has SAMP ever instructed the diocese not to give their
7 funds to the national church?

8 A. Yes.

9 Q. Do you know about when that occurred?

10 A. That was in October of 1997.

11 Q. Does St. Andrew's, Mount Pleasant have any ongoing
12 relationship with the national church?

13 A. No.

14 Q. Is St. Andrew's, Mount Pleasant a member of the
15 plaintiff Diocese of South Carolina?

16 A. No.

17 Q. Is St. Andrew's, Mount Pleasant a member of the
18 defendant unincorporated --

19 MR. TISDALE: Association.

20 Q. -- association in South Carolina?

21 A. No.

22 Q. Is St. Andrew's, Mount Pleasant a member of the national
23 church?

24 A. No.

25 Q. Does the national church have any power over how

1 St. Andrew's conducts its business?

2 A. No.

3 Q. Has the national -- does the national church have any
4 rights over St. Andrew's, Mount Pleasant or St. Andrew's
5 Mount Pleasant Land?

6 MS. KOSTEL: Objection, Your Honor. These are questions
7 of law.

8 THE COURT: Sustained.

9 MS. JOHNSON: All right. I think that's all the
10 questions I have.

11 THE COURT: All right.

12 MS. JOHNSON: If you'd give me just one minute.

13 THE COURT: Certainly, certainly.

14 MS. JOHNSON: Okay.

15 THE COURT: Anyone else on behalf of the plaintiffs have
16 any questions?

17 All right. Ms. Kostel.

18 CROSS-EXAMINATION BY MS. KOSTEL:

19 Q. Good afternoon, Mr. Middleton.

20 A. Good afternoon.

21 Q. Just a couple of questions about your testimony.

22 I believe that you testified that the parish -- the St.
23 Andrew's, Mount Pleasant never made any kind of accession to
24 the Episcopal Church; is that correct?

25 A. That's correct.

1 Q. The parish came into union with the diocese in 1954,
2 correct?

3 A. I assume so. I have no knowledge of that, how that
4 happened.

5 Q. That's when it became a parish of the diocese. I think
6 you testified to that, right?

7 A. Correct.

8 Q. And are you aware that in 1954 Article 8 of the diocesan
9 constitution required new parishes to give evidence, let's
10 see, of their willingness to conform to the constitution and
11 canons of the general convention?

12 A. I'm not aware of that.

13 Q. I think you've also stated that you are not aware of any
14 assistance that St. Andrew's, Mount Pleasant has ever
15 received from the Episcopal Church; is that correct?

16 A. That's correct.

17 Q. Are you aware of church records indicating that St.
18 Andrew's, Mount Pleasant received a loan from the Episcopal
19 Church building fund in the amount of \$60,000 in the 1960s,
20 late 1960s?

21 A. No, I'm not aware of that.

22 Q. And you wouldn't be aware of the terms of that loan,
23 would you?

24 A. No.

25 Q. Or whether it would be more favorable than a loan that

1 St. Andrew's, Mount Pleasant might receive from a commercial
2 bank?

3 A. I have no idea.

4 Q. Right. Thank you.

5 Now, St. Andrew's, Mount Pleasant, you testified that's
6 the name that the parish uses, correct?

7 A. That's correct.

8 Q. But the word Episcopal appears on some signs at the
9 church; is that right?

10 A. That's -- not to my knowledge.

11 Q. There's not a sign to the right of the front door that
12 has the word Episcopal on it?

13 A. Well, there is -- there is a very old sign, I don't know
14 how long it's been there, that does have the word Episcopal
15 on it, yes.

16 Q. In the front yard of the church is there a sign that has
17 the word Episcopal on it?

18 A. There's another sign as traffic approaches the church
19 that says St. Andrew's Church, Mount Pleasant.

20 Q. But how about in the front yard of the church, is there
21 a sign?

22 A. There's that one sign on the corner that I just talked
23 about.

24 Q. And it has the word Episcopal on it?

25 A. Yes.

1 Q. And so when people from the community are approaching
2 the church, they see the word Episcopal in front of your
3 church?

4 A. You can barely read that sign.

5 Q. But it's there?

6 A. It's there.

7 Q. Does your --

8 A. Historic marker.

9 Q. Does the -- noting and marking that the parish was
10 historically part of the Episcopal Church, correct?

11 A. I'm sorry?

12 Q. You said it was a historical marker, and that history
13 that it's marking is that the parish was part of the
14 Episcopal Church, correct?

15 A. Part of the diocese of South Carolina --

16 Q. Which was part of --

17 A. -- part of the church, part of the diocese, which was
18 part of the Episcopal Church at one time.

19 Q. Correct. Since your departure, since the parish's
20 departure from the Episcopal Church, has it received
21 permission to use any of the names of the Episcopal Church?

22 A. I didn't -- we didn't know that permission was required
23 to use them.

24 Q. So the answer's no?

25 A. No.

1 Q. Okay. I believe you testified that the parish decided
2 in March of 2010 to withdraw from the Episcopal Church,
3 correct?

4 A. That's correct.

5 Q. And I think you gave two reasons about that decision for
6 withdrawal. One, I think you stated that the parish was
7 disturbed about what was going on -- I think I have that, a
8 direct quote -- in the national church, and that the parish
9 was also worried about its property; is that correct?

10 A. Our primary focus was to -- yes, that would be correct,
11 I guess. Restate that question, if you don't mind.

12 Q. I believe you stated two reasons for the parish's
13 decision to withdraw from the Episcopal Church.

14 A. When was this?

15 Q. In 2010.

16 A. In June?

17 Q. Sometime in 2010. You testified to it and I wrote down
18 2010.

19 A. I'm sorry?

20 Q. You testified earlier that the parish made a decision to
21 withdraw from the Episcopal Church in 2010.

22 A. Yes.

23 Q. Right.

24 A. Back in March 2010.

25 Q. Yes.

1 A. Yes.

2 Q. And you testified that the reason for that decision --
3 you gave two reasons. One was that the parish was -- I'm
4 quoting, I believe -- was disturbed about what was going on
5 in the national church; and secondly, that the parish was
6 worried about its property.

7 A. That's correct.

8 Q. Now, let's take those each at a time. What was the
9 parish disturbed about what was going on in the national
10 church?

11 MS. GOLDING: I'm going to object to this line of
12 questioning, Your Honor. I think this is going outside of
13 the parameters of this civil action.

14 MS. KOSTEL: Your Honor.

15 THE COURT: Yes.

16 MS. KOSTEL: As Your Honor knows, we believe it's
17 important to establish whether these decisions were based on
18 doctrinal disputes, and we don't need to get into the
19 doctrinal disputes, nor will we ask the Court to resolve the
20 doctrinal disputes, but we believe we're allowed to have
21 evidence elicited to show whether a doctrinal dispute rests
22 at the heart of the dispute that the Court is entertaining.

23 THE COURT: Very well. I think I've already ruled on
24 that, and I think you've elicited from him that there was
25 concerns about -- that they had concerns about what was

1 happening with the national church. You know, if you want to
2 ask him that in general terms, like are you sure or is that
3 really what's going on, but we're not going to get into what
4 it was.

5 MS. KOSTEL: That's fine. I'm just trying to establish
6 what they're concerned about was a doctrinal issue.

7 THE COURT: Just ask him that in general. I think he's
8 already testified to it, but certainly you can ask him.

9 MS. KOSTEL: Well, if he had, I had missed that.

10 THE WITNESS: That would be correct.

11 Q. That it was a doctrinal issue?

12 A. Yes.

13 Q. And you also testified that another reason was that the
14 parish wanted to withdraw because it was worried about what
15 might happen with its property; is that correct?

16 A. Primarily for the doctrinal dispute but also concern for
17 the property as well.

18 Q. Well, let me ask you about the property concern.

19 Now, was the parish -- did the parish have any reason to
20 believe that if it remained in the Episcopal Church, that its
21 property was at risk in any way?

22 A. Well, there's no -- nothing in our documents that gives
23 the national church or the diocese any interest in our
24 property.

25 Q. I understand, but you testified that one of the reasons

1 that the parish decided to withdraw from the Episcopal
2 Church, admittedly not the primary reason, but one of the
3 reasons that the parish decided to withdraw from the
4 Episcopal Church was that it was concerned about protecting
5 its property. And I'm asking you, did the parish have any
6 reason to believe that if it stayed in the Episcopal Church,
7 that its property would be at risk?

8 A. We didn't speculate on that.

9 Q. But you felt that it was necessary to withdraw from the
10 church to protect your property?

11 A. In an attempt to be sure that down the road, as we were
12 hoping to grow the church and build new facilities, that we
13 would have clear title to our property.

14 Q. You had no reason to believe that you wouldn't have
15 clear title if you remained in the Episcopal Church.

16 A. We didn't know.

17 MS. KOSTEL: Thank you. No further questions.

18 THE COURT: Mr. Tisdale.

19 MR. TISDALE: Bear with me just one second, Your Honor.

20 THE COURT: Sure.

21 MR. TISDALE: No questions.

22 THE COURT: All right. Redirect.

23 MS. JOHNSON: No, Your Honor. Thank you.

24 THE COURT: Thank you. You may come down. All right.

25 Call your next witness.

1 THOMAS J. HENDRICKSON,
2 being first duly sworn, testified as follows:

3 THE COURT: And would you please state your full name
4 for the record, sir.

5 THE WITNESS: Thomas J. Hendrickson.

6 THE COURT: I'm going to ask you to spell your last
7 name.

8 THE WITNESS: H-E-N-D-R-I-C-K-S-O-N.

9 THE COURT: Your witness, Mr. Platte.

10 MR. PLATTE: Thank you, Your Honor.

11 (Plaintiff's Exhibits E-1 through E-9 premarked for
12 identification.)

13 DIRECT EXAMINATION BY MR. PLATTE:

14 Q. Mr. Hendrickson, where do you live?

15 A. Hilton Head Island.

16 Q. How long have you lived in South Carolina?

17 A. Eight years.

18 Q. What do you do for a living?

19 A. I'm a rector.

20 Q. Where are you a rector at?

21 A. At Historic Epiphany Church in Eutawville, South
22 Carolina.

23 Q. How long have you been a rector at Church of the
24 Epiphany?

25 A. Three years.

1 Q. Were you at any other church before?

2 A. Yes. I was a priest at St. Luke's Church on Hilton Head
3 Island.

4 Q. What are your roles as a rector at Church of the
5 Epiphany?

6 A. I lead the worship and I act as president of the board
7 for the vestry.

8 Q. In this role have you come to learn the history of the
9 Historical Church of the Epiphany, St. John's, Berkeley?

10 A. Yes.

11 Q. How large is Church of the Epiphany?

12 A. Our average Sunday attendance last year was 62 people.

13 Q. Do you know when Church of the Epiphany started?

14 A. 1804 is our earliest date that we have.

15 Q. I direct your attention to what's been labeled as
16 Exhibit E-1. Are you familiar with this document?

17 A. Yes, sir.

18 Q. What is the purpose of this document?

19 A. This is a certificate of incorporation to incorporate
20 the church.

21 Q. And when was the certificate of incorporation -- since
22 when has the Church of the Epiphany existed as a corporation?

23 A. This is dated 1911.

24 MR. PLATTE: At this time, Your Honor, I move
25 Exhibit E-1 into evidence.

1 THE COURT: Any objection?

2 MR. TISDALE: No objection.

3 MS. KOSTEL: No objection.

4 MR. TISDALE: Can't read it, but other than that.

5 THE COURT: E-1 in evidence without objection.

6 (Plaintiff's Exhibit E-1 admitted into evidence.)

7 Q. Since 1911 has Church of the Epiphany carried on its
8 religious purposes?

9 A. Yes.

10 Q. And as you mentioned before, does this corporation have
11 a board of directors?

12 A. Yes, sir.

13 Q. And what is that board of directors called?

14 A. It's called the vestry.

15 Q. Does the corporation have officers?

16 A. Yes, sir.

17 Q. And what are those officers?

18 A. That would be the president of the board or the rector,
19 the priest in charge, it would be the senior warden, the
20 junior warden and treasurer.

21 Q. Does Church of the Epiphany own any real estate?

22 A. Yes, sir.

23 Q. Can you describe the property that Church of the
24 Epiphany owns?

25 A. Yes, sir. We have approximately nine acres, six acres

1 on the north side of Highway 45 and three acres on the south
2 side.

3 Q. I direct your attention to what's been premarked as
4 Exhibit E-9. Is that an accurate representation of the real
5 property that Church of the Epiphany owns?

6 A. Yes, sir.

7 MR. PLATTE: At this time I move Exhibit E-9 into
8 evidence.

9 THE COURT: Any objection?

10 MR. TISDALE: So long as he testifies to it, it says a
11 summary of real estate, we don't have any objection to it.

12 MR. PLATTE: I represent that in the summary of real
13 estate there's a number of deeds and other public records of
14 ownership of property by Church of the Epiphany.

15 THE COURT: As backup information with regards to the
16 summary?

17 MR. PLATTE: Yes.

18 THE COURT: All right. Very well.

19 MR. TISDALE: Thank you.

20 THE COURT: It's admitted.

21 (Plaintiff's Exhibit E-9 admitted into evidence.)

22 Q. And this exhibit, E-9, it is a summary but also includes
23 real property deeds that accurately describe the real
24 property the Church of the Epiphany owns?

25 A. Yes, sir.

1 Q. I'm going to ask you to turn to Exhibit E-2. Are you
2 familiar with this document?

3 A. Yes, sir.

4 Q. Can you describe what this document is?

5 A. This is a quitclaim deed.

6 Q. And what is the purpose of the quitclaim deed?

7 A. To affirm our understanding that the Diocese of South
8 Carolina did not have interest in our property and that the
9 wardens and vestry of Church of the Epiphany hold the
10 property in trust for the church.

11 Q. Did you ask for it?

12 A. No, sir.

13 MR. PLATTE: At this time I move Exhibit E-2 into
14 evidence.

15 THE COURT: Any objection?

16 MR. TISDALE: Just one second, Your Honor.

17 THE COURT: All right.

18 MR. TISDALE: No objection, Your Honor.

19 MS. KOSTEL: No objection.

20 THE COURT: Very well. E-2 is in evidence without
21 objection. You may proceed.

22 (Plaintiff's Exhibit E-2 admitted into evidence.)

23 Q. Does Church of the Epiphany have bylaws?

24 A. Yes, sir.

25 Q. What is required to amend those bylaws?

1 A. A two-thirds vote of the vestry, and they have to be
2 read at a prior meeting.

3 Q. When did Epiphany change its bylaws in 2012?

4 A. It was in -- I believe we changed them twice, once in
5 March and once in June.

6 Q. Let's talk about the March meeting. What's your normal
7 course of business in terms of announcing vestry meetings?

8 A. Our vestry meeting is normally the second Thursday of
9 the month, and it's published in our calendar on our website
10 and in the handout materials that we -- our bulletin, our
11 Sunday morning bulletin, and I make announcements from the
12 front of the church before the church service begins.

13 Q. At the March 8th, 2012 meeting, were you present at that
14 vestry meeting?

15 A. Yes, sir.

16 Q. Was a quorum present?

17 A. Yes, sir.

18 Q. What happened at the March 8, 2012 meeting regarding the
19 bylaws?

20 A. We amended our bylaws.

21 Q. And there was a vote to amend those?

22 A. Yes, sir.

23 Q. And what was the result of that vote?

24 A. Unanimous.

25 Q. At that time did the bylaws have any provision that

1 required an approval of the bishop of the Diocese of South
2 Carolina?

3 A. Yes, sir.

4 Q. Was that provision removed at the March 8th meeting?
5 And I direct your attention to what has been premarked as
6 Exhibit E-4B.

7 MR. TISDALE: E what?

8 MR. PLATTE: 4B.

9 MR. TISDALE: E-4B.

10 Q. Specifically Article 7.

11 A. Article 7?

12 Q. It would have been the last page in --

13 A. I see Article 12.

14 Q. Oh, Article 12, yes. That would be an X not a V.

15 A. Yes, sir, there does -- any amendments, yes, we changed
16 that. We removed it then.

17 Q. So during the March 8 meeting part of the bylaw changes
18 was to remove the need for approval?

19 A. Yes, sir.

20 Q. And in making this vote did you request approval from
21 the bishop of the Diocese of South Carolina pursuant to the
22 prior bylaws that were in effect at the time?

23 A. Spoke to Canon Jim Lewis in the bishop's office and
24 discussed it with him.

25 Q. I'd ask that you take another look at Exhibit 4B and ask

1 if you recognize that document?

2 A. 4B, yes, sir.

3 Q. Is this an accurate representation of the bylaws that
4 were amended at that meeting?

5 A. Yes, sir.

6 Q. And were the bylaws passed by the required two-thirds
7 majority vote at the March 8th meeting?

8 A. Yes, sir.

9 Q. And obviously you did seek permission from the bishop of
10 the diocese to amend those bylaws, correct?

11 A. As I said, through the canon.

12 MR. PLATTE: At this time I move to admit Exhibit 4B
13 into evidence.

14 THE COURT: Any objection?

15 MR. TISDALE: No objection.

16 MS. KOSTEL: No objection, Your Honor.

17 THE COURT: Very well. 4B is in evidence without
18 objection.

19 (Plaintiff's Exhibit 4B admitted into evidence.)

20 Q. The next meeting where bylaws were changed were in June,
21 June 14th; is that correct?

22 A. Yes, sir.

23 Q. Did you announce the June vestry meeting and give proper
24 notice?

25 A. Yes, sir.

1 Q. And was there a quorum present at the June 14th meeting?

2 A. Yes, sir.

3 Q. What happened at the June 14th meeting, 2012 meeting?

4 A. The June meeting, we approved our -- the changes to the
5 bylaws.

6 Q. I direct your attention to Exhibit E-4A and ask if you
7 recognize this document.

8 A. Yes, sir.

9 Q. Is this an accurate representation of what happened at
10 the June 14th, 2012 meeting?

11 A. Yes, sir.

12 Q. And did these bylaws pass by the required two-thirds
13 majority vote?

14 A. Yes, sir.

15 Q. And did you have to seek approval of the bishop of the
16 diocese for the amendments for June 14 of 2012?

17 A. Not at this point, no, sir.

18 MR. PLATTE: At this time I move Exhibit E-4A into
19 evidence.

20 THE COURT: E-4, what, A?

21 MR. PLATTE: E-4A, yes, Your Honor.

22 THE COURT: Any objection?

23 MR. TISDALE: Your Honor, while he's pausing a minute,
24 the last page of Article 12 in this document is unreadable.
25 It's been, looks like, redacted but not really, and we'd like

1 a clean copy at his convenience, please.

2 THE COURT: All right.

3 MR. TISDALE: Do you agree to that, Mr. Platte?

4 MR. PLATTE: I will see what we can do.

5 THE COURT: Meanwhile back at the ranch, what's your
6 feeling about E-4A, objection or not?

7 MR. TISDALE: We don't object to it as long as we can
8 get a clean copy of the last page.

9 THE COURT: Okay.

10 MS. KOSTEL: Same conditional non-objection, Your Honor.

11 THE COURT: All right. Yours is obliterated also?

12 MS. KOSTEL: Yes.

13 THE COURT: Let's just pause a minute and have you get
14 another last page, Mr. Platte, if you can pass it along and
15 let them see it. Let's grab the copy.

16 MR. TISDALE: While we're at it, there's another one,
17 Andrew.

18 THE COURT: Mr. Platte, right now just show it to them,
19 the one you have, and then we'll get it for you. But just in
20 terms of whether it's admissible or not, we'll let you look
21 at it and we'll copy it in a few moments. But right now, I
22 want you to see it and see if you have an objection to it.

23 (Attorneys confer.)

24 THE COURT: Did you all have an opportunity at least to
25 look at the last page?

1 MR. TISDALE: No, Your Honor. So what we've agreed to,
2 if you agree, is to let him go ahead. We'll admit it
3 conditionally upon his giving us a clean copy in the
4 morning --

5 THE COURT: That'll be fine.

6 MR. TISDALE: -- and if we have any questions about it,
7 we'll deal with it at that point.

8 THE COURT: It will be conditionally admitted.

9 MR. TISDALE: And we'll deal with it if we somehow need
10 to ask questions about it.

11 THE COURT: Very well. If I don't hear from you all, it
12 will stay admitted. Okay. Great. You may proceed.

13 (Plaintiff's Exhibit E-4A admitted into evidence.)

14 MR. PLATTE: Thank you, Your Honor.

15 Q. Father Hendrickson, I would ask you to turn your
16 attention to what's been premarked as Exhibit E-3. Do you
17 recognize that document?

18 A. Yes, sir.

19 Q. Is this an accurate -- can you describe what that
20 document is?

21 A. The vestry minutes from June 14, 2012.

22 Q. Is that an accurate representation of what happened at
23 that meeting?

24 A. Yes, sir.

25 Q. And at that meeting the bylaws in Exhibit E-4A were

1 passed?

2 A. Yes, sir.

3 MR. PLATTE: At this time I move Exhibit E-3 into
4 evidence.

5 THE COURT: Any objection to E-3?

6 MR. TISDALE: No objection, Your Honor.

7 MS. KOSTEL: No objection.

8 THE COURT: Very well. E-3 is in without objection.

9 (Plaintiff's Exhibit E-3 admitted into evidence.)

10 Q. Did there come a time when you knew that Epiphany and
11 the Diocese of South Carolina had a dispute with the national
12 church?

13 A. Yes, sir.

14 Q. Do you know what that was regarding?

15 A. Property.

16 Q. Did the leadership of the Church of the Epiphany discuss
17 these issues?

18 A. Yes, sir.

19 Q. Did the vestry decide to take any action regarding this
20 matter?

21 A. Decided to reaffirm our affiliation with the Diocese of
22 South Carolina.

23 Q. Was that through a resolution?

24 A. Yes, sir.

25 Q. Do you recall when that resolution was passed?

1 A. It was December of 2012, I believe.

2 Q. Was that at a regularly scheduled vestry meeting?

3 A. Yes.

4 Q. And did you give notice of that regularly scheduled
5 vestry meeting as you do in your normal course?

6 A. Yes, sir.

7 Q. I ask you to turn to what's been premarked as
8 Exhibit E-5. Do you recognize this document?

9 A. Yes, sir.

10 Q. Is this an accurate representation of what happened at
11 the December 13, 2012 vestry meeting?

12 A. Yes, sir.

13 Q. And how did the resolution pass at this vestry meeting?

14 A. Unanimously.

15 Q. And is a copy of the resolution attached to Exhibit E-5?

16 A. Yes, sir.

17 MR. PLATTE: And at this time I move to admit
18 Exhibit E-5 into evidence.

19 THE COURT: Any objection?

20 MR. TISDALE: Your Honor, only conditioned on what we
21 said before because two pages -- let's see. One page in this
22 document, the last four numbers at the bottom of it, 7342, is
23 obliterated, so we'll put it in the same category as the
24 other ones.

25 THE COURT: Very well. Conditionally admitted --

1 MR. TISDALE: Yes.

2 THE COURT: -- with you all having an opportunity to see
3 a clean sheet, and then you'll let me know if there's a
4 concern.

5 MR. TISDALE: And ask questions about it if we need to.

6 THE COURT: Absolutely. Same is true for the national
7 church?

8 MS. KOSTEL: Yes, Your Honor.

9 THE COURT: Very well. E-5 is conditionally admitted.
10 One page with 7342 counsel will take a look at and get you
11 all of the document.

12 (Plaintiff's Exhibit E-5 admitted into evidence.)

13 Q. During that December 2012 meeting did the vestry vote on
14 that resolution?

15 A. Yes, sir.

16 Q. And what was that vote?

17 A. That vote was unanimous.

18 Q. Was there a parish meeting -- when was the next parish
19 meeting scheduled in relation to that December 13th vestry
20 meeting?

21 A. That would have been the following -- it was the
22 following Sunday.

23 Q. And was that a regularly scheduled parish meeting?

24 A. Yes, sir.

25 Q. Did you give notice of that parish meeting in your

1 normal course of business?

2 A. Yes, sir, we published it on our calendar and put it on
3 our bulletin, and I announced it from the front of the
4 building.

5 Q. At the parish meeting were there any resolutions
6 considered?

7 A. This resolution of support for bishop, yes, sir.

8 Q. And I direct your attention to Exhibit E-6. Is this an
9 accurate copy of the resolution that was considered?

10 A. Yes, sir.

11 Q. And were you present at the parish meeting that
12 considered this resolution?

13 A. Yes, sir.

14 Q. And did this resolution pass?

15 A. Yes, sir.

16 Q. And how did it -- what was the vote?

17 A. Unanimous by acclamation.

18 MR. PLATTE: And at this time I move Exhibit E-6 into
19 evidence.

20 MR. TISDALE: Another conditional agreement, Your Honor.
21 There's a last paragraph of this document that's unreadable.

22 THE COURT: Thank you. All right. Conditionally
23 admitted with counsel replacing the last page with one that's
24 clear.

25 MR. TISDALE: And get a chance to ask about it only if

1 necessary.

2 THE COURT: Very well. Same is true for the national
3 church as well?

4 MR. BEERS: Yes, Your Honor.

5 (Plaintiff's Exhibit E-6 admitted into evidence.)

6 MR. PLATTE: I'd be happy to provide him my copy which
7 is legible and they can read it if they would like to use it
8 on cross-examination.

9 THE COURT: That would be great, because they may or may
10 not get there today. Very well.

11 Q. Did Church of the Epiphany take any other actions
12 regarding its -- reaffirming its affiliation with the Diocese
13 of South Carolina after that December parish meeting?

14 A. Nothing, no, sir.

15 Q. Was there a January 2013 vestry meeting to consider
16 changes to the Articles of Incorporation?

17 A. Yes, sir.

18 Q. I direct your attention to Exhibit E-7.

19 A. Yes, sir.

20 Q. Do you recognize this document?

21 A. Yes, sir.

22 Q. Can you describe the document for me, please?

23 A. It's our vestry minutes.

24 Q. And from -- what's the date on those?

25 A. It says January 9th, but that's the wrong date.

1 Q. What is the right date?

2 A. January 10th. It was a Thursday night.

3 Q. Do you normally hold your vestry meetings on Thursday
4 nights?

5 A. Yes, sir.

6 Q. Did you give notice in your normal course of business
7 for the January 10, 2013 vestry meeting?

8 A. Yes, sir.

9 Q. And that was through bulletins and by announcing it at
10 the front of the church?

11 A. Yes, and also, I -- for vestry meetings I email the
12 agenda to the vestry members.

13 Q. Is Exhibit E-7 an accurate representation of what
14 happened at the January 10, 2013 vestry meeting?

15 A. Yes, sir.

16 MR. PLATTE: At this time I move Exhibit E-7 into
17 evidence.

18 THE COURT: Any objection?

19 MR. TISDALE: No objection, Your Honor.

20 MS. KOSTEL: No objection.

21 THE COURT: Very well. E-7 in evidence without
22 objection.

23 (Plaintiff's Exhibit E-7 admitted into evidence.)

24 Q. I direct your attention to what has been premarked as
25 Exhibit E-8. Do you recognize this document?

1 A. Yes, sir.

2 Q. What is this document?

3 A. This is a nonprofit corporation Articles of Amendment.

4 Q. And what does this Articles of Amendment, what did it
5 revise?

6 A. We changed our name to the historic Church of the
7 Epiphany, and we then stated that we were -- the purpose for
8 which we exist was to operate a Christian church.

9 Q. And just turning your attention back to Exhibit E-7, a
10 discussion of E-8 took place at that January 10, 2013 vestry
11 meeting?

12 A. Yes, sir.

13 Q. And was there a vote taken on whether to make this
14 amendment or not?

15 A. Yes, sir.

16 Q. And how did the -- did the vote pass?

17 A. Yes, sir, it approved unanimously.

18 MR. PLATTE: At this time I move Exhibit E-8 into
19 evidence.

20 THE COURT: Any objection?

21 MR. TISDALE: No objection, Your Honor.

22 MS. KOSTEL: No objection.

23 THE COURT: Very well.

24 (Plaintiff's Exhibit E-8 admitted into evidence.)

25 Q. Are you aware of any funds received by Church of the

1 Epiphany from the Episcopal Church?

2 A. No, sir.

3 Q. Any funds received from the Episcopal Church in South
4 Carolina?

5 A. No, sir.

6 Q. Are you aware of any funds that were given by Epiphany
7 to the Episcopal Church?

8 A. No, sir.

9 Q. Any funds given to any related organization of the
10 Episcopal Church as in the United Thank Offering?

11 A. Yes, sir. The United Thank Offering, I recall we
12 supported that.

13 Q. Do you still support the United Thank Offering?

14 A. No, sir.

15 Q. When did you cease your support?

16 A. I think it was 2011, but I'm not sure.

17 Q. Are you aware of any funds given by Church of the
18 Epiphany to the Episcopal Church in South Carolina?

19 A. No, sir.

20 Q. Does the Church of the Epiphany have any ongoing
21 relationships with either the Episcopal Church or the
22 Episcopal Church in South Carolina?

23 A. No, sir.

24 Q. Has Church of the Epiphany sought any approval from the
25 Episcopal Church or the Episcopal Church in South Carolina to

1 amend bylaws?

2 A. No, sir.

3 Q. Do you know if the Church of the Epiphany participated
4 in any fashion with -- in any convention with the Episcopal
5 Church in South Carolina?

6 A. We did not.

7 Q. Has the Church of the Epiphany used the Church of the
8 Epiphany and the Historical Church of the Epiphany, St.
9 John's, Berkeley since its inception?

10 A. Yes, those are the names we use.

11 Q. Has Church of the Epiphany given any permission to
12 either the Episcopal Church or the Episcopal Church in South
13 Carolina to use those names?

14 A. No, sir.

15 Q. Has Church of the Epiphany authorized the Episcopal
16 Church in South Carolina to list it as the parish on the
17 Episcopal Church in South Carolina's website?

18 A. No, sir.

19 Q. Is the Church of the Epiphany a parish in the Episcopal
20 Church in South Carolina?

21 A. No, sir.

22 Q. Has the Church of the Epiphany ever participated in any
23 meeting called by the Episcopal Church in South Carolina?

24 A. No, sir.

25 Q. Has the Church of the Epiphany ever sent delegates to a

1 meeting of the Episcopal Church in South Carolina?

2 A. No, sir.

3 MR. PLATTE: I don't have any more questions. Please
4 answer the questions of other counsel.

5 THE COURT: All right. Counsel, are you able to begin
6 your cross-examination without benefit of the documents that
7 are conditionally admitted? And I guess, Ms. Kostel, I'm
8 looking to you.

9 MS. KOSTEL: I think so, Your Honor.

10 CROSS-EXAMINATION BY MS. KOSTEL:

11 Q. Father Hendrickson, I believe you testified that
12 Epiphany was incorporated in 1911; is that correct?

13 A. Yes, ma'am.

14 Q. But Epiphany was part -- was a parish of the Diocese of
15 South Carolina before that, was it not?

16 A. I'm not sure if it was a parish. It might have been
17 just a mission.

18 Q. Well, if I represent to you that in the diocesan journal
19 it's reflected as a parish since 1864, would you accept that?

20 A. Yes, ma'am.

21 Q. And if I also represented to you that in 1864 Article 12
22 of the Constitution of the Diocese of South Carolina required
23 a parish to prove their willingness, and I'm quoting now,
24 their "willingness to conform to the constitution and canons
25 of the general council" would you have any reason to dispute

1 that?

2 A. No, ma'am.

3 Q. Now, you stated in your testimony a moment ago that the
4 reason that Epiphany decided to withdraw from the Episcopal
5 Church was concern about property?

6 A. Yes, ma'am.

7 Q. What was that concern?

8 A. That someone might bring us into an action like this and
9 we might be involved in a litigation about property.

10 Q. And did you have any reason to believe that if Epiphany
11 had not left the Episcopal Church that there would be such an
12 action?

13 A. I believe so, yes, ma'am.

14 Q. Based on what?

15 A. Action that -- public record of news items from other
16 dioceses.

17 Q. Can you point to any instance where the Episcopal Church
18 has been in litigation over property with a parish that has
19 not left the Episcopal Church?

20 A. No, ma'am, I can't.

21 Q. So you're not aware of anything like that?

22 A. Well, I'm aware of lawsuits in places like Pittsburgh
23 and San Joaquin Diocese and Fort Worth and Quincy, but after
24 that, no, ma'am.

25 Q. Those lawsuits all involved instances where parishes

1 were withdrawing from the Episcopal Church, correct?

2 A. I believe so.

3 Q. So can you think of any other reason why Epiphany might
4 have desired to withdraw from the Episcopal Church?

5 A. The theological concerns that we had.

6 Q. Theological concerns with the Episcopal Church?

7 A. Yes, ma'am.

8 Q. Father Hendrickson, you also spoke about the bylaws of
9 the parish and you stated that -- you talked about
10 amendments, I believe in 2012, to the bylaws. Were you
11 familiar with the bylaws before they were amended?

12 A. Yes, ma'am.

13 Q. And so you were aware that, before they were amended,
14 they stated that the purpose of the parish corporation was to
15 maintain a church -- now I'm quoting -- in the Protestant
16 Episcopal Diocese of South Carolina for the public worship of
17 almighty God in accordance with the doctrine and practices of
18 the Protestant Episcopal Church in the United States of
19 America and the Diocese of South Carolina, unquote, correct?

20 A. That's what they say, yes.

21 Q. And you're aware that those were adopted in 2002,
22 correct?

23 A. Yes, ma'am.

24 Q. Now, I believe you also testified that you were not --
25 you're not aware of any financial assistance that Epiphany

1 ever received from the Episcopal Church; is that correct?

2 A. That's correct.

3 Q. And so you're not aware that in 1866 and in 1868 the
4 parish received assistance to its clergy during -- to help
5 the clergy during difficult times from the national church,
6 are you?

7 A. No, I am not.

8 Q. But you have no reason to believe that's not true, do
9 you?

10 A. You tell me. I have no way of checking that, no, ma'am.

11 Q. And Epiphany has held itself out as an Episcopal Church
12 to the local community since as recently as 2005, hasn't it?

13 A. Yes, ma'am.

14 Q. And it used the Episcopal Church shield on its sign and
15 print materials as recently as 2005, did it not?

16 A. Yes, ma'am.

17 Q. Has that completely ceased since 2012?

18 A. Yes, ma'am.

19 MS. KOSTEL: I have no further questions.

20 THE WITNESS: Thank you.

21 THE COURT: All right. Mr. Tisdale.

22 CROSS-EXAMINATION BY MR. TISDALE:

23 Q. Father Hendrickson, just a few questions.

24 Does the Church of the Epiphany have any signs on its
25 property now that identify -- that use the word Episcopal?

1 A. Not that I'm aware of, sir, no, sir.

2 Q. Not that you're aware of.

3 And are you a priest in the Episcopal Church currently?

4 A. I'm a priest in the Diocese of South Carolina.

5 Q. But not in the Episcopal Church.

6 A. That's correct.

7 Q. Were you a priest in the Episcopal Church?

8 A. I was a -- prior to being in South Carolina I was a
9 priest in the Diocese of Pittsburgh.

10 Q. Is that the Episcopal Church?

11 A. I'm not sure legally if it was or not. I'd have to --
12 yes, sir.

13 Q. Well, aside from Pittsburgh, have you been a priest in
14 an Episcopal Church?

15 A. No, sir.

16 Q. You have not.

17 So you became a priest in the Diocese of Pittsburgh
18 when?

19 A. 2005.

20 Q. And can you tell me whether that diocese, Pittsburgh,
21 was in union with the Episcopal Church?

22 A. In 2005 it was.

23 Q. When did it cease, if it did?

24 A. I'm not sure.

25 Q. Now, when did you become something other than a priest

1 in the Episcopal Church? When did you depart the Episcopal
2 Church?

3 A. When I retired in 2012.

4 Q. And you left the Episcopal Church voluntarily on your
5 own free will, did you not?

6 A. Yes, sir. Yes.

7 Q. Nothing to stop you from doing that if you wanted to,
8 right?

9 A. I understand that, yes, sir.

10 Q. And you did that?

11 A. Yes, sir.

12 Q. Now, Father Hendrickson, would the same be true of lay
13 people who are members in the Episcopal Church or parishes in
14 the Episcopal Church, can they leave and stop being
15 Episcopalians any time they wish to, individually?

16 A. I believe so.

17 Q. Have you ever heard otherwise?

18 A. No, sir.

19 Q. Are you currently receiving pension payments from the
20 church pension fund of the Episcopal Church?

21 A. Yes, sir.

22 Q. And when did you begin receiving those pension payments?

23 A. January of 2013.

24 Q. And you receive them now today?

25 A. Yes, sir.

1 MR. TISDALE: No further questions, Your Honor.

2 THE COURT: All right. Redirect or other plaintiff
3 examination?

4 MR. PLATTE: Beg your indulgence, Your Honor.

5 THE COURT: Sure.

6 MR. RUNYAN: Father Hendrickson, just a couple of
7 questions.

8 EXAMINATION BY MR. RUNYAN:

9 Q. Ms. Kostel asked you a question about the general
10 council in 1864 and the joining of the parish at that time.
11 Do you recall those questions?

12 A. Yes, sir.

13 Q. Do you know if the Diocese of South Carolina was even in
14 union with the Episcopal Church of the United States of
15 America in 1864?

16 A. No, sir, I don't.

17 MR. RUNYAN: Thank you, sir.

18 THE COURT: Anything further? Any redirect, anything
19 further?

20 MR. PLATTE: No, Your Honor.

21 THE COURT: All right. Recross.

22 MR. TISDALE: None, Your Honor.

23 MS. KOSTEL: Nothing. Thank you.

24 THE COURT: Very well. You may come down.

25 It's four minutes till 5:00. That's going to conclude

1 the work that we're going to do for today. And, Mr. Platte,
2 if you would just please get with counsel just to be
3 absolutely clear about the documents that they are looking
4 for.

5 MR. PLATTE: I've handed them my copy.

6 THE COURT: Okay. Very well. Now, we will begin in the
7 morning at 9:30. Anything from the plaintiffs before we
8 conclude for this evening?

9 MS. GOLDING: Your Honor, just as a matter of making
10 things flow a little smoother, the next parish that will be
11 testifying, the first one tomorrow morning, will be
12 St. Luke's Hilton Head, and I will be providing the
13 defendants copies of the exhibits that we plan to introduce,
14 which they've already had, so they can review them tonight or
15 tomorrow morning. And I would ask if there's any other
16 parish attorneys that want to provide the exhibits, I think
17 that would be the best, if we could, Your Honor.

18 THE COURT: It would be best.

19 MS. DURANT: Your Honor, Church of the Holy Comforter
20 has a set similar to what Ms. Golding has we'd be happy to
21 give copies of.

22 THE COURT: And tell me your name.

23 MS. DURANT: Bess Durant with Sowell Gray, Your Honor.

24 THE COURT: Of course. And have you given a copy of
25 documents?

1 MS. DURANT: I will do that right after we adjourn,
2 Your Honor.

3 MR. TISDALE: Hold off until in the morning, because we
4 can't possibly review them until in the morning.

5 MS. KOSTEL: I would like them this evening if they have
6 documents now.

7 THE COURT: Ms. Kostel says she's good to go, bring it
8 on. Mr. Tisdale, on the other hand --

9 MR. HOLMES: If Mr. Gaillard could be kept from making a
10 sixth edition of his documents.

11 MR. PHILLIPS: I'm Mark Phillips from Nelson Mullins on
12 behalf of St. Philip's Church. My chancellor, as Mr. Holmes
13 knows, is his former law partner, Foster Gaillard, who's
14 really wearing me out. But our parish witness is
15 Myron Harrington who was deposed Monday like many of the
16 other representatives were. He has gone out of town, with
17 our blessing, today to attend a wedding. I talked to
18 Mr. Tisdale, and in the event that the entire plaintiff's
19 case in chief is concluded before the end of business Friday,
20 they've agreed graciously to allow Mr. Harrington to testify
21 out of turn first thing Monday. I didn't ask Allan, but I
22 know he'll --

23 THE COURT: If he promises not to give Mr. Holmes any
24 other renditions of documents. He's complaining that he's
25 only had six.

1 MR. PHILLIPS: I'm going to bring them my documents way
2 before the weekend.

3 THE COURT: Very well. So if you have documents,
4 Ms. Kostel says she would like them this evening. Please
5 give them to her. And the reason for that is obviously it
6 speeds things along. If she's willing to do that, that's
7 terrific. And she may even, I don't know, whisper to
8 Mr. Tisdale her opinion and it might carry a little weight.

9 MR. TISDALE: That's what we expect.

10 MR. BEERS: Your Honor, of equal importance, I wonder if
11 we might have the -- don't have to be in order, but the names
12 of the next six that are coming up.

13 MR. TISDALE: That would be helpful.

14 THE COURT: Suits me.

15 MS. GOLDING: I do know that St. Luke's Hilton Head is
16 first tomorrow morning.

17 THE COURT: Here's what we're going to do, I'll get the
18 lineup. St. Luke's is going to be first.

19 MR. PLATTE: Your Honor, I'll provide the defendants
20 with a list of --

21 THE COURT: You'll give them that list?

22 MR. PLATTE: -- the parishes that will go in the morning
23 and then also hopefully by the afternoon.

24 THE COURT: That would be awesome. Before you all leave
25 this evening Mr. Platte will give you a list. Is that okay?

1 MR. BEERS: Yes.

2 THE COURT: And, Ms. Kostel, they will give you the
3 documents and give you that opportunity.

4 MS. KOSTEL: Thank you.

5 --- END OF TRANSCRIPT OF RECORD ---

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1 CERTIFICATE OF REPORTER

2 STATE OF SOUTH CAROLINA

3 COUNTY OF DORCHESTER

4

5 I, the undersigned Ruth L. Mott, Official Court Reporter
6 for the State of South Carolina, do hereby certify that the
7 foregoing is a true, accurate and complete transcript of
8 record of all the proceedings had and evidence introduced in
9 the matter of the above-captioned case, relative to appeal,
10 in the First Judicial Circuit Court for Dorchester County,
11 South Carolina, on the 9th of July, 2014.

12 I further certify that I am neither related to nor
13 counsel for any party to the cause pending or interested in
14 the events thereof.

15 August 5, 2014

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Ruth L. Mott, RPR, CRR
Official Court Reporter

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