

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

The Right Reverend Charles G. vonRosenberg)	
et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 2:13-cv-00587-RMG
)	
The Right Reverend Mark J. Lawrence et al.,)	
)	
Defendants.)	
_____)	

**MEMORANDUM IN SUPPORT OF THE EPISCOPAL CHURCH’S
MOTION FOR LEAVE TO INTERVENE**

The Episcopal Church (the “Church”) owns multiple federally registered service marks (the “Episcopal Church Marks”) signifying the Church and its work. These marks are: THE EPISCOPAL CHURCH, THE PROTESTANT EPISCOPAL CHURCH IN THE UNITED STATES OF AMERICA, THE EPISCOPAL CHURCH WELCOMES YOU, LA IGLESIA EPISCOPAL (Spanish for “The Episcopal Church”), and the Church’s ubiquitous shield logo. The Church routinely permits its subordinate parts and their leaders, including regional “dioceses” and their “bishops,” to use the Church’s marks in connection with their provision of religious and other services in compliance with the Church’s standards and rules.

Although Defendant Lawrence was the Bishop of the Church’s Diocese of South Carolina from 2008 until 2012, he no longer has any affiliation with the Church. Yet he continues to hold himself out as representing an “Episcopal Diocese” in South Carolina and uses the marks THE EPISCOPAL DIOCESE OF SOUTH CAROLINA and THE PROTESTANT EPISCOPAL CHURCH IN THE DIOCESE OF SOUTH CAROLINA in association with the religious services he provides. These actions create confusion to the detriment of the bishops

who have succeeded Defendant Lawrence as Bishop of the Church’s Diocese of South Carolina – the plaintiffs in this case – and, in addition, directly infringe upon and dilute the Church’s marks, in violation of the Church’s rights under the Lanham Act.

Because the Church owns the marks that are at the core of this suit, under Federal Rule of Civil Procedure 24(a), the Church has the right to intervene to protect its interests in those marks.

Even if the Church did not have the right to intervene, the Court should nevertheless permit the Church to intervene under Rule 24(b), because the Church’s claims against Defendant Lawrence share many common questions of law and fact with the issues that are already before the Court. Forcing the Church to defend its rights in a separate lawsuit would unnecessarily duplicate and increase costs and other burdens for the Court and the parties.

For these reasons, as we set out more fully below, the Church respectfully urges the Court to grant leave for the Church to intervene in this action.

BACKGROUND

A. The Episcopal Church and Its Marks

The Episcopal Church is a religious denomination founded in 1789, comprising 110 geographically-defined, subordinate entities known as “dioceses” and more than 7,600 worshipping congregations, in the United States and other countries. *See* Proposed Complaint-in-Intervention ¶ 5. One of the Church’s dioceses is the Diocese of South Carolina. *See id.* ¶ 6.

The Church owns the Episcopal Church Marks, which signify the Church, its work, and the goods and services it provides. *See* Proposed Complaint-in-Intervention ¶¶ 7-16. These marks are federally registered and have obtained incontestable status. *See id.*

B. The Present Dispute

Between 2008 and 2012, Defendant Lawrence served as Bishop of the Church's Diocese of South Carolina. *See* Proposed Complaint-in-Intervention ¶ 19. In 2012, Defendant Lawrence renounced his affiliation with the Church, and that same year the Church removed him from his office as a bishop in the Church, and, consequently, as Bishop of the Diocese of South Carolina. *See id.* ¶ 21. Since being removed as a bishop in the Church, Defendant Lawrence has continued to represent to the public that he serves as a "Bishop" of an "Episcopal Diocese," and to use various names and marks in association with the religious services he provides, including the marks THE EPISCOPAL DIOCESE OF SOUTH CAROLINA and THE PROTESTANT EPISCOPAL CHURCH IN THE DIOCESE OF SOUTH CAROLINA. *See id.* ¶ 22.

C. The State Court Litigation

A group led by Defendant Lawrence, calling itself "The Protestant Episcopal Church in the Diocese of South Carolina," filed suit in the County of Dorchester seeking declarations concerning its alleged rights in real, personal, and intellectual property, against both the Church and its continuing South Carolina diocese, which had been reorganized by South Carolina Episcopalians who remained loyal to the Church. *See The Protestant Episcopal Church in the Diocese of South Carolina v. The Episcopal Church*, No. 2013-CP-18-00013 (Cir Ct., County of Dorchester). On February 3, 2015, the trial court found that Lawrence and his followers had effectively withdrawn the Diocese from the Church and were entitled to maintain control over the Diocese's property. The trial court also ruled that under South Carolina law, the Lawrence plaintiffs had the exclusive right to use the marks "The Diocese of South Carolina," "The Episcopal Diocese of South Carolina," "The Protestant Episcopal Church in the Diocese of South Carolina," and the Diocese's seal.

On August 2, 2017, the South Carolina Supreme Court reversed. *See The Protestant Episcopal Church in the Diocese of South Carolina v. The Episcopal Church*, No. 2015-000622, 2017 S.C. LEXIS 116 (Aug. 2, 2017). Three Justices (Acting Justice Pleicones, Justice Hearn, and Chief Justice Beatty) concluded that the plaintiff group led by Defendant Lawrence could not maintain control over real and personal property dedicated to the Church’s Diocese of South Carolina after they left the Church. As for the intellectual property issues, Acting Justice Pleicones and Justice Hearn concluded that the defendants (the Church and its continuing Diocese) had exclusive rights in the Diocese’s service marks. Chief Justice Beatty concluded that the decision about “rights to the service marks . . . should remain with the federal court” (Slip Op. at 36). Acting Justice Toal “defer[red] to the federal court to answer any issues in this matter in which federal copyright and trademark law may be applicable” (Slip Op. at 48). Justice Kittredge voted to affirm on all issues. Thus, two justices concluded that the intellectual property rights in the Diocese’s marks stay with the Church’s continuing Diocese of South Carolina, two reserved the intellectual property issues for this Court, and one concluded that those rights pass to Defendant Lawrence and his followers.

D. This Suit

This action was filed on March 5, 2013, by the Bishop then-authorized by the Church to lead the Church’s continuing Diocese of South Carolina. (He has since been succeeded in that position, and his successor has been added as a plaintiff.) Plaintiffs claim Defendant Lawrence has engaged in false and misleading advertising in violation of the Lanham Act, 15 U.S.C. § 1125(a), by using names and symbols in connection with his ministry that violate marks owned by the Church, namely, the marks THE EPISCOPAL CHURCH, THE PROTESTANT EPISCOPAL CHURCH IN THE UNITED STATES OF AMERICA, EPISCOPAL NEWS

SERVICE, THE EPISCOPAL CHURCH WELCOMES YOU, and LA IGLESIA EPISCOPAL, which has harmed the plaintiff Bishops. *See* Doc. 61-1 at ¶¶ 28, 80.

Before filing an Answer, Defendant Lawrence twice moved to dismiss or stay this suit due to the pendency of the state-court suit. He filed the first such motion on March 28, 2013 (Doc. 13), which this Court granted on August 23, 2013 (Doc. 30). The U.S. Court of Appeals for the Fourth Circuit reversed that decision on March 31, 2015. Defendant Lawrence filed his second motion on June 30, 2015 (Doc. 52), which this Court granted on September 21, 2015 (Doc. 55). The Fourth Circuit reversed that decision on February 21, 2017. Thus, this suit has been stayed for most of the time during which it has been pending.

On March 22, 2017, the Court permitted plaintiff to file an Amended Complaint (Docs. 61-1, 64). Defendant Lawrence filed his Answer on April 11, 2017 (Doc. 68).

The Court entered a Scheduling Order on August 8, 2017. Doc. 79. Under the schedule set by the Court, discovery will continue until December 5, 2017. No trial date has been set.¹

ARGUMENT

I. LEGAL STANDARD FOR INTERVENTION

Rule 24 of the Federal Rules of Civil Procedure provides the standard for intervention, both as a matter of right and at the Court's discretion. Under Rule 24(a),² intervention of right requires proof of four elements:

¹ The Church is aware that the Court has set a status conference for August 24, 2017 (Doc. 77). The Church is prepared to attend the conference and comply with the Scheduling Order that the Court entered on August 8 (Doc. 79).

² Rule 24(a) states:

“(a) INTERVENTION OF RIGHT. On timely motion, the court must permit anyone to intervene who: ...

(2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may

“(1) the application to intervene must be timely; (2) the applicant must have an interest in the subject matter of the underlying action; (3) the denial of the motion to intervene would impair or impede the applicant’s ability to protect its interest; and (4) the applicant’s interest is not adequately represented by the existing parties to the litigation.”

Backus v. South Carolina, 2012 U.S. Dist. LEXIS 15310, at *5-6 (D.S.C. Feb. 8, 2012). The Court also has the discretion to permit intervention even when the requirements of Rule 24(a) are not met. Permissive intervention under Rule 24(b)³ has three elements:

“(1) the motion to intervene must be timely, (2) an applicant’s claim or defense and the main action have a question of law or fact in common, and (3) in its discretion, the court shall determine that the intervention will not unduly delay or prejudice the adjudication of the rights of the original parties.”

Id. at *6-7.

II. THE EPISCOPAL CHURCH HAS A RIGHT TO INTERVENE UNDER RULE 24(a).

A. The Motion is Timely.

Courts assess the timeliness requirement by looking at “how far the suit has progressed, the prejudice which delay might cause other parties, and the reason for the tardiness in moving to intervene.” *Gould v. Alleco, Inc.*, 883 F.2d 281, 286 (4th Cir. 1989). “The purpose of the

as a practical matter impair or impede the movant’s ability to protect its interest, unless existing parties adequately represent that interest.”

³ Rule 24(b) states:

“(b) PERMISSIVE INTERVENTION.

(1) *In General.* On timely motion, the court may permit anyone to intervene who: ...

(B) has a claim or defense that shares with the main action a common question of law or fact. ...

(3) *Delay or Prejudice.* In exercising its discretion, the court must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties’ rights.”

requirement is to prevent a tardy intervenor from derailing a lawsuit within the sight of the terminal.” *Scardelletti v. Debarr*, 265 F.3d 195, 202 (4th Cir. 2001) (quotation omitted).

Here, as a result of defendant’s persistent pursuit of a stay or dismissal, this action has barely progressed past the pleading stage. The suit has been stayed for most of the time it has been pending. Since the case was remanded in February 2017, discovery has been ongoing. Discovery does not close until December, and there is no trial date.

Accordingly, intervention by the Church will not delay the suit or prejudice any party. If permitted to intervene, the Church will not seek to redo any discovery that has been completed. The fact that the suit is in the middle of discovery favors intervention. *See, e.g., Genesis Press, Inc. v. MAC Funding Corp.*, 2008 U.S. Dist. LEXIS 85547, at *7 (D.S.C. Oct. 23, 2008) (intervention timely because discovery was still open).

Further, the South Carolina Supreme Court just issued its decision on August 2, 2017. As explained above, that decision did not include a majority on the trademark issues, with two justices finding in favor of those who remain part of the Church, one finding in favor of those who left the Church, and two explicitly leaving all such issues for this Court to decide. In these circumstances, it is appropriate for the Church to now seek to intervene in this suit, since this suit will resolve the parties’ trademark disputes.

B. The Episcopal Church Has an Interest in the Subject Matter of the Underlying Action.

Courts routinely find that the owner of a mark has the type of interest that entitles it to intervene in a suit arising out of the infringement of its mark. *See, e.g., Process Controls Int’l, Inc. v. Emerson Process Mgmt.*, 753 F. Supp. 2d 912, 933 (E.D. Mo. 2010) (the “true owner of these trademarks ... is entitled to intervene of right under Rule 24(a)”); *Bible Way Church of Our Lord Jesus Christ World Wide Inc. v. Showell*, 260 F.R.D. 1, 4 (D.D.C. 2009) (trademark owner

permitted to intervene as of right because “it claims an interest relating to the property which is the subject of this action and disposition of this action may impair its ability to protect that property interest”).

This suit arises out of Defendant Lawrence’s misuse of marks owned by the Church. Specifically, it concerns Defendant Lawrence’s falsely holding himself out as the Bishop of an “Episcopal Diocese” in South Carolina as well his use of various names and marks in association with the religious services he provides, including the marks THE EPISCOPAL DIOCESE OF SOUTH CAROLINA and THE PROTESTANT EPISCOPAL CHURCH IN THE DIOCESE OF SOUTH CAROLINA. In addition to violating plaintiffs’ rights by engaging in false and misleading advertising, these actions also directly infringe upon and dilute the Church’s rights under the Lanham Act in the marks it owns. *See* Doc. 61-1 at ¶¶ 28 (detailing the marks owned by the Church), 80.

Accordingly, as owner of the marks in question, the Church has a strong interest in the subject matter of this action.

C. Denial of the Motion to Intervene Would Impair or Impede The Episcopal Church’s Ability to Protect Its Interests.

If the Court were not to permit the Church to intervene, that denial would interfere with the Church’s ability to protect its interests in the Episcopal Church Marks. For example, if in the Church’s absence, the Court were to find that Defendant Lawrence is entitled to use the term “Episcopal Diocese” in identifying the group he leads because such use is not likely to be confused with the Episcopal Church Marks, or because the Episcopal Church Marks are not valid marks, the Church’s interests in its marks would be impaired.⁴

⁴ This is why the owner of a mark is a necessary party in a suit raising questions about rights in the mark. *See Ass’n of Co-op Members, Inc. v. Farmland Indus., Inc.*, 684 F.2d 1134, 1143 (5th Cir. 1982) (trademark owner is an indispensable party in infringement action because “a judgment for the

D. The Episcopal Church's Interests Are Not Adequately Represented by the Existing Parties to the Litigation.

An applicant seeking to intervene has a “minimal” burden to prove that its interests are not being adequately represented by existing parties. *Teague v. Bakker*, 931 F.2d 259, 262 (4th Cir. 1991). The applicant “need only show that the representation of its interests ‘may be’ inadequate.” *Trbovick v. United Mines Workers of Am.*, 404 U.S. 528, 538 n.10 (1972); *Genesis Press, Inc. v. MAC Funding Corp.*, 2008 U.S. Dist. LEXIS 59606, at *5 (D.S.C. Aug. 5, 2008).

Here, there are two reasons why the Church's interests may not be adequately represented by the existing plaintiffs. First, the existing plaintiffs do not adequately represent the Church's interests because they have not asserted important legal claims that the Church intends to make, since only the Church has a right to bring those claims. In particular, the plaintiffs have not asserted a trademark infringement claim or a trademark dilution claim, because they do not own the marks at issue. *See* 15 U.S.C. § 1114(1) (infringement claim may be brought “by the registrant”); *id.* § 1125(c)(1) (dilution claim may be brought by “the owner” of the mark). The plaintiffs cannot adequately represent the Church's interests when they cannot make the legal claims that the Church intends to assert in its Complaint-in-Intervention.

Second, although the bishops who brought this action are leaders in the Church's Diocese of South Carolina, the Church uses its marks nationwide, not just in South Carolina. The existing plaintiffs have no ecclesiastical jurisdiction outside of the Diocese of South Carolina, and the Church has the strongest interest in protecting the Episcopal Church Marks beyond South Carolina. Relatedly, the Church is in the best position to adduce evidence of such nationwide usage of the Episcopal Church Marks, which evidence is important to establishing the strength of

alleged infringer, whether based on a finding that the licensed mark is not a valid trademark or that the defendant's mark does not infringe it, may prejudice the owner's rights in his own mark”).

the Episcopal Church Marks and the Church's exclusive right to use them. In particular, the Church's trademark dilution claim under 15 U.S.C. § 1125(c) requires proof that a mark be "famous," which implicates factors such as the "geographic reach of advertising and publicity of the mark." *Id.* § 1125(c)(2)(A)(i). The Church has the strongest interest and the best capacity to provide such proof.

III. THE EPISCOPAL CHURCH SHOULD BE PERMITTED TO INTERVENE UNDER RULE 24(b).

A. The Motion is Timely.

This element is discussed in Section II.A above.

B. The Episcopal Church's Claim and the Main Action Contain Common Questions of Law and Fact.

The Church's proposed Complaint-in-Intervention shares many questions of law and fact with the claims in the Amended Complaint. These issues include, among others:

- the extent of the Church's rights in the Episcopal Church Marks;
- the strength of the Episcopal Church Marks and the public's perception of the source of those marks;
- what rights, if any, Defendant Lawrence has in the Episcopal Church Marks;
- what rights, if any, Defendant Lawrence has to claim to lead an "Episcopal Diocese" given that he no longer has any connection with the Church;
- whether Defendant Lawrence's use of the term "Episcopal Diocese" and the marks THE EPISCOPAL DIOCESE OF SOUTH CAROLINA and THE PROTESTANT EPISCOPAL CHURCH IN THE DIOCESE OF SOUTH CAROLINA to denote the group he leads is likely to deceive and confuse the public about the source of the services he provides;
- whether Defendant Lawrence's use of the term "Episcopal Diocese" and the marks THE EPISCOPAL DIOCESE OF SOUTH CAROLINA and THE PROTESTANT EPISCOPAL CHURCH IN THE DIOCESE OF SOUTH CAROLINA to denote the group he leads violates the Lanham Act; and
- whether Defendant Lawrence should be enjoined from using any mark that infringes upon the Episcopal Church Marks.

C. Intervention Will Not Unduly Delay or Prejudice the Adjudication of the Rights of the Original Parties.

Finally, permitting the Church to intervene will not delay this action or prejudice any party. As noted, discovery is ongoing and, if permitted to intervene, the Church will not seek to redo any discovery that has already been completed. Intervention will not delay any other deadlines, since discovery is scheduled to remain open until December and there is no trial date. Nor could Defendant Lawrence legitimately claim that the Church's mere participation would cause him any prejudice, since the Episcopal Church Marks are already the subject of this suit.

If the Court were not to permit the Church to intervene, the Church would be forced to initiate its own suit, which would multiply the litigation, impose additional costs on all parties, and unnecessarily burden the Court. *See, e.g., Backus v. South Carolina*, 2012 U.S. Dist. LEXIS 15310, at *10 (D.S.C. Feb. 8, 2012) (permitting intervention to "avoid[] future litigation and increase[] judicial economy").

CONCLUSION

The Court should grant The Episcopal Church's Motion for Leave to Intervene.

Dated: August 14, 2017

Respectfully submitted,

GIBBS & HOLMES

By: S/Allan R. Holmes
Allan R. Holmes (Fed. ID# 1925)
Cheryl H. Ledbetter (Fed. ID# 11446)
Timothy O. Lewis (Fed. ID# 9864)
171 Church Street, Suite 110
Charleston, SC 29401
(843) 722-0033 (telephone)
(843) 722-0114 (facsimile)

ATTORNEYS FOR THE EPISCOPAL CHURCH

5. The Episcopal Church is a religious denomination founded in 1789, comprising 110 geographically-defined, subordinate entities known as “dioceses” and more than 7,600 worshipping congregations in the United States and other countries. The Episcopal Church is a hierarchical church. Its highest governmental body is its General Convention, which is composed of bishops, other ordained clergy, and laity from its dioceses. The Episcopal Church’s governing rules are set forth in its Constitution and Canons, adopted by the General Convention, and are binding on all the Church’s dioceses, congregations, bishops, other clergy, and laity.

6. One of the dioceses of The Episcopal Church is its Diocese of South Carolina, which in 1973 formed a South Carolina corporation by the name “The Protestant Episcopal Church in South Carolina” (the “Corporation”) whose charter stated: “The purpose of the said proposed Corporation is to continue the operation of an Episcopal Diocese under the Constitution and Canons of The Protestant Episcopal Church in the United States of America.”

7. The Episcopal Church has for many years used and maintained a series of trademarks that signify the work of The Episcopal Church itself, which marks have been federally registered (the “Episcopal Church Marks”).

8. The Episcopal Church owns a federal trademark registration for the mark THE EPISCOPAL CHURCH covering “[r]eligious services, namely, ministerial, evangelical, and missionary services.” Fed. Reg. No. 3195455 (Jan. 9, 2007). That registration has become incontestable due to The Episcopal Church’s use of the mark in commerce for at least five consecutive years after the date of registration.

9. The Episcopal Church owns a federal trademark registration for the mark THE EPISCOPAL CHURCH covering “[i]nformational publications and educational materials covering religious and church-related topics, namely, books, magazines, pamphlets, and

newsletters.” Fed. Reg. No. 3195454 (Jan. 9, 2007). That registration has become incontestable due to The Episcopal Church’s use of the mark in commerce for at least five consecutive years after the date of registration.

10. The Episcopal Church owns a federal trademark registration for the mark THE EPISCOPAL CHURCH covering “[r]eligious instruction services.” Fed. Reg. No. 3379870 (Feb. 12, 2008). That registration has become incontestable due to The Episcopal Church’s use of the mark in commerce for at least five consecutive years after the date of registration.

11. The Episcopal Church owns a federal trademark registration for the mark THE PROTESTANT EPISCOPAL CHURCH IN THE UNITED STATES OF AMERICA covering “[r]eligious services, namely, ministerial, evangelical, and missionary services.” Fed. Reg. No. 3342725 (Nov. 27, 2007). That registration has become incontestable due to The Episcopal Church’s use of the mark in commerce for at least five consecutive years after the date of registration.

12. The Episcopal Church owns a federal trademark registration for the mark THE EPISCOPAL CHURCH WELCOMES YOU covering “[r]eligious services, namely, ministerial, evangelical, and missionary services.” Fed. Reg. No. 3342677 (Nov. 27, 2007). That registration has become incontestable due to The Episcopal Church’s use of the mark in commerce for at least five consecutive years after the date of registration.

13. The Episcopal Church owns a federal trademark registration for the mark LA IGLESIA EPISCOPAL (Spanish for “The Episcopal Church”) covering “[r]eligious instruction services.” Fed. Reg. No. 3378051 (Feb. 5, 2008). That registration has become incontestable due to The Episcopal Church’s use of the mark in commerce for at least five consecutive years after the date of registration.

14. The Episcopal Church owns a federal trademark registration for the mark LA IGLESIA EPISCOPAL covering “[i]nformational publications and educational materials covering religious topics, namely, books, magazines, pamphlets, and newsletters.” Fed. Reg. No. 3378049 (Feb. 5, 2008). That registration has become incontestable due to The Episcopal Church’s use of the mark in commerce for at least five consecutive years after the date of registration.

15. The Episcopal Church owns a federal trademark registration for the Episcopal shield mark covering “[i]nformational publications and educational materials covering religious topics, namely, books, magazines, pamphlets, and newsletters.” Fed. Reg. No. 3322456 (Oct. 30, 2007). That registration has become incontestable due to The Episcopal Church’s use of the mark in commerce for at least five consecutive years after the date of registration.

16. The Episcopal Church owns a federal trademark registration for the Episcopal shield mark covering “[r]eligious services, namely, ministerial, evangelical, and missionary services.” Fed. Reg. No. 3310672 (Oct. 16, 2007). That registration has become incontestable due to The Episcopal Church’s use of the mark in commerce for at least five consecutive years after the date of registration.

17. The Episcopal Church Marks are famous marks, because they are widely recognized by the general consuming public of the United States and in other countries as a designation of source of The Episcopal Church’s goods and services.

18. The Episcopal Church authorizes its dioceses, bishops, clergy, parishes, and parishioners to use the Episcopal Church Marks, and related or similar marks, to advertise their authority in and/or affiliation with The Episcopal Church and with each other, provided that the

nature and quality of their services are consistent with those prescribed and sanctioned by The Episcopal Church.

19. In 2008, Defendant Lawrence was ordained and authorized by The Episcopal Church to act as the bishop of The Episcopal Church's Diocese of South Carolina and served as such from 2008 and 2012.

20. In 2012, Defendant Lawrence announced that the Corporation of the Diocese of South Carolina purportedly had dissociated from The Episcopal Church.

21. In 2012, Defendant Lawrence renounced his affiliation with The Episcopal Church, and The Episcopal Church removed him from his office as a bishop in The Episcopal Church. He was succeeded as bishop of The Episcopal Church's Diocese of South Carolina by plaintiffs Bishop Charles G. vonRosenberg and Bishop Gladstone B. Adams, III.

22. Since being removed as a bishop in The Episcopal Church in 2012, Defendant Lawrence has continued, without authorization by The Episcopal Church, to represent to the public that he serves as a "Bishop" of an "Episcopal" "Diocese," and to use various names and marks in association with the services he provides, including without limitation the marks THE EPISCOPAL DIOCESE OF SOUTH CAROLINA and THE PROTESTANT EPISCOPAL CHURCH IN THE DIOCESE OF SOUTH CAROLINA.

23. Defendant Lawrence has adopted and continues to use marks, including, but not limited to, the marks THE EPISCOPAL DIOCESE OF SOUTH CAROLINA and THE PROTESTANT EPISCOPAL CHURCH IN THE DIOCESE OF SOUTH CAROLINA, in commerce in connection with the provision, sale, offering for sale, or distribution of goods and/or services, that are likely to cause confusion or mistake with, have caused confusion or mistake with, and infringe upon the Episcopal Church Marks.

24. Defendant Lawrence continues to use the infringing marks THE EPISCOPAL DIOCESE OF SOUTH CAROLINA and THE PROTESTANT EPISCOPAL CHURCH IN THE DIOCESE OF SOUTH CAROLINA without the consent of The Episcopal Church.

25. Defendant Lawrence has continually referred to many of the churches acting under his direction or control as “Episcopal” churches, and he has likewise failed to instruct those churches to discontinue referring to themselves as “Episcopal” churches.

26. As a result of Defendant Lawrence’s actions alleged in Paragraphs 22 through 25 above, members of the public, particularly consumers of religious services, have been and are likely to be confused about the connection between the services that Defendant Lawrence provides and the goods and services offered by The Episcopal Church and protected by the Episcopal Church Marks, including, but not limited to, (a) whether Defendant Lawrence is providing services in connection with The Episcopal Church, (b) whether Defendant Lawrence holds any position of authority within or has any affiliation with The Episcopal Church, (c) the identity of the leadership of The Episcopal Church’s Diocese of South Carolina, (d) the relationship between Defendant Lawrence on the one hand and the plaintiff Bishops on the other, and (e) who is authorized to use the Episcopal Church Marks.

27. Defendant Lawrence’s use of the marks THE EPISCOPAL DIOCESE OF SOUTH CAROLINA and THE PROTESTANT EPISCOPAL CHURCH IN THE DIOCESE OF SOUTH CAROLINA has been willful, and his infringement of the Episcopal Church Marks has been willful.

28. Defendant Lawrence’s infringing activities constitute repeated violations of the Lanham Act, 15 U.S.C. § 1114. The ongoing harm to The Episcopal Church from Defendant Lawrence’s actions is irreparable. Without an injunction, there will be no adequate way to

correct and redress all of the public confusion and false perceptions that have taken hold in this State and across the country due to Defendant Lawrence's infringement of the Episcopal Church Marks.

29. The Episcopal Church has been damaged in an amount to be determined at trial.

COUNT TWO

30. The Episcopal Church incorporates all of the preceding paragraphs as if set forth in full herein.

31. The Episcopal Church Marks are famous marks because they are widely recognized by the general consuming public of the United States as a designation of source of the goods or services of The Episcopal Church, including due to (a) The Episcopal Church's use of the Episcopal Church Marks for a long period of time, (b) the widespread extent of The Episcopal Church's use of the Episcopal Church Marks, (c) the Episcopal Church's use of the Episcopal Church Marks nationwide and around the world, (d) the use of the Episcopal Church Marks by third parties in reference to the goods or services provided by The Episcopal Church, (e) the widespread recognition of the Episcopal Church Marks as indicating The Episcopal Church as the source of the goods and services provided by The Episcopal Church, and (f) the registration of the Episcopal Church Marks on the principal trademark register, the long period during which those marks have been registered, and the incontestable status the marks have achieved.

32. The Episcopal Church Marks are distinctive, both inherently and through acquired distinctiveness through long-term and widespread use of the marks by The Episcopal Church, those it authorized to use the marks, and third parties in reference to the goods or services provided by The Episcopal Church.

33. Defendant Lawrence's use of the marks THE EPISCOPAL DIOCESE OF SOUTH CAROLINA and THE PROTESTANT EPISCOPAL CHURCH IN THE DIOCESE OF SOUTH CAROLINA is likely to cause dilution by blurring and dilution by tarnishment of the Episcopal Church Marks.

34. Defendant Lawrence's use of the marks THE EPISCOPAL DIOCESE OF SOUTH CAROLINA and THE PROTESTANT EPISCOPAL CHURCH IN THE DIOCESE OF SOUTH CAROLINA has been willful, and his dilution of the Episcopal Church Marks has been willful.

35. Defendant Lawrence's activities alleged above constitute repeated violations of the Lanham Act, 15 U.S.C. § 1125(c). This ongoing harm is irreparable, because there will be no fully adequate way for The Episcopal Church to correct and redress all of the public confusion and false perceptions that have taken hold in this State and across the country due to Defendant Lawrence's trademark dilution.

36. The Episcopal Church has been damaged in an amount to be determined at trial.

PRAYER FOR RELIEF

Plaintiff-in-Intervention prays that the Court award the following relief:

a. Declare that Defendant Lawrence has committed trademark infringement in violation of 15 U.S.C. § 1114;

b. Declare that Defendant Lawrence has committed trademark dilution in violation of 15 U.S.C. § 1125(c);

c. Enjoin Defendant Lawrence and those acting under his direction or control or in concert with him from using any mark that violates The Episcopal Church's rights in the Episcopal Church Marks, including, but not limited to, any mark that includes the term

“Episcopal” without a modifier connoting that Defendant Lawrence is not affiliated with The Episcopal Church;

d. Order an accounting of the profits Defendant Lawrence has obtained in connection with his trademark infringement and trademark dilution;

e. Award The Episcopal Church damages in an amount to be determined at trial, including without limitation the amount of the profits Defendant Lawrence has obtained in connection with his trademark infringement and trademark dilution, in an amount deemed just according to the circumstances;

f. Award The Episcopal Church its costs of this action, including reasonable attorneys’ fees and disbursements;

g. Award such other and further relief as the Court deems appropriate.

Dated: August 14, 2017

Respectfully submitted,

GIBBS & HOLMES

By: S/Allan R. Holmes
Allan R. Holmes (Fed. ID# 1925)
Cheryl H. Ledbetter (Fed. ID# 11446)
Timothy O. Lewis (Fed. ID# 9864)
171 Church Street, Suite 110
Charleston, SC 29401
(843) 722-0033 (telephone)
(843) 722-0114 (facsimile)

ATTORNEYS FOR THE PLAINTIFF-IN-INTERVENTION

