

HELLMAN YATES & TISDALE

ATTORNEYS AND COUNSELORS AT LAW

THOMAS S. TISDALE
DIRECT VOICE 843 414-9757
TST@HELLMANYATES.COM

HELLMAN YATES & TISDALE, PA
145 KING STREET, SUITE 102
CHARLESTON, SOUTH CAROLINA 29401
V 843 266-9099
F 843 266-9188

January 13, 2014

Via FedEx (tracking no.: 797614723678)

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter Street
Columbia, S.C. 29201

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

Dear Ms. Kitchings:

Enclosed for filing is one (1) original and one (1) copy of the notice of appeal in the above-referenced case. Also enclosed are the following:

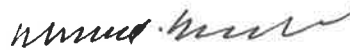
- (1) Proof of service of the notice of appeal the respondents;
- (2) A copy of the order which is to be challenged on appeal; and
- (3) A filing fee of \$100.00.

Please return one, file-stamped copy to our office. I have enclosed a stamped, self-addressed envelope for your convenience.

Thank you for your assistance. If you have any questions, please do not hesitate to contact me at your convenience.

With best wishes, I am

Very truly yours,



Thomas S. Tisdale

TST:asb
w/Enclosures

cc: The Honorable Cheryl L. Graham, Clerk of Court, Dorchester County (via U.S. Mail)
All Counsel of Record (via U.S. Mail)

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

Diane S. Goodstein, Circuit Court Judge

Case No. 2013-CP-18-00013

The Protestant Episcopal
Church In The Diocese Of
South Carolina, et al.,

Respondents,

v.

The Episcopal Church, et al.

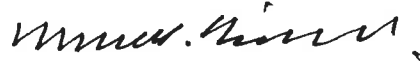
Appellants.

NOTICE OF APPEAL

The Episcopal Church in South Carolina appeals the order of the Honorable Diane S. Goodstein entered December 31, 2013, denying a motion for reconsideration of the Court's order entered November 18, 2013. Copies of those orders are attached hereto.

January 13, 2014

HELLMAN YATES & TISDALE, PA



Thomas S. Tisdale
tst@hellmanyates.com
SC Bar # 005584
Jason S. Smith
js@hellmanyates.com
SC Bar # 80700
145 King Street, Suite 102
Charleston, SC 29401
(843) 266-9099
(843) 266-9188 (facsimile)

ATTORNEYS FOR APPELLANT
THE EPISCOPAL CHURCH IN SOUTH
CAROLINA

All Other Counsel of Record:

AMANDA BAILEY, ESQ.

ATTORNEY FOR PLAINTIFFS THE PROTESTANT EPISCOPAL CHURCH IN THE DIOCESE OF SOUTH CAROLINA; SAINT LUKE'S CHURCH, HILTON HEAD; AND THE TRUSTEES OF THE PROTESTANT EPISCOPAL CHURCH IN THE DIOCESE OF SOUTH CAROLINA

McNair Law Firm

Post Office Box 336

Myrtle Beach, S.C. 29578

(843) 444-1107

DAVID BOOTH BEERS, ESQ.

ATTORNEY FOR DEFENDANT THE EPISCOPAL CHURCH

Goodwin Procter LLP

901 New York Avenue N.W.

Washington, D.C. 20001

(202) 346-4000

SAUNDERS M. BRIDGES, JR., ESQ.

ATTORNEY FOR PLAINTIFF ST. JOHN'S EPISCOPAL CHURCH OF FLORENCE, S.C.

Aiken Bridges Elliott Tyler & Saleby

Post Office Drawer 1931

Florence, S.C. 29503

(843) 669-8787

WILLIAM A BRYAN, ESQ.

ATTORNEY FOR PLAINTIFF CHURCH OF THE RESURRECTION, SURFSIDE

Bryan & Haar

Post Office Box 14860

Surfside Beach, S.C. 29587

(843) 238-3461

C. PIERCE CAMPBELL, ESQ.

ATTORNEY FOR PLAINTIFFS ALL SAINTS PROTESTANT EPISCOPAL CHURCH, INC.; CHURCH OF THE HOLY CROSS; AND ST. BARTHOLOMEWS EPISCOPAL CHURCH

Turner, Padget, Graham & Laney

Post Office Box 5478

Florence, S.C. 29501

(843) 662-9008

DAVID SPENCE COX, ESQ.

ATTORNEY FOR PLAINTIFFS THE PROTESTANT EPISCOPAL CHURCH IN THE DIOCESE OF SOUTH CAROLINA AND THE TRUSTEES OF THE PROTESTANT EPISCOPAL CHURCH IN THE DIOCESE OF SOUTH CAROLINA

Womble, Carlyle, Sandridge & Rice, LLP

Post Office Box 999

Charleston, S.C. 29402

(843) 722-3400

THOMAS CHRISTIAN DAVIS, ESQ.

ATTORNEY FOR PLAINTIFF CHRIST ST. PAUL'S EPISCOPAL CHURCH

Harvey & Battey, PA

1001 Craven Street

Beaufort, S.C. 29901

(843) 524-3109

DAVID L. DEVANE, ESQ.

ATTORNEY FOR PLAINTIFF THE CHURCH OF ST. LUKE AND ST., PAUL, RADCLIFFBORO

110 N. Main Street

Summerville, S.C. 29483

(843) 285-7100

BESS JONES DURANT, ESQ.

ATTORNEY FOR PLAINTIFF CHURCH OF THE HOLY COMFORTER

Sowell Gray Stepp & Laffitte, LLC

Post Office Box 11449

Columbia, S.C. 29211

(803) 929-1400

HARRY R. EASTERLING, ESQ.

ATTORNEY FOR PLAINTIFFS ST. DAVID'S CHURCH AND ST. PAUL'S EPISCOPAL CHURCH OF BENNETTSVILLE, INC.

Post Office Drawer 655

Bennettsville, S.C. 29512-0655

(843) 479-2878

MARK V. EVANS, ESQ.

ATTORNEY FOR PLAINTIFF ST. JAMES' CHURCH, JAMES ISLAND, SOUTH CAROLINA

147 Wappoo Creek Drive, Suite 202

Charleston, S.C. 29412

JOHN G. FRAMPTON, ESQ.

ATTORNEY FOR PLAINTIFF THE VESTRY AND WARDENS OF ST. PAUL'S CHURCH, SUMMERVILLE

Chellis & Frampton

Post Office Box 430

Summerville, S.C. 29483

(843) 871-7765

W. FOSTER GAILLARD, ESQ.

ATTORNEY FOR PLAINTIFF THE PROTESTANT EPISCOPAL CHURCH, OF THE PARISH OF SAINT PHILIP, IN CHARLESTON, IN THE STATE OF SOUTH CAROLINA

Womble Carlyle Sandridge & Rice, LLP

Post Office Box 999

Charleston, S.C. 29402

(843) 722-3400

EMILY R. GIFFORD, ESQ.

ATTORNEY FOR PLAINTIFF THE VESTRY AND CHURCH WARDENS OF THE EPISCOPAL CHURCH OF THE PARISH OF ST. MATTHEW

Richardson, Plowden & Robinson, P.A.

1900 Barnwell Street

Columbia, S.C. 29201

(803) 576-3717

HENRIETTA U. GOLDING, ESQ.

ATTORNEY FOR PLAINTIFFS THE PROTESTANT EPISCOPAL CHURCH IN THE DIOCESE OF SOUTH CAROLINA; SAINT LUKE'S CHURCH, HILTON HEAD; AND THE TRUSTEES OF THE PROTESTANT EPISCOPAL CHURCH IN THE DIOCESE OF SOUTH CAROLINA

McNair Law Firm

Post Office Box 336

Myrtle Beach, S.C. 29578

(843) 444-1107

HENRY E. GRIMBALL, ESQ.

ATTORNEY FOR PLAINTIFF THE PROTESTANT EPISCOPAL CHURCH, THE PARISH OF SAINT MICHAEL, IN CHARLESTON, IN THE STATE OF SOUTH CAROLINA

Womble Carlyle Sandridge & Rice, LLP

Post Office Box 999

Charleston, S.C. 29402

(843) 722-3400

EDWARD P. GUERARD, JR., ESQ.

ATTORNEY FOR PLAINTIFF VESTRY AND CHURCH-WARDENS OF THE EPISCOPAL CHURCH OF THE PARISH OF CHRIST CHURCH

Post Office Box 31924

Charleston, S.C. 29417

(843) 852-4530

PALMER C. HAMILTON, ESQ.

ATTORNEY FOR THE EPISCOPAL CHURCH IN SOUTH CAROLINA

JONES WALKER LLP

254 State Street

Mobile, A.L. 36603

(251) 432-1414

ALLAN R. HOLMES, ESQ.

ATTORNEY FOR THE EPISCOPAL CHURCH

Gibbs & Holmes

171 Church Street, Suite 110

Charleston, S.C. 29402

(843) 722-0033

ROBERT R. HORGER, ESQ.
ATTORNEY FOR PLAINTIFF CHURCH OF THE REDEEMER
Horger, Barnwell & Reid, LLP
P.O. Drawer 329
Orangeburg, S.C. 29116
(803) 531-3000

OANA D. JOHNSON, ESQ.
ATTORNEY FOR PLAINTIFF ST. ANDREWS CHURCH-MT. PLEASANT AND THE ST. ANDREWS CHURCH-MT. PLEASANT LAND TRUST
George J. Kefalos, P.A.
46A State Street
Charleston, S.C. 29401
(843) 722-6612

GEORGE J. KEFALOS, ESQ.
ATTORNEY FOR PLAINTIFF ST. ANDREWS CHURCH-MT. PLEASANT AND THE ST. ANDREWS CHURCH-MT. PLEASANT LAND TRUST
George J. Kefalos, P.A.
46A State Street
Charleston, S.C. 29401
(843) 722-6612

MARY E. KOSTEL, ESQ.
ATTORNEY FOR DEFENDANT THE EPISCOPAL CHURCH
Goodwin Procter LLP
901 New York Avenue N.W.
Washington, D.C. 20001
(202) 346-4000

ALBERT A. LACOUR, III, ESQ.
ATTORNEY FOR OLD SAINT ANDREWS PARISH CHURCH
Clawson & Staubes
126 Seven Farms Drive, Suite 200
Charleston, S.C. 29492

JAMES KENT LEHMAN, ESQ.
ATTORNEY FOR PLAINTIFF TRINITY CHURCH OF MYRTLE BEACH
Nelson Mullins Riley & Scarborough LLP
Post Office Box 11070
Columbia, S.C. 29211
(803) 799-2000

GEORGE A. LEMAISTRE, JR., ESQ.
ATTORNEY FOR THE EPISCOPAL CHURCH IN SOUTH CAROLINA
JONES WALKER LLP
254 State Street
Mobile, A.L. 36603
(251) 432-1414

TIMOTHY O. LEWIS, ESQ.
ATTORNEY FOR THE EPISCOPAL CHURCH
Gibbs & Holmes
171 Church Street, Suite 110
Charleston, S.C. 29402
(843) 722-0033

E. HOPE LUMPKIN, ESQ.
ATTORNEY FOR PLAINTIFF THE VESTRY AND WARDENS OF ST. PAUL'S CHURCH, SUMMERVILLE
Shelbourne Law Firm
131 East Richardson Avenue
Summerville, S.C. 29483
(843) 871-2210

SUSAN PARDUE MACDONALD, ESQ.
ATTORNEY FOR PLAINTIFF TRINITY CHURCH OF MYRTLE BEACH
Nelson Mullins Riley & Scarborough LLP
Post Office Box 3939
Myrtle Beach, S.C. 29578
(843) 448-3500

FRANCIS MARION MACK, ESQ.
ATTORNEY FOR PLAINTIFF THE VESTRY AND CHURCH WARDENS OF THE EPISCOPAL CHURCH OF THE PARISH OF ST. MATTHEW
Richardson, Plowden & Robinson, P.A.
1900 Barnwell Street
Columbia, S.C. 29201
(803) 576-3717

DAVID B. MARVEL, ESQ.
ATTORNEY FOR PLAINTIFF THE CHURCH OF ST. LUKE AND ST., PAUL, RADCLIFFBORO
Prenner Marvel, P.A.
636 King Street
Charleston, S.C. 29403
(843) 722-7250

I. KEITH MCCARTY, ESQ.

ATTORNEY FOR PLAINTIFF CHRIST ST. PAUL'S EPISCOPAL CHURCH

McCarty Law Firm, LLC

Post Office Box 30055

Charleston, S.C. 29417

(843) 793-1272

STEVEN SMITH MCKENZIE, ESQ.

ATTORNEY FOR PLAINTIFFS THE CHURCH OF THE EPIPHANY (EPISCOPAL) AND ST. MATTHIAS EPISCOPAL CHURCH, INC.

Coffey, Chandler & Kent, P.A.

2 North Brook Street

Manning, S.C. 29102

(803) 435-8847

LAWRENCE B. ORR, ESQ.

ATTORNEY FOR PLAINTIFFS ST. JOHN'S EPISCOPAL CHURCH OF FLORENCE, S.C. AND SAINT MATTHEWS CHURCH

Orr Elmore & Ervin, LLC

Post Office Box 2527

Florence, S.C. 29503

(843) 667-6613

HARRY A. OXNER, ESQ.

ATTORNEY FOR PLAINTIFFS CHRIST THE KING, WACCAMAW AND THE VESTRY AND CHURCH WARDENS OF THE EPISCOPAL CHURCH OF THE PARISH OF PRINCE GEORGE WINYAH

Oxner & Stacy

235 Church Street

Georgetown, S.C. 29940

(843) 527-8020

G. MARK PHILLIPS, ESQ.

ATTORNEY FOR PLAINTIFF THE PROTESTANT EPISCOPAL CHURCH, THE PARISH OF SAINT PHILIP, IN CHARLESTON, IN THE STATE OF SOUTH CAROLINA

Nelson Mullins Riley & Scarborough LLP

Post Office Box 1806

Charleston, S.C. 29402

ANDREW S. PLATTE, ESQ.

ATTORNEY FOR PLAINTIFFS THE CHURCH OF OUR SAVIOUR OF THE DIOCESE OF SOUTH CAROLINA; CHURCH OF THE CROSS, INC. AND CHURCH OF THE CROSS DECLARATION OF TRUST; THE PROTESTANT EPISCOPAL CHURCH, THE PARISH OF SAINT MICHAEL, IN CHARLESTON, IN THE STATE OF SOUTH CAROLINA AND SAINT MICHAEL'S CHURCH DECLARATION OF TRUST; THE PROTESTANT EPISCOPAL CHURCH, THE PARISH OF SAINT PHILIP, IN CHARLESTON, IN THE STATE OF SOUTH CAROLINA; THE PROTESTANT EPISCOPAL CHURCH IN THE DIOCESE OF SOUTH CAROLINA; ST. DAVID'S CHURCH; THE VESTRY AND CHURCH WARDENS OF THE EPISCOPAL CHURCH OF THE PARISH OF ST. HELENA AND THE PARISH CHURCH OF ST. HELENA TRUST; THE VESTRY AND CHURCH WARDENS OF ST. JUDE'S CHURCH OF WALTERBORO; TRINITY EPISCOPAL CHURCH, EDISTO ISLAND; AND VESTRY AND CHURCH WARDENS OF THE EPISCOPAL CHURCH OF THE PARISH OF ST. JOHN'S CHARLESTON COUNTY

Speights & Runyan

2015 Boundary Street, Suite 239

Beaufort, S.C. 29902

(803) 943-4444

C. ALAN RUNYAN, ESQ.

ATTORNEY FOR PLAINTIFFS THE CHURCH OF OUR SAVIOUR OF THE DIOCESE OF SOUTH CAROLINA; THE CHURCH OF ST. LUKE AND ST., PAUL, RADCLIFFBORO; CHURCH OF THE CROSS, INC. AND CHURCH OF THE CROSS DECLARATION OF TRUST; THE PROTESTANT EPISCOPAL CHURCH, THE PARISH OF SAINT MICHAEL, IN CHARLESTON, IN THE STATE OF SOUTH CAROLINA AND SAINT MICHAEL'S CHURCH DECLARATION OF TRUST; THE PROTESTANT EPISCOPAL CHURCH, THE PARISH OF SAINT PHILIP, IN CHARLESTON, IN THE STATE OF SOUTH CAROLINA; THE PROTESTANT EPISCOPAL CHURCH IN THE DIOCESE OF SOUTH CAROLINA; ST. DAVID'S CHURCH; TRINITY EPISCOPAL CHURCH, EDISTO ISLAND; THE VESTRY AND CHURCH WARDENS OF ST. JUDE'S CHURCH OF WALTERBORO; THE VESTRY AND CHURCH WARDENS OF THE EPISCOPAL CHURCH OF THE PARISH OF ST. HELENA AND THE PARISH CHURCH OF ST. HELENA TRUST; AND VESTRY AND CHURCH WARDENS OF THE EPISCOPAL CHURCH OF THE PARISH OF ST. JOHN'S CHARLESTON COUNTY

Speights & Runyan

2015 Boundary Street, Suite 239

Beaufort, S.C. 29902

(803) 943-4444

WILLIAM A. SCOTT, ESQ.

ATTORNEY FOR PLAINTIFF HOLY TRINITY EPISCOPAL CHURCH

Rogers, Townsend & Thomas, PC

775 St. Andrews Boulevard

Charleston, S.C. 29407

(843) 556-5656

PETER BRANDT SHELBOURNE, ESQ.

ATTORNEY FOR PLAINTIFF THE VESTRY AND WARDENS OF ST. PAUL'S CHURCH, SUMMERVILLE

Shelbourne Law Firm

131 East Richardson Avenue

Summerville, S.C. 29483

(843) 871-2210

ROBERT S. SHELTON, ESQ.

ATTORNEY FOR PLAINTIFF ST. PAUL'S EPISCOPAL CHURCH OF CONWAY

The Bellamy Law Firm

Post Office Box 357

Myrtle Beach, S.C. 29578

(843) 448-2400

ALLAN POE SLOAN, III, ESQ.

*ATTORNEY FOR PLAINTIFF VESTRY AND CHURCH-WARDENS OF THE EPISCOPAL CHURCH OF THE
PARISH OF CHRIST CHURCH*

Pierce, Herns, Sloan & Wilson, LLC

Post Office Box 22437

Charleston, S.C. 29413

(843) 722-7733

THORNWELL F. SOWELL, III, ESQ.

ATTORNEY FOR PLAINTIFF CHURCH OF THE HOLY COMFORTER

Sowell Gray Stepp & Laffitte, LLC

Post Office Box 11449

Columbia, S.C. 29211

(803) 929-1400

DANE J. SOWINSKI, ESQ.

ATTORNEY FOR PLAINTIFF HOLY TRINITY EPISCOPAL CHURCH

Rogers, Townsend & Thomas, PC

775 St. Andrews Blvd.

Charleston, S.C. 29407

(843) 556-5656

STEPHEN A. SPITZ, ESQ.

*ATTORNEY FOR PLAINTIFF ST. ANDREWS CHURCH-MT. PLEASANT AND THE ST. ANDREWS CHURCH-
MT. PLEASANT LAND TRUST*

1134 Clearspring Drive

Charleston, S.C. 29412

JOHN FURMAN WALL, III, ESQ.

ATTORNEY FOR PLAINTIFF CHURCH OF THE GOOD SHEPHERD

140 Wando Reach Court

Mt. Pleasant, S.C. 29464

CHARLES H. WILLIAMS, ESQ.

*ATTORNEY FOR PLAINTIFFS THE PROTESTANT EPISCOPAL CHURCH IN THE DIOCESE OF SOUTH
CAROLINA AND THE TRUSTEES OF THE PROTESTANT EPISCOPAL CHURCH IN SOUTH CAROLINA, A
SOUTH CAROLINA CORPORATE BODY*

Williams & Williams

Post Office Box 1084

Orangeburg, S.C. 29116-1084

(803) 534-5218

JOHN B. WILLIAMS, ESQ.

ATTORNEY FOR PLAINTIFF TRINITY EPISCOPAL CHURCH, PINOPOLIS

Williams & Hulst, LLC

Post Office Box 1288

Moncks Corner, S.C. 29461

(843) 761-8232

JOSEPH C. WILSON IV, ESQ.

*ATTORNEY FOR PLAINTIFF VESTRY AND CHURCH-WARDENS OF THE EPISCOPAL CHURCH OF THE
PARISH OF CHRIST CHURCH*

Pierce, Hems, Sloan & Wilson, LLC

Post Office Box 22437

Charleston, S.C. 29413

(843) 722-7733

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER
IN THE COURT OF COMMON PLEASJUDGMENT IN A CIVIL CASE
CASE NUMBER **2013CP1800013**

Protestant Episcopal Church In The Diocese Of South Carolina	Christ St. Paul's Episcopal Church	Episcopal Church	Protestant Epis.Ch. in the US of America
Church Of The Cross, Inc and Church Of The Cross Declaration	Church Of The Holy Comforter	Episcopal Church in South Carolina	
Church Of The Redeemer	Saint Luke's Church, Hilton Head		
St. John's Episcopal Church Of Florence, S. C.	St. Matthias Episcopal Church, Inc		
Church Of St. Luke and St. Paul, Radcliffeboro			

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☒ Statement of Judgment by the Court: Both Motions to Reconsidered filed by Defendant TECSC's Motion to Reconsider on 10/11/2013 and 11/25/2013 are hereby denied.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.
Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed

such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**


Diane S. Goodstein
Circuit Court Judge

2112

Judge Code

12/30/2013

Date

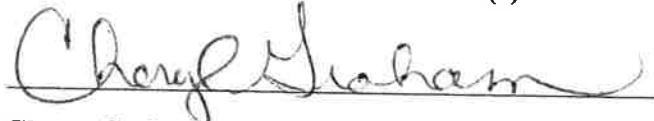
For Clerk of Court Office Use Only

This judgment was entered on ³¹12/30/2013, and a copy mailed first class or placed in the appropriate attorney's box on ³¹12/30/2013, to attorneys of record or to parties (when appearing pro se) as follows:

SEE ATTACHED

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)



Court Reporter: Melissa Singletary

Cheryl Graham - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

FORM 4

**STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER
IN THE COURT OF COMMON PLEAS**

**JUDGMENT IN A CIVIL CASE
CASE NUMBER 2013CP1800013**

Protestant Episcopal Church In The Diocese Of South Carolina	Christ St. Paul's Episcopal Church	Episcopal Church	Protestant Epis.Ch. in the US of America
Church Of The Cross, Inc and Church Of The Cross Declaration	Church Of The Holy Comforter	Episcopal Church in South Carolina	
Church Of The Redeemer	Saint Luke's Church, Hilton Head		
St. John's Episcopal Church Of Florence, S. C.	St. Matthias Episcopal Church, Inc		
Church Of St. Luke and St. Paul, Radcliffeboro			

CERTIFIED COPY
 2013 NOV 18 PM 4:07
 Clerk of Court
 DORCHESTER COUNTY

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order; (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge

may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

Diane S. Goodstein
Circuit Court Judge

2112
Judge Code

11/18/2013
Date

For Clerk of Court Office Use Only

This judgment was entered on **11/18/13**, and a copy mailed first class or placed in the appropriate attorney's box on **11/18/13**, to attorneys of record or to parties (when appearing pro se) as follows:

SEE ATTACHED MAILING LIST

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Cheryl Graham

Court Reporter

Cheryl Graham - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER)

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT
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); and The)
Episcopal Church in South Carolina,)

Defendants.

**ORDER DENYING THE
DEFENDANT TECSC'S
MOTION TO COMPEL DATED
SEPTEMBER 19, 2013**

CERTIFIED COPY
2013 NOV 18 PM 4:22
Clerk of Court
DORCHESTER COUNTY

By Motion dated September 19, 2013, the Defendant TECSC (hereinafter Defendant) sought production of documents from the Plaintiffs, The Protestant Episcopal Church in the Diocese of South Carolina and the Trustees of The Protestant Episcopal Church in South Carolina, (collectively hereinafter referenced as "the Plaintiffs"). The documents requested are the following:

11. Produce all correspondence and other communications, including emails, prior to November 17, 2012, between Bishop Mark J. Lawrence and C. Alan Runyan referring, relating to, concerning, or discussing the relationship between the Diocese of South Carolina and the Episcopal Church.

The Plaintiffs objected on the basis of attorney-client and work product privileges. A log identifying the requested information was attached to the objection.

Prior to the motion hearing, the Plaintiffs filed with this Court an Affidavit of C. Alan Runyan. According to Mr. Runyan's Affidavit, he is a South Carolina lawyer and is legal

SS:4 10/27/13
counsel for the Plaintiffs. He was first contacted by the Plaintiffs in October 2009 and then retained as counsel in November 2009 "...to render legal counsel and advice with respect to potential litigation with the Defendant, The Episcopal Church." He then states that since October 2009 to the present, he has functioned in his capacity as legal counsel in his communications with his clients, the Plaintiffs. Mr. Runyan then identifies, in his Affidavit, the directors/officers of the Plaintiffs with whom he has communicated. Attached to his Affidavit is a Privilege Log which Mr. Runyan states contains the documents which are protected by the attorney-client privilege and/or the work product privilege.

The Defendant TECSC's contention is that it is the client and that, as the client, it is entitled to the attorney-client information that existed before the disaffiliation between the Plaintiffs and the Defendant TEC. Counsel for the Defendant stated in oral arguments that "...we are entitled to Mr. Runyan's work for we were his clients...". At the hearing it was represented to the Court that the Defendant came into existence in the later part of January, 2013 as an unincorporated association. Defendant's counsel sent a letter to this Court dated September 27, 2013 which letter specifically stated that the Defendant is a South Carolina unincorporated association and as such has a right to sue and be sued.

The attorney-client privilege and the attorney-work product privilege have long been recognized in this State. "The privilege is based upon a public policy that the best interest of society is served by promoting a relationship between the attorney and the client whereby utmost confidence in the continuing secrecy of all confidential disclosures made by the client within the relationship is maintained. The privilege belongs to the client and, unless waived by him, survives even his death." The State vs. Doster, 276 S.C. 647, 248 S.E.2d 218, 219 (1981). The attorney-client privilege belongs to the client and not the attorney, and may be waived only by

the client. Tucker vs. Honda of South Carolina, Mfg., Inc., 354 S.C. 574, 582 S.C.2d 405 (2003).

As to corporations, it is well established that the attorney-client privilege attaches to corporations as well as to individuals. Commodity Futures Trading Comm'n vs. Weintraub, et al., 471 U.S. 343, 348, 105 S.Ct. 1986 (1985). As the U.S. Supreme Court noted in Commodities Futures Trading Commission, supra, a corporation, as an inanimate entity, must act through its agents and normally the corporation's management is vested with the authority of exercising the privilege in a manner consistent with the fiduciary duty to act in the best interest of the corporation and not of themselves as individuals. *Supra* at 349. The U.S. Supreme Court went on to state

“...that when control of a corporation passes to new management, the authority to assert and waive the corporation's attorney-client privilege passes as well. New managers installed as a result of take over, merger, loss of confidence by shareholders, or simply normal succession, may waive the attorney-client privilege with respect to communications made by former officers and directors. Displaced managers may not assert the privileges over the wishes of current managers...”. *Supra*.

In this action, the Defendant states that it is the client and as the client it has the right to documents subject to the privileges. However, the Plaintiffs are South Carolina Non-Profit Corporations and contend that the Defendant does not have standing to seek its documents subject to the privileges. In essence, the Defendant contends that even though it is now disaffiliated from the Plaintiffs, it still has a right, as having been a part of the Plaintiffs, to review the privileged documents. But the privilege belongs to the non-profit corporations, the Plaintiffs, and not to the persons who were formally associated with the Plaintiffs. In Wilson vs. Preston, 378 S.C. 348, 662 S.E.2d 580 (S.C. 2008), the South Carolina Supreme Court held that an individual council member cannot independently review attorney-client privileged documents

because the privilege belongs to the Council as a whole, only the Council as a whole is authorized to release the information. The same is true in this action for the former members associated with the Plaintiffs did not have the privileges, they were only a part, not a whole.

Another argument asserted by the Defendant was that the Defendant was the client since it was the Plaintiff and therefore it and the Plaintiffs share the privileges. . The Defendant relied upon the analysis applicable to multi-party representation. I find this not to be applicable. Mr. Runyan's Affidavit identifies his clients and his two clients are the Plaintiffs. He does not, in his Affidavit, state at any time that he represented the Defendant.

It is the obligation of this Court to first determine the question of privilege and such must be done without first requiring disclosure of the substance of the communication. State vs. Doster, *supra* at 220. The essential elements given rise to the privilege are the following:

“(1) Where legal advice of any kind is sought (2) from a professional legal adviser in his capacity as such (3) the communications relating to that purpose (4) made in confidence (5) by the client (6) are at his instance permanently protected (7) from disclosure by himself or by the legal adviser (8) except the protection may be waived.” State vs. Doster, *supra* at 219-220.

After analysis of the above elements along with the information presented to this Court, I find that the documentation sought by the Defendant is subject to the attorney-client privilege and attorney-work product privilege, therefore, the Defendant's Motion is denied.

If the Defendant requests an in-camera inspection of the documents identified in the Plaintiffs' privilege log to confirm that the documents are indeed subject to the privileges, then the Defendant, with the consent of the Plaintiffs, must contract with a neutral South Carolina lawyer to act as a Special Referee. The scope of the Special Referee's duties shall be to review all the documents identified in the Plaintiffs' privilege log for the purpose of determining whether each document consists of information subject to attorney-client privilege or attorney-

work product including attorney's mental impressions and thoughts, as well as communications from management to the attorney. The Defendant shall bear the costs of the Special Referee unless the Special Referee discovers that at least ten (10%) percent of the documents in the privileged log may not be subject to any privilege and, in such event, the Special Referee's costs and charges shall be borne fifty (50%) percent by the Defendant and fifty (50%) percent by the Plaintiffs. In the event the Special Referee discovers that some documents may not be subject to any privilege, then the Special Referee shall present these documents, in a sealed envelope, to this Court for the Court to make a final determination as to the production of the documents.

To commence this process of an independent inspection, the Defendant, within seven (7) days from the date of this Order, shall contact Plaintiffs' counsel and then within five (5) days thereafter the attorneys must agree upon a Special Referee. The documents identified in the privileged log must be made available to the Special Referee as soon as possible, but in no event later than ten (10) days following the selection of the Special Referee. The Special Referee shall then have twenty (20) days to review the documents and report to this Court, if necessary, any documents that may not be subject to any privileges.

IT IS SO ORDERED.



Diane S. Goodstein
Circuit Court Judge
First Judicial Circuit

Dated: Nov. 7, 2013

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

Diane S. Goodstein, Circuit Court Judge

Case No. 2013-CP-18-00013

The Protestant Episcopal
Church In The Diocese Of
South Carolina, et al.,

Respondents,

v.


The Episcopal Church, et al.

Appellants.

PROOF OF SERVICE

I certify that I have served The Episcopal Church in South Carolina's ("TECSC") Notice of Appeal on all counsel of record by depositing a copy of it in the United States Mail, postage prepaid, on January 13, 2014.

January 13, 2014


Ann Skipper Ballenger
Paralegal to Thomas S. Tisdale, Jr., Esq.,
and Jason S. Smith, Esq.
HELLMAN YATES & TISDALE, PA
145 King Street, Suite 102
Charleston, South Carolina 29401
Telephone: (843) 266-9099
Facsimile: (843) 266-9188
asb@hellmanyates.com