

VOLUME XIV

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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.,)

TRANSCRIPT OF RECORD

JULY 25, 2014
ST. GEORGE, SC

Plaintiffs,

vs.

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

Defendants.

B E F O R E:

HONORABLE DIANE S. GOODSTEIN

Ruth L. Mott, RPR, CRR
Official Court Reporter

1 I N D E X

2	WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
3	MARK JOSEPH LAWRENCE				
	MR. RUNYAN	2445			
4	MS. GOLDING	2481			
	MR. BEERS		2481		
5					
6	CERTIFICATE OF REPORTER	2523			

7 E X H I B I T S

8	NO.	DESCRIPTION	ID	EVD
9	DSC-76	BISHOP'S STATEMENT	2441	2447
	DSC-77	10/2/2012 LETTER	2441	2452
10	DSC-78	LETTERS DIMISSORY	2441	2457
	DSC-79	12/5/2012 LETTER	2441	2459
11	DSC-80A	EXCERPTS FROM CONSTITUTION AND CANONS, 2006	2441	2462
12	DSC-80B	EXCERPTS FROM CONSTITUTION AND CANONS, 2009	2441	2462
13				
14	D-225B -- D-424B	EXCERPTS FROM JOURNALS	2509	2511
15				
16	J-1	LIST OF PARISH-SPECIFIC PAGE CITATIONS IN DIOCESAN JOURNALS, 1901-2009	2519	
17				
18	J-2	LIST OF PARISH-SPECIFIC PAGE CITATIONS IN DIOCESAN JOURNALS UP THROUGH 1900	2519	
19				
20	C-9 -- C-44	30 (B) (6) DEPOSITIONS	2522	
21				
22				
23				
24				
25				

1 (Plaintiff's Exhibits DSC-76 through DSC-79 and DSC-80A
2 and DSC-80B premarked for identification.)

3 THE COURT: All right. If you'd call your witness. I
4 think that's where we ended yesterday.

5 MR. RUNYAN: Your Honor, we had one issue that I
6 mentioned to Mr. Tisdale this morning. Because our next
7 witness will be our last witness, and they have not closed
8 their case yet, we need some finality on that so we know
9 whether we have to call somebody else, so I'm just asking if
10 their case is over.

11 MR. TISDALE: Your Honor, except for the processing of
12 the documents, we have no further testimony to present. And
13 except for working out all the documentary evidence, we --

14 THE COURT: And all the documentary evidence beyond the
15 30(b)(6), and there may have been one or two documents that
16 we were still trying to get legibility issues resolved, other
17 than those documents, what other documents are --

18 MR. BEERS: We have to admit the diocesan journals and
19 we've worked out an agreement with everybody on that. It's a
20 question of making the record clear.

21 THE COURT: I think they need to know what additional
22 that they aren't anticipating might there be.

23 MR. TISDALE: Your Honor, we have a very brief thing
24 that doesn't have anything to do with another witness, I
25 don't think, but Ms. Golding, she's gone over Bishop

1 Lawrence's deposition, which we put into evidence, and she --
2 there's just one point that we need to get resolved on that
3 at some point. And that's all there is. It doesn't have
4 anything to do with the case other than that. We don't have
5 any more testimony or documents other than what have been
6 mentioned.

7 MS. KOSTEL: And there's one final thing: On the
8 parish-specific exhibits that we went through parish by
9 parish, we're ready to submit them, but in putting together
10 the hard copies we found that we couldn't locate some so
11 we're withdrawing several of them. And I think I probably
12 need to put that into the record and also note for the
13 record -- I'll do it at the time -- that as to the
14 consecration documents which were marked for identification
15 only, it's our judgment that there are other consecration
16 evidence that's been marked for identification in the
17 30(b)(6), and so this was duplicative so we pulled them out
18 of here. But I need to make that record.

19 THE COURT: We'll just clean that up.

20 MS. KOSTEL: Yes.

21 THE COURT: Okay. Just so everyone is clear and we have
22 some organization as we get to towards the conclusion, it is
23 my understanding that I should anticipate the 30(b)(6)
24 depositions that I have been -- that I know that Mr. Beers
25 has been working with the different parishes, that I should

1 anticipate those depositions.

2 MR. BEERS: That will not take long, Your Honor.

3 THE COURT: Okay. And you've been working through
4 whatever objections, and any that aren't resolved, I will
5 handle. I will handle the objection that is in Bishop
6 Lawrence's deposition --

7 MS. GOLDING: That's correct.

8 THE COURT: -- which I understand is primarily one.
9 Additionally there's going to be some clean up of some
10 exhibits that have perhaps been in and there needs to be a
11 tweak here and there.

12 MS. KOSTEL: Yes, Your Honor.

13 MR. BEERS: There's a tweak with the diocesan journals,
14 but it's consented to.

15 THE COURT: Exactly. Thank you. But those should
16 conclude the documents and the evidence with regards to the
17 defendants. Yes?

18 MR. TISDALE: That is correct.

19 THE COURT: All right.

20 MR. BEERS: Because we're still negotiating some of the
21 diocesan journals, we're probably going to have to make a new
22 set -- no. I'm sorry. We're still negotiating on the
23 30(b)(6). We had made copies, hard copies, but we'll either
24 have to mark them or just get another copy, get another set
25 copied.

1 THE COURT: I understand. We'll figure out how to do
2 that. It very well may be, but we'll leave the record open
3 for the receipt of that.

4 MR. BEERS: Right. But the record will be clear as to
5 what's in and what's out.

6 THE COURT: Yes, yes. Got it.

7 MR. RUNYAN: Your Honor, I understand there is an --
8 Exhibit 512, I believe, Defendant's Exhibit 512, is a Book of
9 Common Prayer. I don't see it here. Is that --

10 MS. ST. ARMAND: It's right here. It just hasn't made
11 its way over there yet (indicating).

12 MR. RUNYAN: All right. Okay. That was my last
13 question.

14 THE COURT: Okay. So now you are prepared to call your
15 final witness?

16 MR. RUNYAN: I am, Your Honor.

17 THE COURT: Okay.

18 MR. RUNYAN: Plaintiffs call the Right Reverend Joseph
19 Mark Lawrence.

20 MARK JOSEPH LAWRENCE,
21 being first duly sworn, testified as follows:

22 THE COURT: And if you'd be so kind as to state your
23 full name for the record again and spell your last name,
24 we're going to use this, again, as a sound check.

25 THE WITNESS: Mark Joseph Lawrence, L-A-W-R-E-N-C-E.

1 THE COURT: Your witness.

2 DIRECT EXAMINATION BY MR. RUNYAN:

3 Q. Good morning, Bishop.

4 A. Good morning.

5 Q. Would you please tell the Court where you live?

6 A. I live in Charleston, South Carolina.

7 Q. And have you lived here all of your life?

8 A. No.

9 Q. Where were you born?

10 A. I was born in Bakersfield California, fifth-generation
11 Californian, which is nothing here but in California that's
12 roots.

13 Q. Okay. Did you go to school in California?

14 A. I did.

15 Q. Where did you go?

16 A. I went to the Bakersfield school system. And then I
17 graduated from Cal State University in Bakersfield. And then
18 I went to Trinity Episcopal School for the Ministry, where I
19 received a Master of Divinity degree.

20 Q. Are you married?

21 A. I am. My wife, Allison, we've been married since 1973.
22 We have five children, 15 grandchildren, and the 16th one is
23 there in the womb of her, our youngest daughter, who's in the
24 first row.

25 Q. Bishop, where are you presently employed?

1 A. I'm employed in South Carolina with the Diocese of South
2 Carolina.

3 Q. Are you the 14th bishop of the Diocese of South
4 Carolina?

5 A. Yes, I am.

6 Q. We have heard testimony that in order to become the 14th
7 bishop of the Diocese of South Carolina you, along with
8 others, were interviewed. Were you in fact interviewed by
9 members of a search committee and the standing committee?

10 A. Yes, I was.

11 Q. During the course of any of those interviews did anyone
12 ask you whether you would be willing to take the Diocese of
13 South Carolina out of the Episcopal Church?

14 A. No.

15 Q. Did you intend to take the Diocese of South Carolina out
16 of the Episcopal Church?

17 A. Absolutely not.

18 Q. Bishop, at some point after your election, as you were
19 doing duties of the bishop, were issues raised of which you
20 were aware about whether the national church, through its
21 general convention or otherwise, had the right to control a
22 diocese?

23 A. Yes.

24 Q. And did you participate with other bishops of the church
25 in adopting a statement on that issue?

1 A. Yes, I did.

2 Q. I'm going to hand you what's been marked as Plaintiff's
3 Exhibit 76 for identification. Is that the statement?

4 A. That is the statement of polity of the Episcopal Church.
5 And my name is listed on the front page along with others.

6 Q. And does this set forth some of the positions that you
7 took on whether the Diocese of South Carolina is or is not
8 subordinate to the national church?

9 A. It does represent that.

10 MR. RUNYAN: Move it into evidence.

11 THE COURT: Any objection?

12 MR. BEERS: No, Your Honor.

13 MR. TISDALE: None, Your Honor.

14 THE COURT: Very well.

15 MS. KOSTEL: The number?

16 MR. RUNYAN: 76.

17 THE COURT: In evidence without objection.

18 (Plaintiff's Exhibit DSC-76 admitted into evidence.)

19 Q. I'd like you to just walk us through, briefly, the
20 duties of a bishop with jurisdiction; but, first of all, I'd
21 like for you to just describe what a bishop with jurisdiction
22 is.

23 A. A bishop, coming from the Greek word "episkopos" or
24 "episcopoi," whether it's singular or plural, is an overseer
25 of a body of gathered congregations and people that is the

1 basic unit of the church and has for innumerable centuries
2 been the basic unit of the church. So the bishop is the
3 overseer.

4 Q. And as the 14th bishop of South Carolina, between your
5 election and consecration in October of 2012, would you just
6 tell the Court the kinds of things that you would do as a
7 bishop with jurisdiction involving church matters?

8 A. Well, I am the chief pastor of the congregation, so I
9 shepherd, pastor, nurture the clergy, priests and deacons. I
10 visit congregations, celebrate the sacrament, baptize,
11 confirm people. I help congregations that do not have a
12 rector or a pastor to find some. They elect their pastor of
13 their parish, but I approve of them or confirm that election.
14 I appoint clergy to mission congregations, those
15 congregations that are unable to afford a full-time priest.
16 I send letters dimissory of priests transferring from the
17 Diocese of South Carolina into another diocese. I receive
18 letters dimissory. I sign documents for a priest seeking
19 retirement and wanting his or her church pension fund to
20 begin. I preside at conventions. I'm the president of the
21 convention of the diocese when it meets. I sign documents on
22 behalf of the diocese, legal and ecclesial. Those are some
23 of the things.

24 Q. Just a question about letters dimissory. Does that have
25 reference to the transfer of a priest to you or from you in

1 terms of jurisdiction over that priest?

2 A. Yes, when a priest seeks to be transferred from, let's
3 say, the Diocese of South Carolina to the Diocese of
4 Springfield, that priest will make a request of me to send a
5 letter dimissory and then I send that letter. And then the
6 corresponding bishop of the Diocese of Springfield or the
7 Diocese of Albany or whatever it might be, that bishop then
8 sends to me a recognition that they have received that
9 person.

10 Q. Bishop Lawrence, I want to take you back to a convention
11 of the Diocese of South Carolina in October of 2010. Did the
12 convention of the Diocese of South Carolina vote to amend its
13 articles of incorporation?

14 A. Yes, it did.

15 Q. And as a result of that did you in fact sign an
16 amendment that was filed with the Secretary of State?

17 A. I did.

18 Q. Did you sign as an officer of the corporation?

19 A. Yes, I did.

20 Q. And after the signing of that document until we'll take
21 it up to October of 2012, did you continue to do the job that
22 you have done as bishop, as a bishop with jurisdiction?

23 A. Yes, I continued to do the job.

24 Q. And when letters dimissory were sent to another
25 jurisdiction, were they in fact received?

1 A. Yes, they were.

2 Q. And were the priests transferred on the records of the
3 Episcopal Church?

4 A. Yes, I assume they would have been.

5 Q. Bishop, did you also from time to time between that time
6 period attend meetings of the House of Bishops?

7 A. Yes, I did.

8 Q. About how frequently did they meet?

9 A. The House of Bishops often meets twice a year. Every
10 three years it meets at the general convention of the
11 Episcopal Church.

12 Q. And on occasion at House of Bishops meetings are votes
13 taken of the bishops on various issues?

14 A. Yes. There's often a business session at each gathering
15 of the House of Bishops.

16 Q. Between October of 2010 and October of 2012 did you on
17 occasion vote when required at these meetings?

18 A. I certainly did.

19 Q. Was your vote counted either for or against the
20 proposition?

21 A. Yes, it was.

22 Q. Did you attend the convention of the -- the general
23 convention in the summer of 2012?

24 A. I did.

25 Q. Were you called as a member of the bishops, called

1 during the roll call?

2 A. I was.

3 Q. Did you have the opportunity to speak to issues?

4 A. I spoke to several.

5 Q. Were you given seat, voice, and vote?

6 A. I was.

7 Q. Did you in fact vote?

8 A. I did.

9 Q. Let's go to September-October of 2012, if we could. Did
10 you receive a request from the standing committee for an
11 interpretation of the constitution and canons as the
12 ecclesiastical authority of the diocese?

13 A. Yes. I received it in mail.

14 Q. I'm going to hand you what's already been marked as
15 Diocese Exhibit 2.

16 MR. RUNYAN: If you'd put this on the screen, the last
17 page of Canon 37.

18 Q. Bishop, would you just read that canon, please, sir.

19 A. Canon 37 of the Ecclesiastical Authority. The
20 ecclesiastical authority of the Diocese is the Bishop. If
21 there is no Bishop, the standing committee is the
22 ecclesiastical authority. The ecclesiastical authority of
23 the Diocese, with the advice and counsel of the Chancellor,
24 is the sole and final authority with respect to any dispute
25 concerning the interpretation of the constitution and the

1 canons of this Diocese, and its interpretations shall be
2 final and binding in all respects.

3 Q. And pursuant to that canon did you in fact issue such an
4 interpretation that is Exhibit 77 for identification
5 (indicating)?

6 A. Yes, the interpretation of the constitution and canons
7 by the ecclesiastical authority of the diocese; has my
8 signature on the last page.

9 MR. RUNYAN: Okay. I'd offer that in evidence.

10 MR. TISDALE: No objection, Your Honor.

11 MR. BEERS: No objection.

12 THE COURT: Very well.

13 (Plaintiff's Exhibit DSC-77 admitted into evidence.)

14 Q. Okay. Let's go to October the 15th, 2012. Were you
15 scheduled on that day to have a conversation with the
16 presiding bishop?

17 A. Yes. We had arranged for a phone call on that day with
18 her chancellor being on the line and my chancellor being on a
19 telephone line.

20 Q. So there were four of you?

21 A. Correct.

22 Q. One of those was Mr. Beers?

23 A. Yes.

24 Q. And one of those was Wade Logan?

25 A. Correct.

1 Q. And one of those was Katharine Jefferts Schori?

2 A. Yes.

3 Q. And yourself?

4 A. Correct.

5 Q. Bishop, a preliminary question: Prior to that phone
6 call did you have any knowledge at all that there was a
7 complaint against you in the fall of 2012 or that there had
8 been any sort of finding by the Disciplinary Board for
9 Bishops that a charge would be preferred against you for the
10 charge of abandonment?

11 A. I had no knowledge of that.

12 Q. And between September 17th, which the record will
13 reflect is the date of that document, and October the 15th,
14 the date of your phone call, had you had the opportunity to
15 be in the presence of the presiding bishop?

16 A. Yes. I met with her at the national church office in
17 New York.

18 Q. Of what day?

19 A. October 3rd.

20 Q. Approximately how long was the meeting?

21 A. I will guess probably about two hours.

22 Q. At any time during the two hours were you informed of
23 the existence of the document known as a certification of
24 abandonment signed presumably on September 17, 2012?

25 A. I was told nothing about such a thing.

1 Q. Did you on October the 15th ask a question of the
2 presiding bishop related to that issue?

3 A. Yes. She said that she had received it on October 10th.
4 I asked her if she had received it at that time or she
5 discovered or learned about it at that time, and she said she
6 received the document at that time.

7 Q. Okay.

8 A. I didn't push it.

9 Q. Now, Bishop, after that discussion -- were you informed
10 during that discussion also about her intent to issue a
11 restriction of your ministry?

12 A. Was I informed in the conversation on the 15th?

13 Q. Yes.

14 A. Yes, she informed me of that.

15 Q. All right. And to this day have you ever been served
16 with a signed restriction of your ministry by the presiding
17 bishop's office?

18 A. I have never been served.

19 Q. To this day have you ever been served with the
20 certificate of abandonment together with its attachments?

21 A. I do not believe I have.

22 MR. RUNYAN: Your Honor, at this time I would like to
23 publish portions of Defendant's Exhibit 203, which is the
24 Constitution and Canons of the Episcopal Church for 2009.
25 The portion that I would publish is on Page 161, is a part of

1 the canon on ecclesiastical discipline, Canon 4, Section 19,
2 Subsection 20. "Notices or other papers to be served
3 according to procedures of this Title shall be deemed to have
4 been duly served if a copy is delivered to the person to be
5 served, is left with an adult resident of the abode of the
6 person to be served or is mailed by certified mail to the
7 person's usual place of abode. Notice by publication shall
8 be made in a newspaper of general circulation in the
9 jurisdiction of the person's usual place of abode.
10 Acceptance of service renders unnecessary any further
11 process."

12 Were you served in that fashion, Bishop?

13 MS. KOSTEL: Excuse me. Your Honor, I'd like to just
14 preserve for the record objection to this line of inquiry. I
15 understand Your Honor's ruling of yesterday and would
16 respectfully like to preserve for the record my objection to
17 going into the question of whether the church's processes
18 were followed, just preserving for the record, understanding
19 Your Honor's ruling on that issue.

20 MR. TISDALE: We would, of course, join that objection.

21 THE COURT: I want the record to be clear that the
22 reason that this inquiry is important is for the purpose of
23 the Court's ability to be able to determine at some point
24 whether the actions that were taken by Bishop Lawrence
25 pursuant to the civil law of the State of South Carolina were

1 taken in his capacity as a managing agent. The relevance of
2 this information goes to that.

3 MS. KOSTEL: Thank you, Your Honor.

4 MR. TISDALE: Your Honor, I just wanted to be certain
5 the reporter got that we joined in that objection and we
6 appreciate your ruling on it.

7 THE COURT: You may proceed.

8 Q. Bishop Lawrence, after the --

9 A. I don't know if I answered that question.

10 Q. Oh, I'm sorry.

11 A. Could you restate it?

12 THE COURT: That happens every single time that there's
13 that interruption between question and answer.

14 THE WITNESS: I think I remember it well enough. I have
15 no recollection of that being fulfilled.

16 Q. Okay. Thank you, Bishop. After the conversation on
17 October the 15th and the disassociation of the diocese from
18 the Episcopal Church, did you continue to function as bishop?

19 A. I did. I went to my normal visitation that Sunday and
20 did confirmation as usual. I signed letters dimissory, I
21 signed documents for the Church Pension Fund, for the
22 retirement of clergy persons, I presided at a convention,
23 various things.

24 Q. Okay. I'm going to hand you what's marked as
25 Plaintiff's Exhibit 78 for identification. Hang on just a

1 minute and I'll ask you a question about that.

2 Could you identify that exhibit, Bishop?

3 A. Yes. These are letters dimissory. First one --

4 Q. Let's not get into the details. Could you tell us what
5 date you signed these letters on that are in front of you?

6 A. The first one is November 26th. The second one is an
7 acceptance of a letter dimissory.

8 Q. Hang on just a second. November 26 in what year?

9 A. 2012.

10 Q. Okay. And the second one is what?

11 A. The acceptance of a letter dimissory from another
12 diocese.

13 MR. RUNYAN: Let's stop right there before we get into
14 it. I'd move this in evidence.

15 THE COURT: Plaintiff's 78. Is there any objection?

16 MR. TISDALE: No objection, Your Honor.

17 MS. KOSTEL: One moment, please. Thank you.

18 MR. BEERS: No. Go ahead. Sorry.

19 THE COURT: Very well, 78 in evidence without objection.

20 (Plaintiff's Exhibit DSC-78 admitted into evidence.)

21 Q. Bishop, are these letters dimissory the types of things
22 that you had been doing since you were first elected and
23 consecrated as a bishop?

24 A. Yes, they are.

25 Q. Anything different about these than the others other

1 than the fact that they're dated in November 2012?

2 A. No. They look the same.

3 Q. Were letters dimissory issued after the convention of
4 the special convention of the diocese in November of 2012?

5 A. One -- two were and two were before the one on November
6 17th.

7 Q. Have you ever been informed by anybody with the
8 Episcopal Church or with the dioceses to which these letters
9 are directed or from which they were received that the
10 transfers did not occur?

11 A. No.

12 Q. Bishop, after the convention, special convention, in
13 November of 2012, in early December did you receive something
14 from the presiding bishop's office?

15 A. I first received a phone call from the presiding bishop,
16 I believe it was on December the 5th, informing me that I
17 had -- she had accepted my renunciation of orders, and then a
18 letter came signed by her and to I believe two attending
19 bishops.

20 Q. I hand you Plaintiff's Exhibit 79 for identification and
21 ask you, is that the letter to which you refer?

22 A. Yes, it is.

23 MR. RUNYAN: Offer it in evidence.

24 MR. BEERS: For the record, Your Honor, I join

25 Ms. Kostel's objection to this on the same grounds, that it's

1 beyond the scope, permissible scope, in this proceeding and
2 has no relevance to the current proceeding. But I understand
3 Your Honor has ruled.

4 THE COURT: Well, I haven't ruled.

5 MR. BEERS: Sorry.

6 THE COURT: I haven't ruled on that.

7 MR. BEERS: I think it raises the same issue that
8 Ms. Kostel raises.

9 MR. RUNYAN: Actually, this is a finding. This is a
10 finding of an official of the Episcopal Church. I'm not
11 sure --

12 MR. BEERS: That's not our objection. Our objection
13 goes to relevance.

14 MR. RUNYAN: Relevance. Okay.

15 MR. TISDALE: We have no objection to it.

16 THE COURT: Thank you, Mr. Tisdale.

17 MR. BEERS: Excuse me, Your Honor. With all due
18 respect, Ms. Kostel has just instructed me to withdraw my
19 objection.

20 THE COURT: Very well.

21 (Plaintiff's Exhibit DSC-79 admitted into evidence.)

22 Q. Bishop Lawrence, would you look at this exhibit, please,
23 sir, and, first of all, tell us the date?

24 A. It is dated December the 5th, 2012.

25 Q. And would you look at the fax line at the top and tell

1 us what is the date on the fax line?

2 A. 12/06/12, December the 6th, 2012.

3 Q. Do you recall receiving that document on or about
4 December 5th or 6th?

5 A. I do not recall when I received it.

6 Q. You don't dispute that you did in fact receive it at
7 some time?

8 A. I did receive it, yes.

9 Q. Is it signed by anybody on behalf of the Episcopal
10 Church?

11 A. It's signed by Katharine Jefferts Schori, presiding
12 bishop; signed by, looks like, Dean Wolfe, who I believe is
13 the Bishop of Kansas; and it looks like it's signed by Wayne
14 Smith, and I forget where Wayne Smith is the bishop. It's
15 the Midwest.

16 Q. Bishop, I'm going to ask you to read, if you would, the
17 first paragraph. Well, first of all, read the title, if you
18 would, please.

19 A. Renunciations of Ordained Ministry and Declaration of
20 Removal and Release.

21 Q. Okay. Would you read the first full paragraph that
22 comes under that heading?

23 A. In accordance with Title III, Canon 12, Section 7 of the
24 Constitution and Canons of the Episcopal Church and with the
25 advice and consent of the Advisory Committee to the Presiding

1 Bishops, I have accepted the renunciation of ordained
2 ministry of this church made in writing on November 17th,
3 2012, by the Right Reverend Mark Joseph Lawrence, Bishop of
4 South Carolina.

5 Do you want me to continue?

6 Q. No. You can stop right there. I'm going to hand you
7 two more documents mark for identification as Plaintiff's
8 Exhibit 80A and 80B. Hold on just a minute and I'll have a
9 question for you.

10 MR. TISDALE: What is this exhibit number, Alan? I'm
11 sorry.

12 MR. RUNYAN: 80A and B. For the record, these are parts
13 of exhibits, Defendants 203 and 202, but they are just a
14 couple of pages.

15 MR. TISDALE: Which one's which?

16 MR. RUNYAN: 80A is the 2006 excerpt from the Episcopal
17 Church Constitution and Canons. 80B is the 2009 excerpt.

18 Q. Bishop, I believe these are substantially similar, so
19 I'm just going to ask you to refer to 80B if you would.

20 A. 80B.

21 Q. Yes, 80B.

22 MR. RUNYAN: I would offer these in evidence.

23 THE COURT: As I understand, these are excerpts from
24 documents which are already in evidence; is that correct?

25 MR. RUNYAN: That's right. I don't need to offer them.

1 MR. TISDALE: We certainly have no objection to it.

2 MS. KOSTEL: Right.

3 THE COURT: Very well.

4 (Plaintiff's Exhibits DSC-80A and DSC-80B admitted into
5 evidence.)

6 Q. Bishop, if you would look at 80B, and I direct your
7 attention to Section 7 entitled "Renunciation of the Ordained
8 Ministry." The first thing I would like you to do is compare
9 that to the other document that was sent to you by the
10 presiding bishop and tell me if this is the correct section
11 that she referenced?

12 A. Title III, Canon 12, Section 7, okay, yes.

13 Q. All right. I'm going to read this. And follow along
14 with me if you would, please. "Renunciation of the Ordained
15 Ministry."

16 A. All right. I do not see where you are -- okay. I see,
17 yes.

18 Q. Subsection (a): If any Bishop of this Church shall
19 declare, in writing, to the Presiding Bishop a renunciation
20 of the ordained Ministry of this church, and a desire to be
21 removed therefrom, it shall be the duty of the Presiding
22 Bishop to record the declaration and request so made. The
23 Presiding Bishop, being satisfied that the person so
24 declaring is acting voluntarily and for causes, assigned or
25 known, which do not affect the person's moral character,

1 shall lay the matter before the Advisory Council to the
2 Presiding Bishop, and with the advice and consent of a
3 majority of the members of the Advisory Council the Presiding
4 Bishop may pronounce that such renunciation is accepted, and
5 that the Bishop is released from the obligations of all
6 Ministerial offices, and is deprived of the right to exercise
7 the gifts and spiritual authority as a Minister of God's Word
8 and Sacraments conferred in Ordinations. The Presiding
9 Bishop shall also declare in pronouncing and recording such
10 action that it was for causes which do not affect the
11 person's moral character, and shall, if desired, give a
12 certificate to this effect to the person so removed."

13 My question, Bishop, is: Did you before December 5,
14 2012, declare in writing to the presiding bishop your desire
15 to renounce the ordained ministry of the Episcopal Church and
16 to be removed therefrom?

17 MR. BEERS: Excuse me, Your Honor. We object on the
18 grounds that this is impermissible to examine into the
19 operation of the denomination's disciplinary process. I
20 believe you ruled in essence that -- overruled that sort of
21 objection in the past, but I just want to make it for the
22 record.

23 MR. TISDALE: We would join that, please, Your Honor.

24 THE COURT: I don't understand what you've just said,
25 that I have overruled that objection in the past. I haven't

1 seen this document so how could I have overruled that.

2 MR. BEERS: I'm just talking about the grounds, Your
3 Honor. Well, let me just state it for the record and let's
4 move forward. We think that -- we believe that it is not
5 permissible for this Court to -- it is not relevant to any
6 issue in this case of how the denomination's disciplinary
7 process is carried out.

8 THE COURT: I understand.

9 Yes, sir, Mr. Runyan.

10 MR. RUNYAN: I simply am asking a person with knowledge
11 who is involved in that scenario if he did what he needed to
12 do under their constitution and canons to accomplish that
13 result. I'm not disputing the fact that the church issued
14 what it issued, and I'm not trying to go behind it except to
15 get his testimony about his participation or lack thereof in
16 that event, and I think it's relevant for that. I think it's
17 appropriate.

18 MS. GOLDING: It just goes to credibility.

19 MR. RUNYAN: It goes to his credibility, if nothing
20 else.

21 THE COURT: Well, there were a couple of things, and I
22 want to talk about them. As you know, Pearson says that the
23 Court is bound to accept a determination of the highest
24 authority with regards to ecclesiastic or religious
25 determinations. And if you're asking me to accept this with

1 regards to credibility, then what, of course, you're doing is
2 putting his character in issue, and it would necessarily have
3 to be in that context under the Rules of Evidence. The
4 calvary has arisen.

5 MS. GOLDING: Your Honor, it's not as to credibility of
6 the witness, it's only as to credibility of the defendant
7 national church. Mr. Runyan is not going behind the December
8 5 final position of the national church. We're not seeking
9 any change in that. We're just going to the credibility of
10 that defendant national church with respect to the question
11 and that answer.

12 THE COURT: Let me ask this question, because this is
13 the only possible relevance that it has in light of Pearson:
14 Let me assume just for purposes of argument that this is a
15 fraudulent procedure. Pearson, I'm concerned, says even
16 though it is a fraudulent procedure -- and I make no finding
17 that it is, I only make that comment for the sake of
18 argument -- I still think that Pearson says I am bound to
19 accept it. But I ask this question, and it's this: Are
20 there documents which were executed by Bishop Lawrence for
21 which the plaintiffs claim authority for him to execute that
22 were in fact signed after the date reflected here.

23 MR. RUNYAN: There may be some, Your Honor. I believe
24 there were some retirement documents. But our purpose is to
25 close the door on the period during which he unquestionably

1 had good standing. And this is evidence of when that door
2 could have been closed, in Your Honor's interpretation,
3 because prior to this time there really was no issue within
4 the church based on his behaving as a bishop with
5 jurisdiction as to his good standing.

6 MR. BEERS: I didn't hear the last words.

7 THE COURT: Just based on my prior rulings is what he
8 said, sync.

9 MR. BEERS: Thank you.

10 THE COURT: Let me ask this question because actually I
11 know that we are within the critical time period: Tell me,
12 when was the vote to alter the constitution articles or the
13 articles of incorporation, I should say, and/or bylaws that
14 remove the reference to the national church from the diocese.
15 What is that operative date?

16 MR. RUNYAN: There were a sequence of them. The first
17 would have been in October of 2010.

18 THE COURT: All right.

19 MR. RUNYAN: The first vote on the last one by the
20 convention would have been November 17, 2012.

21 THE COURT: Yes. And the quitclaim deeds, what was the
22 last execution date of the quitclaim deeds? How do you like
23 that for a trick question.

24 MR. RUNYAN: It would have been sometime in November, I
25 believe, of 2011.

1 THE COURT: Okay.

2 MR. RUNYAN: Your Honor, to keep the record clean I'll
3 just withdraw the question.

4 THE COURT: I understand. But let me be clear, I'm a
5 little bit concerned about the November the 17th date.

6 MR. RUNYAN: Well, he testified earlier that he had
7 issued letters dimissory on November 26, which is after the
8 date of that convention, and that they had been accepted in
9 the ordinary course of the Episcopal Church's business. The
10 purpose in putting in this last document, frankly, which they
11 never chose to put in, was to show what act, if there was,
12 that was valid by the Episcopal Church that actually brought
13 to conclusion his ministry under the Pearson ruling.

14 I think it's relevant that the process used, which
15 involved him personally, it required his personal action for
16 that to happen, he didn't do that. It doesn't affect the
17 Court's view of the final ruling, but it does affect the
18 credibility of the Episcopal Church, which is an issue in
19 this case.

20 MS. KOSTEL: Objection. I don't think the credibility
21 of the church is in issue.

22 MR. RUNYAN: It's a party. I mean -- but that's all I
23 have to say about that.

24 THE COURT: All right. Let me ask this question: The
25 November the 17th date, by November the 17th, 2012, were all

1 of the actions that were taken to remove, to make the
2 alterations that have been talked about, the amendments to
3 the articles of incorporation and bylaws, constitution, all
4 of those acts that were taken by the diocese, were they all
5 taken as of November the 17th, 2012? And you can caucus if
6 you need to, because it's an important question for me.

7 (Attorneys confer.)

8 MR. RUNYAN: Your Honor, under the -- I think the best
9 way to put this is that the last act that he took,
10 considering that to be an act of the church while he was in
11 the Episcopal Church, would have been in November of 2012.

12 THE COURT: When in November?

13 MR. RUNYAN: 17, November 17. He may have signed
14 something after that, but he presided over the convention
15 November 17.

16 THE COURT: And what acts were taken during that
17 convention relevant to the issues which are raised, which, of
18 course, would be the alteration of either the constitution,
19 bylaws, or the articles of incorporation.

20 MR. RUNYAN: The articles were amended two years before
21 that. The canons of the diocese which had previously been
22 altered to remove any reference to the 2009 Constitution and
23 Canons and which had placed a supremacy clause in the
24 constitution making any conflicting Episcopal Church
25 constitution and canons with those of the diocese

1 inapplicable, that had all been done in October of 2010.

2 In November of 2012 all references in the canons to the
3 Episcopal Church canons were removed and a vote was taken on
4 removing the entire first paragraph, which would have taken
5 out the supremacy clause and would have taken out any
6 accession to the constitution of the Episcopal Church.

7 THE COURT: When?

8 MR. RUNYAN: That vote was taken on November 17th. In
9 order to amend the constitution, Your Honor, there would have
10 to have been a final vote taken on removing that first
11 paragraph, and that vote would have been taken and was taken
12 in March of 2013. The first vote was taken in November to
13 remove that preamble. The second vote would have been taken
14 in March 2013.

15 I would point out to the Court that the votes of the --
16 I want to get this right; I'm thinking back to the All Saints
17 case -- the vestry had already been removed supposedly by
18 Bishop Salmon prior to the congregation voting to leave, and
19 that had no effect on the outcome of the case.

20 THE COURT: And I ask, based upon your review, is there
21 a means provided to appeal a determination such as was made
22 when the allegation might be, for example, fraud.

23 MR. RUNYAN: There is a 60-day provision, as I recall,
24 that would have flowed from the presiding bishop's recording
25 the charge made by the Disciplinary Board for Bishops which

1 would -- we don't really have a precise date but, according
2 to her statement to Bishop Lawrence, would have been October
3 10, 2012.

4 There's also a provision that, by recollection, says
5 that if there is a charge made against a bishop, this
6 particular provision, the renunciation canon, may not be
7 used. But now we're inquiring into the issues behind it.

8 THE COURT: All right. Pearson says that I have to
9 accept the final determination when it comes to ecclesiastic
10 determinations. And upon your suggestion to this point that
11 there was potentially arguably, from your perspective,
12 nefarious conduct that generated this document, Pearson
13 doesn't allow me to look at that. I have to leave the church
14 to its own determinations. As you know, religious bodies
15 every day all over the world do terrible things to people.
16 Our law gives me plenty to handle on the secular side and it
17 is on the secular side that I intend to remain. And,
18 therefore, this final determination I must accept.

19 MR. RUNYAN: There is one other issue, Your Honor.

20 THE COURT: Yes.

21 MR. RUNYAN: Under the case law of South Carolina and US
22 Supreme Court, if a final determination is the product of
23 collusion, that is a defense and does allow the Court to look
24 at that issue. In our judgment, this entire process is
25 relevant to the issue of collusion. There is a collusion

1 exception contained in the couple South Carolina cases. It's
2 never been ruled on before and, frankly, it's never been
3 ruled on by the US Supreme Court, but it is there.

4 And we believe that, especially given the fact that in
5 November 2011 in public he was tried, he was supposedly --
6 charges were made against him that were substantially
7 similar --

8 MR. BEERS: Excuse me, Your Honor.

9 MR. RUNYAN: I've got the floor, Mr. Beers.

10 -- charges were made that were substantially similar and
11 were found not to have been worth proceeding, followed by
12 this proceeding in secret, without his knowledge, charges
13 were made and found to be adequate to go forward, followed by
14 the absence of service, and then followed by using a
15 procedure which is on its face defective, according to this
16 witness' participation in it, is evidence of collusion, and
17 collusion is a basis to avoid decisions of the highest body
18 of a religious authority.

19 THE COURT: In that I absolutely have not anticipated
20 this at all, I need those cases if you can share those with
21 me, the citations.

22 MR. RUNYAN: I can. That would conclude the examination
23 of Bishop Lawrence. Do you want me to provide the cases
24 right this second?

25 THE COURT: Well, I need you to do that now, because I'm

1 stopping you from asking him further, for example, did you
2 send that letter and were they included in the notebook.

3 MR. RUNYAN: They were not, Your Honor.

4 THE COURT: I didn't think so.

5 Mr. Beers, you wanted to speak to that, the issue of
6 collusion.

7 MR. BEERS: Well, I was just trying to understand what
8 was going on. It was a long -- maybe what Mr. Runyan was
9 doing was making a proffer, but he was making a speech and
10 alleging a lot of facts about the Episcopal Church that are
11 not in evidence and it kind of took me by surprise and I
12 didn't know -- maybe it was a proffer, Your Honor, that
13 assuming he can prove all those things, then do the cases
14 apply and allow you to make that ruling.

15 THE COURT: I think you're exactly correct.

16 MR. BEERS: Okay. Thank you.

17 THE COURT: I think what he was saying is that, Judge,
18 if you were to allow it, this would be the evidence that we
19 would offer. And collusion is an exception under both state
20 law and under the constitution, I think you are exactly
21 correct.

22 MR. BEERS: Thank you.

23 MR. RUNYAN: Okay. I'm going to reference two cases,
24 Your Honor. The first -- and I don't know if these were the
25 two I had in mind, but I found them quickly -- the first

1 older case is Hatcher v. South Carolina Council of the
2 Assemblies of God, 267 --

3 MR. TISDALE: Could you speak a little louder.

4 MR. RUNYAN: -- 267 S.C. 107.

5 MS. KOSTEL: Could you give us the year on that, Alan?

6 MR. RUNYAN: 1976.

7 MR. HOLMES: Is it Southeast 2d?

8 THE COURT: No, that was S.C.

9 MR. HOLMES: Okay.

10 MR. RUNYAN: And it is a traditional quote that appears
11 in a number of different cases down through the years that
12 says the following on page -- in the Supreme Court Reporter
13 114: "In the absence of fraud, collusion, or arbitrariness,
14 the decisions of the proper church tribunals on matters
15 purely ecclesiastical, although affecting civil rights, are
16 accepted in litigation before the secular courts as
17 conclusive, because the parties in interest made them so by
18 contract or otherwise," and that's citing a United States
19 Supreme Court decision that actually appears in a number of
20 other decisions, including Presbyterian Church v. Hull, which
21 is in the submitted cases as well.

22 And then following on in Pearson itself the same concept
23 appears, and that would be on Page 50, 325 S.C. 50, and the
24 quote is: "In a number of places in its Milivojevich
25 opinion," M-I-L-I-V-O-J-E-V-I-C-H, "the Supreme Court made it

1 clear that Courts must accept in litigation the religious
2 determinations of the highest judicatories" -- and,
3 parenthetically, this was not a judicatory -- "of a religious
4 organization." The judicatory would have been the House of
5 Bishops. "The rule of action which should govern the civil
6 courts...is, that, whenever the questions of discipline, or
7 of faith, or ecclesiastical rule, custom, or law have been
8 decided by the highest of these church judicatories to which
9 the matter has been carried, the legal tribunals must accept
10 such decisions as final, and as binding on them, in their
11 application to the case before them," and the Court quotes
12 Watson v. Jones and parenthetically quotes the following:
13 "In the absence of fraud, collusion, or arbitrariness, the
14 decisions of the proper church tribunals on matters purely
15 ecclesiastical, although affecting civil rights, are accepted
16 in litigation before the secular courts as conclusive,
17 because the parties in interest made them so by contract or
18 otherwise."

19 As I said before, I know of no case in the country that
20 has actually ruled on this issue. I do know the US Supreme
21 Court has considered this trilogy of concepts and has ruled
22 on the issue of arbitrariness but has never ruled on the
23 issue of fraud or collusion.

24 THE COURT: Well, fraud and collusion as it relates to
25 civil rights. And I gather the civil rights that you would

1 be referring to would be due process.

2 MS. KOSTEL: Your Honor --

3 MR. RUNYAN: Actually, well, I don't really know
4 exactly. There are lots of different ways to look at this.
5 But the Supreme Court of the United States has addressed the
6 issue of arbitrariness, which is along the lines of what she
7 was arguing; and that is, it doesn't matter if they really
8 mess their procedure up or they were arbitrary or foolish,
9 but nobody has addressed the issue of collusion or fraud.
10 It's an open issue, it is a relevant issue, and this evidence
11 is being offered on that open issue.

12 THE COURT: But with reference to the Pearson and then
13 the Watson case, if you will, it's referring to where the
14 issue involved is one of due process, I mean, civil rights.
15 And it says, if you go back and read it, it says on the issue
16 of discipline, and we'll leave it there, on the issue of
17 discipline if there's fraud or collusion as it relates to the
18 civil rights. I haven't read it but it's the way that I
19 heard it. The issue is one of discipline.

20 The concern that you have is one, if you will, of due
21 process, which is an issue of civil rights. In other words,
22 if somebody's going to tell you you can no longer be a bishop
23 and there is then a right of due process, then aren't we
24 affecting the civil rights? In other words, I think that
25 you've got to -- in order to raise the issue of collusion,

1 it's fairly limited.

2 MR. RUNYAN: I don't interpret it that way, Your Honor,
3 with all due respect.

4 THE COURT: Go back and read the language in Pearson, I
5 wish I had Pearson. I'm trying to put my hands on it.

6 MR. RUNYAN: I've read this phrase in the context of a
7 lot of decisions, and it seems to be directed at the
8 ecclesiastical decision that the person or entity desires the
9 Court to adhere to because it's the highest one. So if it's
10 arrived at arbitrarily, the US Supreme Court has said it
11 doesn't matter. What the US Supreme Court and South Carolina
12 Courts have not said, if it's arrived at through a process of
13 collusion or fraud, that's an open issue.

14 THE COURT: Yes, yes.

15 MS. KOSTEL: And I would note, Your Honor, that we have
16 not heard -- I don't believe we've heard fraud or collusion
17 raised until today. And two points: So we believe that
18 plaintiffs are foreclosed from putting on this kind of case.
19 And if Your Honor believes that they should go forward, then
20 we believe that we're entitled to a surreply to put on
21 counterevidence, because this is the first time we've heard
22 about collusion as a defense to our case.

23 THE COURT: I would sort of back into it and say I would
24 absolutely completely agree with you with regards to
25 surreply. That's the easy part. The more difficult part is

1 to take a look at the Pearson case, which I'm going to have
2 to do myself.

3 And what a lovely time to take a morning break, give me
4 a chance to do that. But for your informational purposes,
5 you're absolutely correct, in the event that we would go
6 there, you would have to be afforded that.

7 (Recess held.)

8 THE COURT: All right. Have you got something you want
9 to say?

10 MR. RUNYAN: I do, Your Honor.

11 THE COURT: Okay.

12 MR. RUNYAN: I think the conversation, probably because
13 of me, got lost in the weeds, so I'd like to restate the
14 position that we have on this.

15 THE COURT: Okay.

16 MR. RUNYAN: I don't think as a matter of law from our
17 position it matters civilly to the decision of the diocese
18 and to the whatever standing Bishop Lawrence needed because I
19 think the decision was made. I think the issues that we have
20 been talking about are issues that relate to a position
21 concerning what would happen if there were deference in South
22 Carolina to a decision of the highest body in the Episcopal
23 Church. We have an issue about that. But if there were such
24 deference which might in turn affect the standing of the
25 bishop, then this issue could relate to that. But under the

1 civil law of South Carolina I don't think it matters, and so
2 for that reason I'm not pressing to ask the witness to answer
3 the question. I still contend that it's relevant on that
4 issue down the line, but I think, from our perspective,
5 focusing purely on the civil law in South Carolina I don't
6 think it matters. That's our position.

7 THE COURT: Let me clarify a couple things then because
8 obviously when you raise the issue of fraud and collusion, my
9 ears perk up. And clearly, both under United States Supreme
10 Court and under Pearson and under our state law, and I guess
11 I was not particularly prepared for it because I didn't know
12 of it, but I do believe that if decisions are made and they
13 are the result of fraud or collusion, that is a problem and
14 the civil court can take a look at that. Not arbitrariness,
15 I think the Supreme Court's taken arbitrariness out; but with
16 regards to fraud and collusion, I have to reverse myself from
17 what I said earlier. So an inquiry is possible.

18 So my question, though, is this: My question is -- and
19 we talked a little bit about it, but let me just clear what's
20 going on in my brain, and then I'll ask the questions that I
21 need to ask. With regards to whether or not there is a
22 challenge to the current analytical approach taken by the
23 State of South Carolina -- and the defendants have wished and
24 they have put some things in the record no doubt so that they
25 will have an opportunity to challenge that potentially,

1 potentially, at some later date, and we've talked about that,
2 and I think that they are absolutely entitled to do some of
3 that. And they've done that, and I think they've preserved
4 their ability to raise that issue. I think you've done
5 likewise, based upon what you've already indicated. So I
6 want to move that aside, that issue.

7 The question that concerns me, which is why I was asking
8 you about the dates, because from the letter, which is now
9 Exhibit No. 79, there was a renunciation on November the
10 17th, 2012, which would then mean that Bishop Lawrence may or
11 may not have had authority to act as a managing agent of the
12 corporation. Now, I said may or may not because I'm just
13 coming to these issues. And so again I ask are there any
14 documents that were executed or actions that were taken on
15 November the 17th, 2012, or beyond that you believe have an
16 effect on your argument that the diocese could and did end
17 its accession with the national church.

18 MR. RUNYAN: Well, I'll give you a long answer or a
19 short answer. The long answer is it didn't matter. The
20 diocese had voted to leave, the standing committee had voted
21 to leave as a board of directors. Under the civil law of
22 South Carolina if they had -- if they were authorized to do
23 that, it was done at that point. On November the 17th that
24 action was affirmed. If you want to look at it as
25 ratification, then the convention had authority to ratify at

1 that point. It doesn't really matter what Bishop Lawrence's
2 standing was at that point.

3 However, to answer the Court's question, on November the
4 26th there was an action taken by Bishop Lawrence as a bishop
5 in the Episcopal Church transferring -- receiving or
6 transferring letters dimissory that was accepted by another
7 diocese that was recorded in the books of the Episcopal
8 Church. So he had standing as of November 26th, which is
9 after November 17th. And then finally, the actual document,
10 the way that on its face works, it happens when it's issued,
11 not as of the date of the alleged renunciation, it's when
12 it's accepted, and it was accepted by the presiding bishop on
13 December the 5th.

14 THE COURT: This says I have accepted the renunciation
15 made in writing. That was made in writing on November 17th.

16 MR. RUNYAN: Right. She accepted it on December the
17 5th. I don't think -- in the scheme of things I just don't
18 think it matters either way, and I apologize for putting us
19 in the weeds.

20 THE COURT: Okay.

21 MR. RUNYAN: We would withdraw the question, Your Honor.

22 THE COURT: Very well.

23 MR. RUNYAN: Thank you.

24 THE COURT: Cross-examination.

25 MS. GOLDING: Your Honor, may I have just a couple

1 questions?

2 THE COURT: I'm so sorry. Yes, ma'am.

3 DIRECT EXAMINATION BY MS. GOLDING:

4 Q. Bishop Lawrence, just for clarification, with respect to
5 your attendance at the House of Bishops between 2010 and
6 2012, that was the national church's House of Bishops; is
7 that correct?

8 A. That is correct.

9 Q. Okay. And in the summer of 2012 the general convention
10 that you attended, that was the general convention of the
11 national church; is that correct?

12 A. Correct.

13 MS. GOLDING: Thank you. No further questions?

14 THE COURT: All right. Now cross-examination.

15 CROSS-EXAMINATION BY MR. BEERS:

16 Q. Good morning, Bishop.

17 A. Good morning, Mr. Beers.

18 Q. Can we talk about Exhibit 76, which is the so-called
19 bishops statement?

20 A. Yes.

21 Q. How many signatories were there?

22 A. 15.

23 Q. And how many were bishops with jurisdiction? Can you
24 remember?

25 A. 11. I was counting them.

1 Q. Yes. And how many were bishops who no longer had
2 jurisdiction?

3 A. If you'd asked me at the beginning, I could have had
4 both of them at the same time.

5 Q. I just thought maybe you could remember whether one of
6 them had retired or not.

7 A. I'll just count them for you, sir.

8 Q. Okay. Thanks.

9 A. Looks like three do not have -- four. No, three, three.

10 Q. Okay. Once more, how many all together of just the
11 bishops signatures?

12 A. With jurisdictions or?

13 Q. No, together.

14 A. 15.

15 Q. All right. Now, how many bishops with the jurisdiction,
16 round numbers now, Bishop, do you think there were in office
17 at that time?

18 A. Probably somewhere between 100 and 110.

19 Q. All right. Thank you. And how many bishops are in the
20 House of Bishops both those with jurisdiction and those who
21 have, quote, retired or resigned, roughly?

22 A. Oh, I don't know. 200, 200 would not be an unreasonable
23 guess.

24 Q. So could I try to coax you to about 275?

25 A. I would not dispute that.

1 Q. Okay. I heard you testify about the duties of a bishop
2 including -- and the duties that you carry out. Do you
3 remember that testimony?

4 A. Yes.

5 Q. Let's see if I've got them. Pastor?

6 A. Yes.

7 Q. And I take it you would agree with me that your
8 commitments as a pastor are laid out in the ordination
9 service of the prayer book?

10 A. They're laid out in the holy scriptures, in the Book of
11 Common Prayer. And I could go on, but if that's sufficient.

12 Q. No, I understand. Visitations?

13 A. Yes.

14 Q. Celebrated visitations?

15 A. Yes. I mentioned that.

16 Q. Confirmation at visitations?

17 A. Yes.

18 Q. Dealing with parishes, what we sometimes call vacant
19 parishes, parishes without rectors?

20 A. I mentioned that, yes.

21 Q. And the election or deployment of new rectors?

22 A. I mentioned that one.

23 Q. Letters dimissory?

24 A. Mentioned that.

25 Q. Retirement of rectors, retirement of clergy?

1 A. Correct.

2 Q. Pension Fund?

3 A. Yes.

4 Q. Pastoral letters did you mention?

5 A. Yes.

6 Q. Record of -- I don't know that you mentioned this: The
7 requirement to keep a record of your official acts?

8 A. I do that.

9 Q. Now, all of that list, are there not canons in the
10 national church that deal with each of those subjects?

11 A. Yes. There are canons in the national church and canons
12 in the diocesan canons.

13 MR. BEERS: May I have a moment, Your Honor?

14 (Brief pause.)

15 THE COURT: Yes.

16 MR. BEERS: Ms. Kostel's counsel's prudent, Your Honor.

17 That's all the questions I have, Bishop. Thank you.

18 THE COURT: Redirect?

19 MR. TISDALE: Well, your Honor, I'm glad to be able to
20 report that the Episcopal Church of South Carolina has no
21 questions of this witness.

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

23 MR. RUNYAN: No redirect, Your Honor.

24 MS. GOLDING: None, thank you, Your Honor.

25 THE COURT: You may come down, sir.

1 All right. On behalf of the plaintiffs any further
2 witnesses or exhibits?

3 MR. RUNYAN: No witnesses, Your Honor, and I do not
4 believe any exhibits. We do have a few requests to admit to
5 publish.

6 THE COURT: Very well.

7 MR. RUNYAN: The first is a request for admission to the
8 Episcopal Church in South Carolina by the Diocese of South
9 Carolina responded to on October 3, 2013: The Constitution
10 and Canons of the Episcopal Church do not provide for the
11 discipline of member diocese.

12 Answer: Admitted.

13 The next is from the Episcopal Church's response to the
14 Diocese of South Carolina's First Request for Admissions
15 dated August 2013, Request for Admission No. 3: In 1789 the
16 Constitution of the Episcopal Church stated that a, quote,
17 Protestant Episcopal Church in any of the United States not
18 now represented may at any time hereafter be admitted on
19 acceding to this constitution, closed quote.

20 Response: Admitted.

21 The same document, Request No. 14: On or about July 15,
22 1987, Ellen F. Cooke -- spelled with an E -- treasurer of the
23 Domestic and Foreign Missionary Society of the Protestant
24 Episcopal Church in the United States of America prepared
25 and/or issued a document in the ordinary course of her

1 employment which stated in part, quote, the Episcopal Church
2 is comprised of 117 autonomous dioceses, 98 of which are
3 domestic and 19 foreign, closed quote.

4 The response: Admitted.

5 Request for Admission No. 15, same document: Since 1901
6 Article IX of the Constitution of the Episcopal Church has
7 stated that the general convention, quote, may establish an
8 ultimate Court of Appeal, solely for the review of the
9 determination of any Court of Review on questions of
10 Doctrine, Faith, or Worship, closed quote.

11 Answer: Admitted.

12 No. 16: The Court referenced in Request 15 has never
13 been established by the general convention.

14 Answer: Admitted.

15 The next is from a response dated October 8, 2013, by
16 the Episcopal Church to requests for admissions asked by nine
17 of the plaintiff parishes. Request for Admission No. 9,
18 Resolution D-24 offered by Canon Walter Dennis at the 1979
19 general convention stated in its third paragraph the
20 following, quote: Whereas, the Supreme Court of the United
21 States in the case of Jones v. Wolf, 99 S.Ct. 3020 (1979),
22 has suggested that such alienation might be legally possible
23 in the absence of an explicit recitation in the constitution
24 that an express trust exists in favor of the general church
25 concerning covering the property of local parishes.

1 The response: Admitted, with the exception that the
2 word "covering" was not included in the last line of the
3 quoted language.

4 Request No. 10: Neither the 1979 general convention nor
5 any succeeding general convention of the Episcopal Church
6 voted to amend the constitution of the Episcopal Church to
7 provide for the express trust set forth in Resolution D-24.

8 Response: Admitted.

9 That concludes the requests for admission, Your Honor.
10 That would also conclude our reply.

11 THE COURT: Very well. Thank you.

12 All right. On behalf of any other plaintiffs?

13 All right. Now back to documents.

14 MR. BEERS: I'm ready to move in the 3230(b)(6)
15 depositions.

16 THE COURT: Okay.

17 MS. KOSTEL: Your Honor, may I be excused for just a
18 moment?

19 THE COURT: Sure.

20 MS. KOSTEL: Thank you.

21 MR. BEERS: Would you mind if I did it from here?

22 THE COURT: It would be perfectly fine. And I tell you
23 what, I don't know that that microphone would reach.

24 MR. BEERS: I can make it loud enough. I think I can be
25 heard. If I'm not, then by all means. Well, we have three

1 piles.

2 THE COURT: Okay.

3 MR. BEERS: One pile is the Church of the Resurrection,
4 and they wish to preserve an objection on Page 50, Lines 6 to
5 9, regarding consecration of property. We offer that, Your
6 Honor. We understand you ruled and we assume that you will
7 sustain that objection.

8 THE COURT: Okay.

9 MR. BEERS: Similarly in the case of Holy Comforter,
10 they have objected to testimony about the consecration of
11 parish property, Pages 34 and 35, Lines 22 to 25 and 1 and 2,
12 and we offer it but we assume the Court will sustain the
13 objection.

14 THE COURT: Can you describe for me what the testimony
15 says?

16 MR. BEERS: Yes. Has the bishop ever come to your
17 parish to consecrate one of your buildings?

18 Answer: Yes.

19 THE COURT: Okay.

20 MR. BEERS: Now, this is going to be a little tedious
21 because, Your Honor, I wasn't able to check with the
22 reporter, but I moved in a bunch of these without objection
23 the other day. I'm not sure -- I think just to be clear I
24 should run through all of them.

25 THE COURT: Sure.

1 MR. BEERS: And there's a batch. Would you mind if I
2 sit down?

3 THE COURT: Not at all.

4 MR. BEERS: These we are offering and there are no
5 objections.

6 THE COURT: All right.

7 MR. BEERS: St. James, James Island, All Saints, St.
8 Andrew's Mount Pleasant, Good Shepherd, St. John's Florence,
9 St. Matthew's Fort Motte, St. Luke's Hilton Head, Holy
10 Trinity, Christ St. Paul's, St. Paul's Conway, St. Philip's,
11 Holy Cross, St. Matthias, Trinity Myrtle Beach, Christ
12 Church, Christ the King, St. Bartholomew's, Prince George
13 Winyah, Epiphany, Trinity Pinopolis, St. Paul's Summerville,
14 St. Michael's, St. David's, St. Paul's Bennettsville,
15 Redeemer, Church of the Cross, Our Saviour, Old St. Andrew's,
16 Trinity Edisto, St. John's Charleston. These documents we'll
17 offer and we're going to have to make new copies because
18 changes were made even as late as an hour ago.

19 THE COURT: All right.

20 MR. BEERS: There are designations by the defendants and
21 there are counter-designations by the plaintiffs, and they
22 are marked.

23 THE COURT: Very well.

24 MR. BEERS: Now, the following parishes, St. Jude's
25 Walterboro, St. Helena's, St. Matthew Darlington, Holy

1 Comforter, and -- I'm sorry, I've covered -- I believe I've
2 covered -- yes, I've already covered Holy Comforter. So the
3 following three parishes, St. Jude's Walterboro, St.
4 Helena's, and St. Matthew's Darlington, wish to argue an
5 objection all on the same subject, and that subject is --
6 well, I shouldn't restate it, but for that let me just ask
7 the group again, does everybody agree with me so far? Have I
8 made any mistakes? Do I have everyone's, except for those --
9 if you heard your name pronounced once at least in this last
10 five minutes. Okay.

11 THE COURT: No objections exist. Very well.

12 So we'll move to the last group, which is St. Jude's,
13 St. Helena, and -- yes.

14 MR. ORR: Your Honor, Larry Orr on behalf of St.
15 Matthew's Darlington.

16 THE COURT: Yes.

17 MR. ORR: I objected to Page 38, Lines 5 through 24. As
18 I understand the Court's ruling I think on the second day of
19 trial, testimony was offered to show the doctrinal dispute
20 between the parishes and the national church, and you ruled
21 that that was not admissible and you would not consider that.
22 This questioning goes to that issue. I think it's not
23 relevant to the issues before Your Honor and I would move to
24 strike that.

25 THE COURT: Okay. Let me take a look at it. Can

1 someone pass it to me.

2 MR. ORR: Yes, ma'am.

3 THE COURT: Thank you. Okay.

4 And, yes, sir, Mr. Beers.

5 MR. BEERS: Well, as I said earlier in this trial, under
6 the Supreme Court's opinion in All Saints Waccamaw we think
7 this is a doctrinal case masquerading as a property case.
8 That really sums up our argument. And we think we're
9 entitled to examine as to why they really left the church or
10 left -- or reaffirmed their affiliation with the diocese as
11 opposed to the national church or something that distanced
12 them from the national church. And in each of these three
13 cases we've asked the question, you know, what were you
14 unhappy about or why did you leave and so forth, because they
15 have offered testimony that the reason that they took action
16 was that the Episcopal Church had taken action against their
17 bishop or some similar or different reason or they just
18 wanted to redo their bylaws, they thought it was time to
19 clean it up, or they were wanting to protect their property.
20 But when asked what are you protecting your property from,
21 what are you afraid of, there's testimony that, well, we
22 thought the church was going in the wrong direction, we
23 didn't know what was going to happen, and we believe we're
24 entitled to ask about that.

25 THE COURT: It's in the case. I mean, it ended up

1 getting asked.

2 MR. BEERS: Yes.

3 THE COURT: Because what you're talking about is you're
4 certainly talking about questions and answers that occurred.
5 What about that? Those responses, they were going in a
6 direction that we didn't like, and that's so --

7 MR. ORR: Your Honor, as I recall, in the All Saints
8 case the Court noted that the reason for the decision of the
9 parish to leave or disaffiliate was not relevant to the case,
10 so whether there were theological differences or doctrinal
11 differences were irrelevant.

12 THE COURT: That's right. It's the Pearson case where
13 the Court talks about that.

14 MR. ORR: Yes, ma'am.

15 THE COURT: Because it had to do with whether or not a
16 certain pastor who was no longer a pastor was entitled to
17 pension. And there were certain determinations made by the
18 church that based upon certain admissions, he was not. And
19 that really is not All Saints, that's really the Pearson
20 case.

21 You know, I guess here's where my head is: There's so
22 much of that testimony that's in the case, and I can't
23 remember what the objections were at this point because
24 precisely that language has been repeated so often, for what
25 it's worth, I'm going to allow it.

1 MR. ORR: Yes, ma'am. Thank you.

2 THE COURT: Very well.

3 MR. BEERS: I think Mr. Platte has two.

4 MR. PLATTE: The first one is different. It's an
5 objection to relevance and an objection to hearsay. It's for
6 St. Helena and it's Pages 55, Lines 7 through 25, Page 56 in
7 its entirety, and Page 57, Lines 1 through 3. The 30(b)(6)
8 deponent was asked the thoughts of the congregation and I
9 believe thoughts of the congregation is hearsay and should be
10 inadmissible.

11 THE COURT: Goes to state of mind for other individuals
12 too, so yes. Thanks.

13 MR. PLATTE: There you go, Your Honor (indicating).

14 THE COURT: Yes. 55 through 56 about what were the
15 questions and what were the answers, that's just hearsay. So
16 on the basis of hearsay that would be sustained, because he
17 specifically says what were the questions and what were the
18 answers.

19 MR. BEERS: This is a representative, authorized
20 representative, of a parish that was a party to this case
21 who's trying to describe what the sense and what the mood was
22 in the congregation. I don't know how else to get at it.
23 Doesn't seem to be hearsay in those circumstances.

24 THE COURT: Okay. What about 56, 23 through 57, 3?

25 MR. BEERS: I don't have it in front of me, Your Honor.

1 THE COURT: Okay. Very well. I would sustain the
2 objection. I mean, it's really odd, you've got to read on to
3 understand that he doesn't have any authority to even
4 respond. It's really odd.

5 MR. BEERS: He was offered as somebody with authority.

6 THE COURT: You are so correct. But not the authority
7 to give an opinion with regards to what the congregation was
8 thinking, which is where he comes to in his answer. And I'm
9 confident he wasn't offered for that reason; and if he was,
10 that's hearsay. All right.

11 MR. PLATTE: Thank you. Your Honor. I'll leave that up
12 because I'll have to hand up another one.

13 THE COURT: Okay.

14 MR. PLATTE: St. Jude Walterboro, and we have objection
15 to relevance on Pages 17, Lines 20 through 23, all of Page
16 18, and Page 19, Lines 1 through 20. The probative value of
17 the third question, asking the same question the third time,
18 is outweighed by its irrelevance. She gave the answer to the
19 question a number of times, and he continued to ask the same
20 question over and over again. And we would just say it's
21 irrelevant and it's inflammatory and we would hand it up for
22 the Court to look at and make the decision.

23 THE COURT: Page 17, Lines 20 through 23, all of Page
24 18, and Page 19, Lines 1 through?

25 MR. PLATTE: 20. And just one correction on Page 17,

1 it's 20 through 25.

2 THE COURT: Got it.

3 MR. PLATTE: May I approach, Your Honor?

4 THE COURT: Yes. All right. Who's going to argue now
5 on behalf of the national church --

6 MR. BEERS: I'm sorry?

7 THE COURT: -- and on behalf of the state defendant?
8 I've got them. Do you wish to be heard?

9 MR. BEERS: First I'd like to know how you're inclined
10 to rule.

11 THE COURT: That's called arguing with the Court, and
12 under our rules, Mr. Beers, that is against our rules, you
13 see.

14 MR. BEERS: Then I've got to go ask Mr. Platte what it
15 is you're reading from, because I don't have it in front of
16 me. What was the objection?

17 MR. PLATTE: I'll show him.

18 (Counsel confer.)

19 MR. BEERS: The first question is why did you change
20 your bylaws. And I think you're probably going to -- I don't
21 want to reargue that. And then the rest of the questions are
22 cumulative, and that's obviously within Your Honor's
23 discretion.

24 THE COURT: Well, with regards to the cumulateness,
25 certainly I would sustain it as to the cumulative nature.

1 But, you know, why did you change your bylaws, that's been in
2 this case. Even if originally it's been in here, I'm not
3 going to exclude it in this particular deposition because it
4 certainly has been in here. It's coming in.

5 MR. PLATTE: Thank you, Your Honor.

6 MR. BEERS: So now we have settled the 30(b)(6)
7 depositions, not quite.

8 THE COURT: Not quite.

9 MR. BEERS: We do not have any response from the
10 cathedral.

11 MS. DURANT: Your Honor --

12 MR. BEERS: I'm sorry. You want to argue.

13 MS. DURANT: No, no, no. Your Honor, I just want to
14 clarify that while Mr. Beers said that other parishes made
15 designations, counter-designations, Holy Comforter also made
16 counter-designations, to which I think he doesn't object. I
17 just wanted to make that clear for the record.

18 MR. BEERS: I meant to say, I thought I said, that we
19 made designations and they made counter-designations.

20 MS. DURANT: I'm sorry. I thought you were just talking
21 about the second group of parishes. I just wanted to make it
22 clear that Holy Comforter also made counterdesignations.

23 MR. BEERS: Okay.

24 THE COURT: Oh, okay.

25 MR. BEERS: Do I have the final marked up copy?

1 MS. DURANT: Yes, sir.

2 MR. BEERS: Okay. Well, fine. We're all set. We've
3 got them all.

4 MR. CAMPBELL: Your Honor, may I inquire just
5 logistically? Pierce Campbell, for the record. Since I know
6 they have to go back and make new copies since things have
7 changed this morning, I just want to make sure I understand
8 exactly when and how these final designations and
9 counter-designations, without all of the earlier notes, will
10 be in the record and how we can obtain that if we need to for
11 some reason.

12 MR. BEERS: My understanding or what I'm offering is the
13 copies that we've all marked up. We're not proposing for
14 each one to type out a separate exhibit that says page line,
15 page line, page line.

16 MR. CAMPBELL: I just understood that it wasn't going to
17 be ready today because changes had to be made.

18 MR. BEERS: We have to get it to the copier. We'll make
19 the copies available. I'm going to email them to you. I'm
20 not going to stay and do it over the weekend.

21 MR. CAMPBELL: Why can't we just give it to them now I
22 guess is my question. That's what I don't understand.

23 MR. BEERS: How are we going to make copies?

24 Excuse me. I don't mean to address him, Your Honor. I
25 should address you. What we propose, as soon as we rest,

1 we'll make copies and get the originals in to the reporter
2 just as soon as we possibly can. We'll email the copies out
3 to everybody else or mail.

4 MS. KOSTEL: Mail, I think.

5 MR. BEERS: Some people, where there have been no
6 changes this morning, we do have copies, if there were no
7 changes made since yesterday noon.

8 THE COURT: Here would be the question: So for the ones
9 that were ready to go at noon yesterday --

10 MR. BEERS: Could I verify that?

11 THE COURT: Yes, of course.

12 (Attorneys confer.)

13 MR. BEERS: Everything that was settled as of last
14 evening we have a copy of.

15 THE COURT: All right.

16 MR. BEERS: Today is -- a lot of changes were made this
17 morning, Your Honor, and I'm not sure we can -- I would be
18 afraid to try to mark -- well --

19 THE COURT: I guess my question is how many depositions
20 are we talking about --

21 MR. BEERS: Holding back?

22 THE COURT: -- that changed today?

23 MR. BEERS: May I ask Mr. Platte?

24 THE COURT: Of course.

25 MR. BEERS: 10? 12?

1 MR. PLATTE: That sounds about right.

2 MR. BEERS: We'll get them right away, Your Honor.

3 THE COURT: And I guess the only concern that Mr.
4 Campbell has is that he wants to be able to review the final.
5 But if he has an email of the final, which is going to be
6 submitted to the Court, you'll have it via email.

7 MR. CAMPBELL: Your Honor, that's fine. I have no
8 objections. I just want to know that my clients can see what
9 actually went into evidence.

10 THE COURT: I understand.

11 MR. PLATTE: Thank you, Your Honor.

12 THE COURT: No problem.

13 And then I would anticipate receiving them within a
14 week.

15 MR. BEERS: Oh, of course.

16 MR. MARVEL: Your Honor, just to clarify, I thought I
17 heard Mr. Beers suggest that the entire deposition was going
18 to be submitted with our designations marked on it.

19 THE COURT: Yes.

20 MR. BEERS: Yes.

21 MR. MARVEL: In my case it's maybe a third of the paper
22 of the entire deposition. It would seem to be more
23 appropriate to submit the actual pages with the designations
24 and the undesignated matter be redacted from the Court file.

25 THE COURT: I'm with you, but it's sort of in the --

1 MR. MARVEL: Mr. Platte is telling me no, so...

2 THE COURT: If we start doing that, then it just starts
3 unraveling.

4 Yes?

5 MR. SHELBOURNE: Your Honor, one other issue. Brandt
6 Shelbourne on behalf of St. Paul's, Summerville. As I
7 understand, some of ours have been highlighted. The
8 highlights don't show up on the copies. So if that's been
9 taken care of, that's great. I made a short list which I'd
10 attached to ours which has our designations, for the record.

11 MR. BEERS: We've thought of that, Your Honor. We're
12 getting color copies.

13 MS. LUMPKIN: Hope Lumpkin for St. Paul's Summerville.
14 Just to clarify, we made a color copy yesterday and our
15 highlighting did not show up, so we're going to have to work
16 on ours a little bit and make sure that that's clear.

17 MR. BEERS: Your Honor, next the journals.

18 MS. KOSTEL: Just as a preface, Your Honor, you'll
19 recall that the journals -- we have excerpts from the
20 journals that are parish- and diocese-specific and then we
21 also have copies of the canons that were in the journals at
22 the end of not all but many of the journals. And in our
23 initial exhibit list we just had the journals listed. What
24 we're going to do to make it simpler is have, for example,
25 No. 400A be the excerpts and 400B be the constitution and

1 canons. So Mr. Beers is speaking to the A excerpts, the B's
2 separate. Thank you.

3 THE COURT: Okay.

4 MR. BEERS: Well, we've pretty much reached agreement.

5 THE COURT: Okay.

6 MR. BEERS: But it's a little complicated.

7 THE COURT: Okay.

8 MR. BEERS: First of all, I would like to read off
9 excerpts by exhibit number, excerpts that we offered, that
10 deal with the issue of consecration. And I'll represent to
11 the Court you can decide those as a lump. And they are
12 Exhibits 310A, 1896; 305, 1891; I don't think it's necessary
13 to read the page numbers, but I can.

14 THE COURT: You're doing them as exhibits?

15 MR. BEERS: Yes.

16 THE COURT: I think that's fine.

17 MR. BEERS: 321A, 1907; 326A, 1912; 330A, 1916; 332A,
18 1918; 337A, 1923; 339A, 1925; 1932 -- I'm sorry, backwards --
19 346A, 1932; 357A, 1943; 359A, 1945; 373A, 1959; 385A, 1971.
20 Now I hand the baton to my friend, Mr. Platte, who's going to
21 read you the objections.

22 THE COURT: All right.

23 MR. BEERS: And at the same time he will read you what
24 else is in. He will give you both the years that are in and
25 the ones that are still to be worked out or argued. Unless

1 I've forgotten, maybe we've consented to all of them.

2 MR. PLATTE: A moment, Your Honor.

3 (Attorneys confer.)

4 MR. BRYAN: Your Honor, while they're conferring, might
5 I ask a question to opposing counsel?

6 MR. BEERS: Oh, thank you. I think counsel is asking
7 that I make a note that I would not have forgotten but I'm
8 glad you raised it now. Resurrection, there are two
9 references to his parish in various places in the journal,
10 and he's asked me to make it clear on the record that neither
11 of those references are relevant to any issue in this case.

12 THE COURT: Okay.

13 MR. BRYAN: I wanted to be clear they're not admitted as
14 Resurrection, not offered in evidence as Resurrection.

15 MR. BEERS: I just represented they have no relation to
16 any issue in this case.

17 MR. BRYAN: As long as it's clear on the record.

18 THE COURT: Okay.

19 MR. PLATTE: Your Honor, just a short five- or
20 ten-minute break, to allow us just to get our ducks in order.

21 THE COURT: Sure, absolutely. No problem at all.

22 MR. TISDALE: Your Honor, there might be one issue that
23 we can take care of while they're doing that, if it would
24 help the efficiency.

25 THE COURT: All right.

1 MR. TISDALE: Two issues on the same subject. I don't
2 think it will take the Court very long to deal with it. When
3 Canon Lewis was on the stand on about the second day of
4 trial, I think, maybe the first, we proffered his
5 ecclesiastical oath when he became a deacon and a priest and
6 they were marked as Exhibit 6. Your Honor reserved her
7 decision as to whether or not that proffer would be admitted
8 as evidence and the exhibit admitted as evidence. We think
9 it is under Jones versus Wolf as a neutral principle oath.

10 Now, the second issue is related to that, because in the
11 deposition of Mark Lawrence that we put in evidence
12 yesterday, we don't have any problem with any of the
13 objections that have been given to us by Ms. Golding except
14 one, and it has to do with in that deposition he was asked
15 about his ecclesiastical oaths and they were made an exhibit
16 to the deposition. And so we cannot agree with Ms. Golding
17 only on that because we think it should be admitted into
18 evidence as an oath or a vow, however one wants to call it.
19 And we think that Jones versus Wolf allows it, it is a
20 neutral principles of law, and deference needs to be paid to
21 the First Amendment for that purpose. Those two issues are
22 kind of related.

23 THE COURT: I understand.

24 Yes, ma'am, Ms. Golding.

25 MS. GOLDING: Thank you, Your Honor. With respect to

1 the deposition of Bishop Lawrence --

2 MR. TISDALE: And, excuse me, Ms. Golding. May I make
3 one other statement? I'm sorry to interrupt. And through
4 the oath in the case of both of them they got corporate
5 authority, they were given corporate authority by taking
6 these oaths, and that's the evidence in the case I think.

7 THE COURT: They were given corporate authority by --

8 MR. TISDALE: They took the oaths to obey the doctrine
9 and discipline worship of the Episcopal Church, therefore
10 came into corporate authority to do what they say that they
11 have done concerning the management of the corporation. If
12 they hadn't taken the oaths, they wouldn't have been a bishop
13 or a priest.

14 THE COURT: Okay.

15 MS. GOLDING: Thank you, Your Honor.

16 THE COURT: Okay.

17 MS. GOLDING: With respect to Bishop Lawrence's
18 deposition, the parts we objected to were Page 95, Line 3,
19 through Page 97, Line 17. May I present that to the Court,
20 Your Honor.

21 THE COURT: Please, yes.

22 MR. TISDALE: That's precisely the lines in issue.

23 THE COURT: Okay.

24 MR. TISDALE: And, Your Honor, if you decide not to
25 allow it, we would ask to be allowed to proffer it.

1 THE COURT: Okay. Yes, ma'am.

2 MS. GOLDING: Your Honor, thank you. Those questions
3 relate to obviously church polity as a practical matter,
4 going into the church polity and the bishop's relationship to
5 the national church, which is not in issue in this action.

6 Furthermore, Your Honor, the exhibit attached to the
7 deposition, which unfortunately my copy did not have, was
8 only part of the oath. There were several portions of the
9 oath that were not part of that and that was the other
10 problem I had with it.

11 MR. RUNYAN: May I supplement, Your Honor?

12 THE COURT: Sure.

13 MR. RUNYAN: First of all, it's not an oath, it's a
14 declaration. Secondly, the Book of Common Prayer is in
15 evidence, so whatever is in evidence is the complete one. I
16 think, in addition to the problems that Ms. Golding asserted,
17 my biggest concern was that what they were asked about was
18 incomplete. They just were asked about one paragraph. The
19 declaration, the whole ceremony includes a whole lot more
20 than that, and it's either all relevant or it's all
21 irrelevant.

22 MR. TISDALE: We agree that the Book of Common Prayer is
23 in evidence and it covers everything.

24 THE COURT: All right. Just so that the record is
25 absolutely clear, Mr. Tisdale, what does the state maintain,

1 your client? What is the relationship between the ordination
2 declaration, you call it a vow, and -- what is the
3 relationship? I mean, why do you think it has any relevance
4 in terms of --

5 MR. TISDALE: Well, every priest, as evidenced by the
6 testimony, including that of Canon Lewis, takes an oath, oath
7 or declaration or vow. Bishop Lawrence in his deposition
8 called it a vow, most of the times it's called an oath, but
9 it's the declaration. They're all the same thing. They say
10 that they will promise to conform to the doctrine,
11 discipline, and worship of the Episcopal Church, and
12 therefore they become a deacon, a priest, or a bishop.

13 The one for bishop has a little more that goes with it
14 and is a little bit more complicated, but it's in the
15 deposition. They all adhere to the same thing. It imbues
16 them with authority of the church to become deacon, priest,
17 or bishop. So they take the oath, I will call it, or
18 declaration of fidelity to do that, they promise to do it.
19 And so it becomes an issue that they cannot act in those
20 capacities without taking this, and they have testified to
21 that. And so it becomes relevant to -- it gives them
22 authority to do everything they do in carrying out their
23 responsibilities or not carrying them out. And how this
24 corporation, the plaintiff corporation or corporations, have
25 been managed goes directly to whether or not they have

1 conformed to what they promised to do.

2 Jones versus Wolf says that deference must be paid to
3 this and it must be a part of the neutral principles,
4 whatever they did to get the authority to do what they did in
5 a secular way, if you want to consider it the management of
6 this corporation or secular operation. And they could not
7 have done it without. It purely comes down to the bottom
8 line on Jones versus Wolf is a part of the neutral principles
9 consideration. It is a neutral principle.

10 THE COURT: Okay. Any response to that argument that
11 you wish to make?

12 MR. RUNYAN: I think we've responded to that before and
13 we'll rest on that, Your Honor.

14 THE COURT: Okay. All right. I think it's secular. I
15 mean, I think it's ecclesiastic and I don't believe that the
16 ordination ceremonies are intended to nor will I consider
17 them as being neutral principles of law and would exclude
18 them.

19 MR. TISDALE: Your Honor, thank you very much for making
20 a ruling on those. And would you accept our proffer?

21 THE COURT: Yes.

22 MR. TISDALE: You have already for Exhibit 6 and Canon
23 Lewis' deposition -- I mean testimony.

24 THE COURT: Sure.

25 MR. TISDALE: Will you accept that portion of Bishop

1 Lawrence's deposition, specifically Page 95, Line 3, through
2 Page 97, Line 17, as a proffer?

3 THE COURT: Yes.

4 MR. TISDALE: Thank you very much.

5 THE COURT: Very well.

6 MS. GOLDING: Thank you. May I approach?

7 THE COURT: Absolutely.

8 All right. Now are you ready?

9 MR. PLATTE: I still need about five minutes, Your
10 Honor.

11 MS. KOSTEL: I can fill some time, Your Honor.

12 THE COURT: Okay.

13 MS. KOSTEL: On the parish-specific exhibits that were
14 admitted, we are now essentially withdrawing.

15 THE COURT: Yes.

16 MS. KOSTEL: Not essentially, we are.

17 THE COURT: All right.

18 MS. KOSTEL: I will read them. For Christ Church,
19 D-CC-56; for Epiphany, D-E-21; for Good Shepherd, D-GS-39;
20 for St. Bartholomew's, D-SB-44; for St. James, James Island,
21 D-SJJI-27; for St. Matthew's Darlington, D-SM-21; for St.
22 Matthew's Fort Motte there are four of them, D-SMFM-23, 24,
23 28, and 29; for St. Matthias there are two, D-SMT-14 and 22;
24 and for Trinity Myrtle Beach there are two, D-TMB-61 and 64.

25 And then, Your Honor, I also have the exhibit numbers

1 for the B sections of the journals that had constitutions and
2 canons. Since it's not every journal, it might be helpful
3 for me to read those exhibit numbers into the record, or
4 maybe it's not, I don't know.

5 THE COURT: Okay.

6 (Defendant's Exhibits 225B-424B premarked for
7 identification.)

8 MS. KOSTEL: So D-225B is for 1809, D-229B for 1814,
9 D-236B for 1821, D-237B for 1822, D-238B for 1823, D-239B for
10 1824, D-240B for 1825, D-241B for 1826, D-242B for 1827,
11 D-243B for 1828, D-244B for 1829, D-245B for 1830, D-246B for
12 1831, D-247B for 1832, D-248B for 1833, D-249B for 1834,
13 D-250B for 1835, D-251B for 1836, D-253B for 1838, D-254B for
14 1839, D-255B for 1840, D-256B for 1841, D-257B for 1842,
15 D-258B for 1843, D-259B for 1844, D-260B for 1845, D-261B for
16 1846, D-262B for 1847, D-263B for 1848, D-264B for 1849,
17 D-266B for 1851, D-267B for 1852, D-268B for 1853, D-269B for
18 1854, D-270B for 1855, D-271B for 1856, D-272B for 1857,
19 D-273B for 1858, D-274B for 1859, D-275B for 1860, D-276B for
20 1861, D-277B for 1862, D-278B for 1863, D-279B for 1864,
21 D-281B for 1867, D-282B for 1868, D-283B for 1869, D-284B for
22 1870, D-285B for 1871, D-286B for 1872, D-287B for 1873,
23 D-288B for 1874, D-289B for 1875, D-290B for 1876, D-292B for
24 1878, D-293B for 1879, D-307B for 1893, D-308B for 1894,
25 D-309B for 1895, D-310B for 1896, D-311B for 1897, D-316B for

1 1902, D-318B for 1904, D-319B for 1905, D-320B for 1906,
2 D-321B for 1907, D-322B for 1908, D-323B for 1909, D-324B for
3 1910, D-325B for 1911, D-326B for 1912, D-327B for 1913,
4 D-328B for 1914, D-329B for 1915, D-330B for 1916, D-331B for
5 1917, D-332B for 1918, D-333B for 1919, D-334B for 1920,
6 D-335B for 1921, D-336B for 1922, D-337B for 1923, D-339B for
7 1925, D-356B for 1942, D-364B for 1950, D-370B for 1956,
8 D-374B for 1960, D-375B for 1961, D-376B for 1962, D-377B for
9 1963, D-378B for 1964, D-379B for 1965, D-380B for 1966,
10 D-381B for 1967, D-382B for 1968, D-383B for 1969, D-386B for
11 1972, D-387B for 1973, D-388B for 1974, D-389B for 1975,
12 D-390B for 1976, D-391B for 1977, D-392B for 1978, D-393B for
13 1979, D-397B for 1983, D-398B for 1984, D-410B for 1996,
14 D-411B for 1997, D-412B for 1998, D-413B for 1999, D-414B for
15 2000, D-415B for 2001, D-416B for 2002, D-417B for 2003,
16 D-418B for 2004, D-419B for 2005, D-420B for 2006, D-422B for
17 2008, D-423B for 2009, D-424B for 2010.

18 Sorry. I couldn't think of a better way to do that.

19 THE COURT: Okay.

20 MR. PLATTE: I missed her explanation of the beginning
21 of what those documents were. I heard the list, but I've
22 kind of forgotten.

23 MS. KOSTEL: I can list them off again if you'd like.
24 It's the constitution and canons at the end of the diocesan
25 journals for the years when they were at the end of the

1 diocesan journals.

2 MR. PLATTE: Okay.

3 THE COURT: And you had something.

4 MR. RUNYAN: I was just going to say that if they are in
5 fact all of that, I'm sure we have no objection, I just
6 haven't looked at them. And I don't intend to flip every
7 single page, but I would like to just scan exhibits before we
8 consent to their admission.

9 THE COURT: Okay. Yes.

10 MS. KOSTEL: I think they're in. I understood that they
11 were in. But you can, of course, look at them. I mean
12 they're just from the backs of the journals.

13 MR. RUNYAN: I'm not arguing with you, Mary, I just
14 would like to verify that if you don't mind.

15 MS. KOSTEL: Have at it.

16 THE COURT: All right. Yes, sir?

17 MR. LAW: Your Honor, John Law, Church of the Good
18 Shepherd. Before the litany or the list of those documents,
19 I couldn't hear all the way back in the back of the room, she
20 mentioned Good Shepherd, and I couldn't understand what
21 document you were referring to when you listed several of the
22 churches.

23 MS. KOSTEL: Oh. I'm withdrawing D-GS-39.

24 MR. LAW: Thank you.

25 MR. PLATTE: In response to Mr. Beers' list, I believe,

1 it's been so long ago, they were proffering a list of
2 documents regarding consecrations; am I correct? And he read
3 off a list. And I hate to do this, but I've lost count and
4 I'm just going to repeat my list. And then if Mr. Beers
5 concurs, then I think we'll be finished with those documents.
6 It would be 305A, 1891; 310A, 1896; 321A, 1907; 326A, 1912;
7 330A, 1916; 332A, 1918; 337A, 1923; 339A, 1925; 346A, 1932;
8 357A, 1943; 359A, 1945; 373A, 1959; and 385A, 1971.

9 MR. BEERS: That is correct, Your Honor.

10 THE COURT: Thank you. All right. Anything else with
11 regards to the documents?

12 MR. BEERS: I'm proposing to introduce a bunch of
13 exhibits with individual --

14 (Attorneys confer.)

15 MR. BEERS: We're going to need to a recess to fix this
16 up. Sorry.

17 MR. PLATTE: We have the list, but it doesn't have the
18 corresponding exhibit number to their document they want to
19 enter.

20 MS. KOSTEL: I can put the numbers on pretty quickly.

21 THE COURT: Tell me, what documents are we referring to?

22 MR. BEERS: Let me give you an example.

23 THE COURT: All right.

24 MR. BEERS: We propose to, for example, offer excerpts
25 from three of the diocesan journals to say Holy Comforter.

1 And they're all -- all of these fall into one of three
2 categories. And we've already taken the consecrations out.
3 So Mr. Platte is going to -- he's going to address any of the
4 ones that he objects to. But you're right, I mean,
5 everything else is right, we probably ought to proceed with
6 exhibit numbers since we're so late in the case. It will not
7 take long.

8 MR. PLATTE: I don't believe with the documents that are
9 remaining there would be any objections. They just need to
10 get the exhibit number into the record.

11 THE COURT: Okay.

12 MR. BEERS: I think Mr. Platte and I have agreed on the
13 status of all of these, that there are not going to be
14 objections.

15 MR. PLATTE: Correct.

16 MR. BEERS: Right?

17 MR. PLATTE: Correct.

18 THE COURT: Okay.

19 MR. BEERS: Can I ask Ms. Kostel to do that?

20 THE COURT: Absolutely. And then once that is
21 concluded, what then remains from an evidentiary standpoint
22 from the plaintiffs? Anything?

23 MS. GOLDING: Nothing, Your Honor.

24 MR. RUNYAN: Nothing.

25 THE COURT: How about from the defendants?

1 MR. TISDALE: Your Honor, I think we should perhaps just
2 put a motion for dismissal on the record, directed verdict,
3 nonsuit, whatever, Rule 41, at the end of everything.
4 Shouldn't take but a minute just for the record.

5 THE COURT: Oh, absolutely.

6 MS. KOSTEL: We still have things to hand up to the
7 court reporter. We've already spoken about that.

8 MR. HOLMES: There will be nothing additional.

9 MS. KOSTEL: Nothing additional.

10 MR. TISDALE: Nothing additional except just for the
11 record.

12 THE COURT: I understand. And am I going to lose folks
13 from my counsel from the different parishes? I know I'm not
14 going to lose my diocese, but I'm a little bit concerned, and
15 I don't know whether or not to address what it is I'm going
16 to ask for now. I'd better do it now because you all may not
17 come back after lunch.

18 This is what I want from each of the parishes and from
19 the diocese. And you have a page limit. You have a page
20 limit of three pages. Bullets are fine for me, oh, by the
21 way. I just want the information. I'm not looking for it in
22 any particular form. I am looking for the information.
23 First of all, I need to know, I need you to identify your
24 parish, and then I need you to identify whether or not you
25 believe you are subject to the dictates of 33-31-110, et seq.

1 If you are, then I want you to go through what no doubt was
2 testified to by your witnesses and I want you to give me a
3 recap of your votes and your amendments, whether it was to
4 simply the bylaws or the bylaws and the constitution or the
5 bylaws and the constitution and the articles of
6 incorporation. I want you to go over with me the notice
7 provision and the votes with an eye towards whether or not
8 there was compliance with 33-31-101, et seq.

9 Now, if you maintain that you are a corporation which
10 was organized prior to 1900 who has chosen not to bring
11 itself within the purview of 33-31-101, et seq., then I am
12 requesting that you discuss with me how you were in
13 compliance with your articles of incorporation and/or bylaws
14 in the amendment of your articles of incorporation and/or
15 bylaws and/or constitution if you have one.

16 Once you have done that -- and I'd like you to do this
17 within the next 30 days -- once you have done that, then
18 before you send it to me, I want you to send it to the
19 defendants. And the defendants will then have 30 days to
20 comment and make argument, specific argument, why they do not
21 believe you have complied with 33-31-101, or if you are not
22 subject to the Act, why you have not complied with your
23 articles of incorporation or your charter or your legislative
24 enactment. And you also have a three-page limit in response.

25 MS. KOSTEL: Your Honor, just to be clear, we have three

1 to respond to each, three for each.

2 THE COURT: Yes. And if you want to have like an
3 overarching document and then you want to be specific, that's
4 okay too.

5 MS. KOSTEL: Thank you.

6 THE COURT: Now, with regards to the marks, I'm going to
7 ask for proposed orders. And you tell me the period of time
8 that you want to do that.

9 MR. RUNYAN: Ten days.

10 THE COURT: Okay. And then I'll ask -- so 30 days.

11 MR. RUNYAN: Okay.

12 THE COURT: And then you'll send it to the defendants --
13 well, 30 days from both sides.

14 MR. RUNYAN: I do have a question on that issue, Your
15 Honor, on whether for the parishes or the diocese or on the
16 marks we get it to them in 15 days or 18 days --

17 THE COURT: Don't wait.

18 MR. RUNYAN: -- does their 30 days run from then?

19 THE COURT: Yes, it does.

20 MR. TISDALE: There's a 30-day reply is what you said?

21 MS. KOSTEL: So it runs from what date? I'm sorry.
22 When we receive it?

23 THE COURT: Yes. And just for your informational
24 purposes so you know how I figure that out, under our rules
25 there's a five-day mailing rule, I just look when it was

1 mailed and add five days. Because that's too hard to try to
2 figure out when you may have gotten it, it's too difficult.

3 Now, that's what comes to my mind. Over the lunch I'm
4 going to take another look at your pleadings to see what else
5 remains and how I'm going to ask, if at all, for any
6 additional assistance. But I'll take a look at it over the
7 lunch break. I will look again at your pleadings. And when
8 we come back from our lunch break, then we'll go over
9 whatever else we need to go over in terms of documents.

10 MS. GOLDING: Thank you. The last thing with respect to
11 the initial bullet points that you want with respect to the
12 parish and the diocese, I'm assuming that also means the
13 plaintiff trustee?

14 THE COURT: Yes.

15 MS. GOLDING: Thank you, Your Honor.

16 THE COURT: Thank you for that. Yes, I absolutely do,
17 absolutely do. Thank you for that clarification.

18 Let's reconvene at 2:30. We will reconvene at 2:30 and
19 I'll see you then. Thank you all.

20 (Luncheon recess.)

21 THE COURT: All right. Documents. Mr. Platte, Mr.
22 Beers.

23 MR. PLATTE: Mr. Beers has the list.

24 THE COURT: All right.

25 MR. BEERS: This is going to be a little tedious.

1 THE COURT: Okay.

2 MR. BEERS: Not too bad. We're introducing excerpts
3 from the following volumes of the journals, and I'll read the
4 year -- I'll read the exhibit number and the year.

5 THE COURT: Okay. May I ask a question? You're reading
6 from a list?

7 MR. BEERS: I am. I'll be glad to submit the list.

8 THE COURT: Why don't you. Why don't you mark it as an
9 exhibit, a joint exhibit.

10 MR. PLATTE: I think that would be a great idea.

11 THE COURT: Let's mark the list, let's put the list in
12 as a joint exhibit.

13 MR. HOLMES: Judge, these are all the 30(b)(6)
14 depositions hermetically sealed (indicating).

15 THE COURT: Wonderful.

16 MR. HOLMES: Except for the two we opened.

17 THE COURT: Wonderful.

18 MR. BEERS: So Mr. Platte and I are introducing a
19 document entitled "List of Parish-Specific Page Citations in
20 Diocesan Journals 1901 to 2009."

21 THE COURT: And it is a two-page document or --

22 MR. BEERS: One-page document. And these are all being
23 introduced without objection. The objections we've taken
24 care of separately.

25 THE COURT: Is that correct?

1 MR. PLATTE: That's correct, Your Honor.

2 THE COURT: Very well. We'll mark that and that will
3 suffice.

4 (Joint Exhibit 1 marked for identification.)

5 MS. KOSTEL: What about the other century?

6 MR. PLATTE: I believe what Ms. Kostel is talking about
7 is there's a two-page document, it's very short,
8 parish-specific, but it maybe only has ten parishes and maybe
9 20 documents, which I'm sure they can make a list quickly and
10 we can do the same.

11 MR. BEERS: You have the list.

12 MR. PLATTE: Your Honor, I'll just offer to the Court
13 Joint Exhibit 2. It's the list of parish-specific page
14 citations and diocesan journals up through 1900. Ms. Kostel
15 has written the specific exhibit number for the page from the
16 specific diocesan journal for that year and we'll just mark
17 this as Joint Exhibit 2 for those exhibits.

18 THE COURT: Thank you, sir.

19 (Joint Exhibit 2 marked for identification.)

20 THE COURT: All right. Anything further from the
21 plaintiffs at this time as I look around slowly?

22 MR. RUNYAN: Nothing, Your Honor.

23 MS. GOLDING: No.

24 THE COURT: Very well. From the defendants?

25 MR. HOLMES: I've been asked, I think because I know

1 less about the law in this case than anyone else connected
2 with it, to make the Rule 41(b) motion for dismissal of the
3 plaintiffs' case on the grounds the facts and the law the
4 plaintiff has presented show no right to relief, and likewise
5 for, I guess we'd call it, a directed verdict, since it's
6 nonjury it's not, in favor of our clients. And if Your Honor
7 wants to hear argument on it, I will die.

8 MR. TISDALE: And, Your Honor, the Episcopal Church in
9 South Carolina joins in that motion in all respects.

10 THE COURT: In toto. Thank you. With great admiration
11 and respect I would respectfully deny the motions.

12 MR. HOLMES: Thank you.

13 THE COURT: Very well. And there was a question about
14 once the diocese and the parishes have done what I've asked
15 them to do regarding the nonprofit corporation statute and
16 then sent it to the defendants to give them an opportunity to
17 respond, how am I to receive those. And I think this is how
18 I'm going to handle it: If you wish, you may send them to me
19 at the time that you send them to the defendants, but I want
20 the defendants to know it is my practice that I don't read
21 one until I get both. I don't do it. I like to consider
22 them together. Number one, I move on to the beginning of a
23 class action and a capital case when I leave you guys
24 literally next week, so I've got plenty to do. But as a
25 policy I like to have both together when I read it. I just

1 don't like to read one and that percolates and then you get
2 the other one. I just don't like that because I guess I was
3 always concerned that that was going to happen to me when I
4 practiced law. And truth of the matter is the judges are
5 like, (indicating), wait for both; don't make me do it until
6 I get both. But I wanted you all to know, since there is
7 going to be the 30-day period, I don't read until I have both
8 to read, just for everybody's informational purposes.

9 And so I'm not sure beyond that, when the time comes to
10 make a decision, how that will look. I really don't know
11 that at this point. I don't know if I will -- I will do one
12 of two things more likely than not, I will either draft the
13 order myself incorporating what you all give me or I will
14 send a memorandum. I just don't know how it will happen at
15 this point. I really haven't thought a lot about that part
16 of the process. But suffice it to say that I will
17 communicate with everyone at the same time either live or on
18 the phone in a massive conference call of some sort of
19 fashion. But I would tell you for sure, for sure, don't be
20 looking for anything for 90 days because we've got the
21 exchange back and forth. And then I'm going to need time to
22 study, so you can for sure anticipate that period of time.

23 And I thank you all for a case remarkably tried. You
24 all do our profession proud. And it has been one of the joys
25 of my life to have spent this time with you, and I look

1 forward to the study and the review that I get to embark
2 upon, and I'll miss you while I do it. And have a great
3 weekend.

4 (The Court's Exhibits 9-44 marked for identification.)

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 25th of July, 2014.

12 I further certify that I am neither related to nor
13 counsel for any party to the cause pending or interested in
14 the events thereof.

15 September 25, 2014

16

17 /s/ *Ruth L. Mott*

18 Official Court Reporter

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