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August 2, 2018

VIA E-MAIL

The Honorable Edgar W. Dickson
190 Gibson Street
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Re: *The Protestant Episcopal Church in the Diocese of South Carolina, et al. v. The Episcopal Church, et al.*, Case No. 2013-CP-18-00013

The Protestant Episcopal Church in the Diocese of South Carolina, et al. v. The Episcopal Church, et al., Case No. 2017-CP-18-1909

Dear Judge Dickson,

As you requested at the recent status conference, Defendants in the above referenced matters, The Episcopal Church and its associated diocese, The Episcopal Church in South Carolina (collectively the "Episcopal Church"), have prepared a report including a list of issues that we believe are before you and how you should proceed. We met and conferred with opposing counsel to discuss our respective positions and we quickly agreed that we would be unable to provide you with a joint report because of the disparity of our respective positions. We further agreed that each side would submit its own report for your consideration on Thursday, August 2nd. This report accordingly reflects our position.

The merits of this property dispute were fully and finally decided in the South Carolina Supreme Court's August 2, 2017 Opinion. Protestant Episcopal Church in the Diocese of S.C. v. Episcopal Church, 806 S.E.2d 82 (S.C. 2017), reh'g denied (Nov. 17, 2017), cert. denied (June 11, 2018). Petitions for rehearing and certiorari were made and denied. No issues were remanded. The remittitur only vests this Court with jurisdiction to enforce the South Carolina Supreme Court's August 2, 2017 Opinion and take actions consistent therewith. See Hampton Building Supply, Inc. v. Wilson, 328 S.E.2d 635, 637, 285 S.C. 135, 138 (1985) ("Once jurisdiction vested in the Supreme Court it would not re-vest in the Circuit Court except by order of the Supreme Court, such as for example, by granting a new trial."); Mueller v. Myrtle Beach Golf and Yacht Club, 438 S.E.2d 248, 250, 313 S.C. 412, 415 (1993) (distinguishing Hampton and holding that the lower court could award statutory attorney's fees after remittitur under

the limited jurisdiction the lower court has to “enforce the judgment and take any action consistent with the Supreme Court ruling”).

The South Carolina Supreme Court’s August 2, 2017 Opinion declared that the Episcopal Church has trust interests in all of the real and personal property of the diocese and twenty-nine of the parishes. That property comprises land and buildings, bank accounts, historical archives, antiques, silver, etc. This Court’s jurisdiction is limited to enforcing the trust interests in that property; it does not have jurisdiction to continue litigation on the merits of this property dispute, which is what the Plaintiffs seek to do in their pending motion for “clarification” and in their betterment action.

We therefore respectfully suggest, consistent with the remittitur, that this Court proceed as follows:

1. Enforce the South Carolina Supreme Court’s August 2, 2017 Opinion by providing an accounting of the property and effectuating its transfer, with the help of a Special Master, if the Court so chooses.

- *Grant* Defendants’ Petition For An Accounting, filed July 11, 2018
- *Grant* Defendants’ Amended Petition For Execution And Further Relief On Declaratory Judgments Of The South Carolina Supreme Court And For The Appointment Of A Special Master, filed as amended May 16, 2018
- *Deny* Plaintiffs’ Motion For Clarification Of Jurisdiction And For Other Relief, filed March 23, 2018

2. Dismiss the betterment action because the Betterment Act does not apply to the trust interests declared by the South Carolina Supreme Court’s August 2, 2017 Opinion, which is a full and final decision on the merits of this property dispute.

- *Grant* Defendants’ Motion To Dismiss Complaint, filed December 15, 2017
- *Deny* (as moot) Plaintiffs’ Motion To Establish Complex Case Designation, filed December 27, 2017

We ask that the above motions all be heard and resolved as soon as possible (with none being held in abeyance), at the Court’s convenience, following a reasonable briefing schedule to inform the Court with respect to the legal principles involved in these matters.

Thank you for your time and consideration of these matters.

With warmest regards, I am

Very truly yours,



Thomas S. Tisdale, Jr.

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cc: All Counsel of Record