

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

The Right Reverend Charles G. vonRosenberg)
et al.,)
)
Plaintiffs,)
)
The Episcopal Church,)
)
Plaintiff-in-Intervention,)
)
v.)
)
The Right Reverend Mark J. Lawrence et al.,)
)
Defendants.)
_____)

No. 2:13-cv-00587-RMG

**OPPOSITION OF PLAINTIFFS AND PLAINTIFF-IN-INTERVENTION
TO THE LAWRENCE PARISHES' MOTIONS FOR SUMMARY JUDGMENT**

TABLE OF CONTENTS

	Page
ARGUMENT	1
I. THE ISSUES COMMON TO MANY OR ALL OF THE LAWRENCE PARISHES REQUIRE THAT THEIR MOTIONS BE DENIED.....	1
A. All of the Lawrence Parishes Must Be Covered By the Court’s Order.	1
B. The Lawrence Parishes’ Claim That They Have Priority-in-Time in the Use of Their Names Fails Under the Trademark Merger Rule.....	2
C. The Lawrence Parishes’ Claim That They Stopped Using “Episcopal” In Their Names Fails Both Factually and Under the “Voluntary Cessation” Exception to the Mootness Doctrine.	3
D. Confusion is Likely as a Matter of Law.....	4
E. Dilution by Blurring is Likely as a Matter of Law.	11
F. TECSC’s False Advertising Claim Has Been Established as a Matter of Law.	16
G. THE EPISCOPAL CHURCH is Not Generic.	16
H. Laches Does Not Apply.....	17
II. THERE ARE NO GROUNDS FOR GRANTING SUMMARY JUDGMENT TO ANY OF THE LAWRENCE PARISHES.....	17
A. All Saints Protestant Episcopal Church, Inc. [Dkt. No. 558]	17
B. Vestry and Church Wardens of the Episcopal Church of the Parish of Christ Church [Dkt. No. 563]	18
C. Christ Church, Florence [Dkt. No. 571]	19
D. Christ St. Paul’s Episcopal Church [Dkt. No. 588]	20
E. Christ the King, Waccamaw [Dkt. No. 572].....	20
F. The Church of Our Savior of the Diocese of South Carolina [Dkt. No. 566]	21
G. Church of the Advent of Marion [Dkt. No. 579]	21

H. Church of the Ascension, Hagood [Dkt. No. 592]..... 22

I. Church of the Cross [Dkt. No. 566]..... 23

J. The Historic Church of the Epiphany, St. Johns, Berkeley [Dkt. No. 590] 23

K. Church of the Good Shepherd [Dkt. No. 567]..... 24

L. Church of the Holy Apostles [Dkt. No. 589]..... 25

M. The Church of the Holy Cross [Dkt. No. 591]..... 25

N. Church of the Holy Cross, Sullivan’s Island [Dkt. No. 587]..... 26

O. Church of the Redeemer [Dkt. No. 574]..... 26

P. The Church of the Resurrection, Surfside [Dkt. No. 581]..... 27

Q. Grace Parish, North Myrtle Beach [Dkt. No. 565] 27

R. Church of the Holy Comforter [Dkt. No. 571] 28

S. Holy Trinity Episcopal Church [Dkt. No. 560] 28

T. Holy Trinity, Grahamville [Dkt. No. 566]..... 29

U. Old St. Andrews [Dkt. No. 562] 30

V. The Vestry and Church Wardens of the Episcopal Church of the Parish of Prince George Winyah [Dkt. No. 569]..... 31

W. St. Alban’s Chapel [Dkt. No. 566]..... 31

X. St. Andrew’s Mission [Dkt. No. 566]..... 32

Y. St. Barnabas Church [Dkt. No. 575]..... 32

Z. St. Bartholomews Episcopal Church [Dkt. No. 576]..... 33

AA. St. David’s Church [Dkt. No. 573] 33

BB. Vestry and Church Wardens of the Episcopal Church of the Parish of St. Helena [Dkt. No. 562]..... 34

CC. St. James Anglican Church [Dkt. No. 593] 35

DD. St. James’ Church, James Island [Dkt. No. 557] 35

EE. The Vestry and Churchwardens of the Episcopal Church of the Parish of St. John’s Colleton County [Dkt. No. 562] 36

FF. St. John’s Episcopal, Charleston (“St. John’s Chapel”) [Dkt. No. 566] 37

GG. St. John’s Church of Florence, SC [Dkt. No. 577] 37

HH. Vestry and Church Wardens of St. Jude’s Church of Walterboro [Dkt. No. 566] 38

II. St. Luke’s Church, Hilton Head [Dkt. No. 570] 38

JJ. St. Luke and St. Paul, Radcliffeboro [Dkt. No. 599] 39

KK. The Vestry and Church Wardens of the Episcopal Church of the Parish of St. Matthew’s [Dkt. No. 559] 40

LL. St. Matthews Church [Dkt. No. 571] 40

MM. St. Matthias Episcopal Church, Inc. [Dkt. No. 571] 41

NN. The Protestant Episcopal Church, of the Parish of Saint Michael, in Charleston, in the State of South Carolina [Dkt. No. 562] 41

OO. St. Paul’s Church Bennettsville [Dkt. No. 573] 42

PP. St. Paul’s Episcopal Church of Conway [Dkt. No. 578] 43

QQ. St. Paul’s Episcopal Church of Orangeburg [Dkt. No. 561] 43

RR. St. Paul’s Church, Summerville [Dkt. No. 583] 44

SS. The Protestant Episcopal Church, of the Parish of Saint Philip [Dkt. No. 556] 45

TT. St. Timothy’s Church [Dkt. No. 582] 45

UU. Trinity Episcopal Church [Dkt. No. 562] 46

VV. Trinity Church of Myrtle Beach [Dkt. No. 564] 46

WW. Trinity Episcopal Church, Pinopolis [Dkt. No. 571] 47

XX. The Well Ministries [Dkt. No. 600] 48

CONCLUSION 50

The Defendant parishes and missions (collectively, the “Lawrence Parishes”) have moved for summary judgment on the claims against them by Plaintiffs (collectively, “TECSC”) and Plaintiff-in-Intervention The Episcopal Church (the “Church”). *See* Dkt. Nos. 556-67, 569-79, 581-83, 587-93, 599-600. Not only should the Court deny the Motions, but it should grant TECSC and the Church summary judgment on their claims against these Defendants. *See* Dkt. Nos. 584 and 595. Because the Lawrence Parishes’ Motions raise similar issues, TECSC and the Church submit this omnibus Opposition to all of them. The common issues are addressed in Section I below, with issues particular to individual Defendants discussed in Section II.

ARGUMENT

I. THE ISSUES COMMON TO MANY OR ALL OF THE LAWRENCE PARISHES REQUIRE THAT THEIR MOTIONS BE DENIED.

A. All of the Lawrence Parishes Must Be Covered By the Court’s Order.

A theme of many of the Lawrence Parishes’ Motions is that their situations are somehow different, and they should be exempt from any Order applicable to the other Defendants. This argument ignores that *every one* of the Lawrence Parishes claims to be part of the “Diocese of South Carolina,” which they claim is led by Bishop Lawrence. “Diocese of South Carolina” is one of the disputed marks at issue in this case. Thus, when the Court decides who is lawfully entitled to use that mark (and who is not), each Defendant must be covered by that Order.

Further, by holding themselves out as part of a diocese led by Bishop Lawrence, each of the Lawrence Parishes is participating in his infringing activities, which they should not be permitted to do. It is undisputed that Bishop Lawrence holds himself out as the “Bishop of the Protestant Episcopal Church in the Diocese of South Carolina” (Dkt. No. 439 at 2 ¶ 4) and refers to the diocese he leads as “The Episcopal Diocese of South Carolina” and “The Protestant Episcopal Church in the Diocese of South Carolina” (*id.* at 5 ¶ 27). That is the same diocese of

which all of the Lawrence Parishes claim to be a part. In so claiming, the Lawrence Parishes' own identities are inextricably linked with that of Bishop Lawrence, and with his identification of his title and the name of the diocese he leads. This is confirmed by the fact that virtually all of the Lawrence Parishes admitted in discovery that they hold themselves out as being part of an "Episcopal" diocese led by an "Episcopal" bishop. *See* Dkt. No. 595-75.

Because the Lawrence Parishes claim to be part of a diocese whose leader holds himself out as an "Episcopal" bishop who leads an "Episcopal" diocese, all of the Lawrence Parishes must be covered by the Court's declaration and injunctive relief concerning their use of the names and marks in question, including "Diocese of South Carolina," "The Episcopal Diocese of South Carolina," "The Protestant Episcopal Church in the Diocese of South Carolina," and the Diocesan seal. Otherwise, individual parishes and missions led by Bishop Lawrence may consider themselves free to hold themselves and their leaders out using whatever names they please, regardless of whether those names infringe marks owned by TECSC and the Church.

B. The Lawrence Parishes' Claim That They Have Priority-in-Time in the Use of Their Names Fails Under the Trademark Merger Rule.

Many of the Lawrence Parishes claim they have not infringed the Church's marks because they have priority in time, since they contend that they used their names before the Church was founded and/or before the Church began using the name "The Episcopal Church." But this argument fails under the trademark merger rule, under which once the Lawrence Parishes became affiliated with the Church, they lost any ability to argue that they had priority-in-time over the Church due to their alleged prior use of the names in question. This rule is explained in full in the Church's opposition to the Lawrence Diocese's motion for summary judgment (Dkt. No. 603), which is being filed this day.

C. The Lawrence Parishes' Claim That They Stopped Using "Episcopal" In Their Names Fails Both Factually and Under the "Voluntary Cessation" Exception to the Mootness Doctrine.

Another common claim by the Lawrence Parishes is that they need not be enjoined from using names that infringe the Church's and TECSC's marks because they have already stopped using the term "Episcopal" in their names. For many of the Lawrence Parishes, this claim is factually incorrect. Discovery revealed many examples of their continuing use of the term "Episcopal," often despite their assertions to the contrary. A chart detailing such uses by most of the Lawrence Parishes is in the record at Dkt. No. 595-74. Further, the vast majority of the Lawrence Parishes hold themselves out as being part of an "Episcopal" diocese led by an "Episcopal" bishop, which conduct infringes the Church's marks. A chart detailing those uses is in the record as Dkt. No. 595-75.

Even the Lawrence Parishes that have stopped calling themselves "Episcopal" parishes must still be covered by any Order of the Court, based on the exception to the mootness doctrine for "voluntary cessation of the allegedly unlawful activity." *Am. Whitewater v. Tidwell*, 2010 U.S. Dist. LEXIS 127306, at *12-14 (D.S.C. Dec. 2, 2010). "Under this exception a defendant carries a heavy burden to demonstrate there is no reasonable expectation that the allegedly wrongful behavior will recur." *Id.* at *14. This means "a defendant's 'voluntary cessation of a challenged practice' moots an action only if 'subsequent events made it absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur.'" *Wall v. Wade*, 741 F.3d 492, 497 (4th Cir. 2014) (citations omitted).

This exception applies here. If the Court's declaration does not cover all of the Lawrence Parishes, there is every reason to believe that many of them will revert to using "Episcopal" in their names once this suit is over, given their historical uses of those names and the fact that their governing documents continue to use those names. *See* Dkt. No. 595-74. Further, as the chart at

Dkt. No. 595-74 shows, some of the parishes that claim to have changed their names did so only in the last year or so, even though the Lawrence Diocese purported to leave the Church in 2012. The fact that it took years for them to come around to making the change shows their reluctance to doing so, and that they acted only when the litigation was coming to a head, without making any commitment to make the change permanent once this litigation is resolved.

This conclusion is also confirmed by the fact that so many of the Lawrence Parishes continue to use the term “Episcopal” to describe themselves. There is no reason to believe the others would not start doing so again if the Court does not order them to refrain from doing so.

Because the Lawrence Parishes have made no binding commitment to refrain from using the term “Episcopal” in their names once this litigation ends, they cannot meet their burden of showing that the infringing conduct “could not reasonably be expected to recur.” *Wall*, 741 F.3d at 497. The Court’s Order must therefore cover all of the Lawrence Parishes, regardless of whether they are currently using “Episcopal” in their names or claim to have stopped doing so.

D. Confusion is Likely as a Matter of Law.

Each of the Lawrence Parishes claims that it is not infringing marks owned by The Episcopal Church and TECSC. The relevant factors for assessing likelihood of confusion are:

“(1) the strength or distinctiveness of the plaintiff’s mark as actually used in the marketplace; (2) the similarity of the two marks to consumers; (3) the similarity of the goods or services that the marks identify; (4) the similarity of the facilities used by the markholders; (5) the similarity of advertising used by the markholders; (6) the defendant’s intent; (7) actual confusion; (8) the quality of the defendant’s product; and (9) the sophistication of the consuming public.” *Rosetta Stone Ltd. v. Google, Inc.*, 676 F.3d 144, 153 (4th Cir. 2012).

The Church’s summary judgment brief explained why these factors show that the conduct of the Lawrence Parishes is, as a matter of law, likely to create confusion with the marks owned

by the Church and TECSC. *See* Dkt. No. 595-1 at pp. 20-29 of 50. That discussion identified the relevant evidence on the *Rosetta Stone* factors, and we incorporate that evidence herein.

Below, we address Defendants' arguments to the contrary in their summary judgment briefs. This focus on the individual *Rosetta Stone* factors should not obscure the general principal that when a religious group leaves a larger organization of which it was part, it cannot use a name that indicates an association with its former group—including, most strikingly here, the same name it used before the departure—as that will inevitably create confusion. Many of the Lawrence Parishes in fact acknowledged at their depositions that they needed to stop using the term “Episcopal” to avoid creating confusion. *See* Dkt. No. 595-80. This is exactly what the Fourth Circuit recognized in *Purcell v. Summers*, 145 F.2d 979 (4th Cir. 1944), where it stated that the confusion caused by the use of a church name by a group that had seceded from the church “seem[ed] so clear ... as hardly to admit of argument.” *Id.* at 983. Similarly, the McCarthy treatise states: “A parent religious group is entitled to protection against a schismatic group or a dissident minority’s confusing use of the same name.” 1 McCarthy on Trademarks and Unfair Competition § 9:7.50 (2018). It is that kind of protection that the Church and TECSC are seeking in this action.

Actual confusion. Defendants claim there is no evidence of actual confusion. In fact, the record is overflowing with examples of actual confusion. *See* Dkt. No. 595-1 at pp. 20-22 of 50. Some of that evidence is specific to individual parishes, including St. Michael’s, St. Philip’s, and the Parish Church of St. Helena (which are three of the largest parishes), as well as Old St. Andrew’s, St. Alban’s Chapel (at the Citadel), Church of the Epiphany, and St. James Church,

James Island. *See id.* This evidence shows that the use of infringing names by the Lawrence Parishes has caused significant confusion.¹

Other confusion evidence relates more generally to the actions of the Lawrence Diocese and all entities that claim to be part of that diocese, including evidence of people donating to the wrong group, misdirecting communications, or simply being unable to discern which churches were affiliated with which group. It also includes evidence of people mistakenly worshipping at the wrong churches, a fact that is particularly troubling given the important role that religion plays in many churchgoers' lives. All that evidence taken together is highly probative of the confusion caused by former parishes of the Church and TECSC continuing to hold themselves out as "Episcopal" parishes, even though they claim to no longer be part of the Church or TECSC. The Lawrence Parishes claim to be part of the Diocese of South Carolina, led by a bishop who holds himself out as an "Episcopal" bishop of an "Episcopal" diocese. Evidence of the confusion caused by such misleading references is relevant to the claims against the Lawrence Parishes.

Strength of the marks. The Lawrence Parishes' primary argument is that THE EPISCOPAL CHURCH is a weak mark because it is generic. That assertion is incorrect, as

¹ The Church and TECSC have obtained evidence of actual confusion as to several of the Defendants (in particular, the larger ones). Obtaining such evidence as to every one of the Lawrence Parishes was not feasible, since almost none of the Rule 30(b)(6) witnesses for these Defendants had spoken to anyone affiliated with their churches to identify instances of confusion, even though this was an enumerated subject for their depositions. *See* Exh. 1 hereto. That deficient deposition preparation cannot work to the Church's or TECSC's detriment. And, in any event, the absence of *actual* confusion evidence as to a particular Defendant does not mean that *likelihood* of confusion has not been proven. *See Select Auto Imports Inc. v. Yates Select Auto Sales, LLC*, 195 F. Supp. 3d 818, 838 (E.D. Va. 2016) ("[I]t bears emphasis that evidence of actual confusion is not required due in part to the difficulty of obtaining evidence of actual confusion.").

detailed in the Church's summary judgment motion (Dkt. No. 595-1 at pp. 33-47 of 50) and in its opposition to Defendants' genericness motion (Dkt. No. 610), which is being filed this day.

The Lawrence Parishes have offered no argument or evidence that the Church's other mark primarily at issue, THE PROTESTANT EPISCOPAL CHURCH IN THE UNITED STATES OF AMERICA, is generic. The Church's claim against the Lawrence Parishes for their infringement of that mark therefore is not subject to Defendants' genericness challenge. The Church's claims for infringement and dilution of that mark alone would justify the relief that the Church is seeking, even if it did not also have claims arising out of the mark THE EPISCOPAL CHURCH.

Defendants ignore the evidence showing that THE EPISCOPAL CHURCH and THE PROTESTANT EPISCOPAL CHURCH IN THE UNITED STATES OF AMERICA are strong marks. The marks are strong for two reasons. First, both have obtained incontestable status with the PTO, meaning they are "conclusively presumed to be nondescriptive or to have acquired secondary meaning." *Lone Star Steakhouse & Saloon, Inc. v. Alpha of Va., Inc.*, 43 F.3d 922, 936 (4th Cir. 1995). Second, both have a high degree of commercial strength because they are associated only with the Plaintiff-in-Intervention. *See* Dkt. No. 595-1 at pp. 25-26 of 50.

Similarity of the marks. Defendants claim their names are "completely different" from the Church's and TECSC's marks at issue. *See, e.g.*, Dkt. No. 566-1 at 13. But the Church's and TECSC's claims against the Lawrence Parishes arise out of the Lawrence Parishes' use of names that include the term "Episcopal," which infringe the Church's marks THE EPISCOPAL CHURCH and THE PROTESTANT EPISCOPAL CHURCH IN THE UNITED STATES OF AMERICA. The claims also arise out of the Lawrence Parishes holding themselves out as part of "The Episcopal Diocese of South Carolina" and "The Protestant Episcopal Church in the

Diocese of South Carolina,” which virtually all of the Lawrence Parishes have admitted doing. *See* Dkt. No. 595-75. Neither can the Lawrence Parishes divorce the use of their names from their historical association—in many cases stretching back centuries—with The Episcopal Church and its recognized diocese in the Lowcountry.

For each mark, “Episcopal” is the dominant term. That is the important consideration when assessing the similarity of the marks.² And the name of “The Protestant Episcopal Church in the Diocese of South Carolina” is the same as the Church’s mark THE PROTESTANT EPISCOPAL CHURCH IN THE UNITED STATES OF AMERICA, except for the former’s use of a more limited geographic descriptor, which falsely implies that the diocese of which the Lawrence Parishes claim to be a part (that is, the Lawrence Diocese) is a local unit of the Church. Thus, contrary to the Lawrence Parishes’ claim, the marks at issue are quite similar.

TECSC’s claims against the Lawrence Parishes also arise from their holding themselves out as part of the “Diocese of South Carolina” and using the Diocesan seal, which are marks owned by TECSC. The evidence of the Lawrence Parishes doing so is in the record at Dkt. Nos. 595-78 and 595-79. Both TECSC and the Lawrence Parishes therefore use those same marks.

Finally, Plaintiffs’ claims against at least 29 of the Lawrence Parishes are further based on Plaintiffs’ trust interests in their property, including any property rights they may have in their marks. *See* Dkt. No. 584-1 at 17-19. The similarity of the marks is therefore conclusively established for those marks.

Similarity of the services. The Lawrence Parishes cannot deny that they, the Church, and TECSC provide religious and educational services. *See* Dkt. No. 595-1 at p. 27 of 50. Nor do

² *See JFJ Toys, Inc. v. Sears Holdings Corp.*, 237 F. Supp. 3d 311, 336 (D. Md. 2017) (“Courts are particularly inclined to find similarity when there is overlap in the marks’ dominant terms, even if the marks contain other dissimilar words.”); *Select Auto Imports Inc. v. Yates Select Auto Sales, LLC*, 195 F. Supp. 3d 818, 835 (E.D. Va. 2016) (same).

they dispute that there need be only “some degree of overlap” in the services for this factor to favor a finding of confusion. *See id.* Further, the geographic proximity of the Lawrence Parishes and TECSC makes the similarity between their services “even more prominent.” *Select Auto Imports*, 195 F. Supp. 3d at 835 (“courts have held that geographic proximity between two businesses can play a significant role in the likelihood of confusion analysis”).

Instead, the Lawrence Parishes claim “Defendants and Plaintiff do not have a directly competitive relationship,” and that Defendants’ services are not deficient. *E.g.*, Dkt. No. 566-1 at 13-14; Dkt. No. 556 at 19; Dkt. No. 562-1 at 19-20. But these arguments are irrelevant. The services “need not be identical or in direct competition with each other for this factor to be satisfied.” *JFJ Toys*, 237 F. Supp. 3d at 338. And, factually, the parties are in “competition” to the extent individual worshippers have to decide which church to attend. And it is the *type* of goods or services that matters for purposes of assessing their similarity; the infringer’s services need not be inferior for this factor to indicate confusion. *See id.*; *Lone Star Steakhouse & Saloon, Inc. v. Alpha of Va., Inc.*, 43 F.3d 922, 937 (4th Cir. 1995).

Similarity of the facilities. Both sides provide services in church buildings. In fact, the Lawrence Parishes are providing services in the same buildings they used before they purported to leave the Church. *See* Dkt. No. 595-76. This shows that the facilities are “as similar as they could possibly be.” Dkt. No. 595-1 at p. 27 of 50 (quoting *Choice Hotels Int’l, Inc. v. Zeal, LLC*, 135 F. Supp. 3d 451, 467 (D.S.C. 2015)).

The Lawrence Parishes argue that this factor does not favor a finding of confusion because the parties are not providing their services “side-by-side,” as if they were “competitive goods in retail stores” or “supermarket[s].” Dkt. No. 566-1 at 13-14; Dkt. No. 556 at 16. Quite obviously, a supermarket analogy is inapt in this context. More appropriate is *Select Auto*

Imports, where the court found the facilities of two car dealers similar because they served similar “purposes,” even though the dealers were not selling cars side by side in a single facility. 195 F. Supp. 3d at 837.

The Lawrence Parishes’ continued use of the same facilities they used when they were part of the Church shows that the facilities in which the two sides provide their services are the same for these purposes. This similarity of facilities undoubtedly helped induce multiple people to attend religious services at a church they believed was affiliated with The Episcopal Church, only to later realize they were mistaken and had worshipped at a church affiliated with Defendant Lawrence.³

Similarity of advertising. The advertising is similar in that both sides promote themselves primarily through their web sites and their signage. *See Select Auto Imports*, 195 F. Supp. 3d at 837 (“A finding of similarity of advertising requires ‘some degree of overlap’ among the parties’ outlets and customer bases, but the two need not be identical.”).

Defendants’ intent. Although intent to confuse is not required to prove infringement, Defendants’ continued use of infringing names after this suit was filed, and continued references to the diocese of which they are part as the “Episcopal” diocese led by an “Episcopal” bishop, show an intent to confuse. *See* Dkt. No. 595-1 at p. 28 of 50.

Quality of Defendants’ product. This factor too shows that confusion is likely. As the Church’s opposition to the Lawrence Diocese’s second summary judgment motion (which is being filed this day) explains, this factor favors a finding of confusion because this litigation arose because of disagreements over the quality of the religious services offered by the two sides.

³ *See, e.g.*, Dkt. No. 595-81 at 73:3-14 (individual told Bishop Adams: “I attended this church, it has the word Episcopal on it, but something doesn’t seem exactly the same as my experience.”); *id.* at 95:25-97:15 (couple attended St. Michael’s “a couple times” but “then realized, well, wait a minute; something’s not quite the same here”).

Customer sophistication. The Lawrence Parishes argue at length that churchgoers are generally sophisticated about their choice of religious services, and the Church and TECSC do not disagree. Defendants even offer expert testimony on the sophistication of church members, although their experts did not survey or analyze whether individuals are able to easily differentiate between the services offered by the Church and TECSC on the one hand, and the Lawrence Diocese and its parishes on the other.

It is no surprise that in an area of a person's life as important as their religion, people are careful in selecting which church to attend, donate to, or communicate with. That makes it all the more remarkable that there is ample anecdotal evidence of people attending services offered by the Lawrence Diocese believing they were affiliated with The Episcopal Church; donating money to the wrong group; sending mail and e-mail to the wrong group; and stating that they were unable to differentiate between the groups. *See* Dkt. No. 595-1 at pp. 20-22 of 50. Accordingly, the evidence of actual confusion despite church members' sophistication underscores the degree of the harm that the Church and TECSC are suffering as a result of the Lawrence Parishes' infringement.

* * * * *

All of these factors show that confusion is likely as a matter of law. This requires the Court to deny the Lawrence Parishes' Motions, and grant the Church and TECSC's Motions.

E. Dilution by Blurring is Likely as a Matter of Law.

The Lawrence Parishes also seek summary judgment on the Church's claim under 15 U.S.C. § 1125(c)(1) for dilution by blurring. The elements of this claim are "(1) that the plaintiff owns a famous mark that is distinctive; (2) that the defendant has commenced using a mark in commerce that allegedly is diluting the famous mark; (3) that a similarity between the defendant's mark and the famous mark gives rise to an association between the marks; and (4)

that the association is likely to impair the distinctiveness of the famous mark or likely to harm the reputation of the famous mark.” *Rosetta Stone*, 676 F.3d at 168. A full discussion of the legal standard and its application to the facts of this case are set forth in the Church’s summary judgment brief. *See* Dkt. No. 595-1 at pp. 29-33 of 50.

Defendants’ arguments do not defeat any of these elements. First, the marks THE EPISCOPAL CHURCH and THE PROTESTANT EPISCOPAL CHURCH IN THE UNITED STATES OF AMERICA are famous. This is supported by evidence from major media sources, dictionaries, encyclopedias, and listings of religious groups demonstrating that THE EPISCOPAL CHURCH is universally recognized as referring to the Plaintiff-in-Intervention. The fame of THE PROTESTANT EPISCOPAL CHURCH IN THE UNITED STATES OF AMERICA is proven by the depositions of third-party church groups that Defendants took in this case. Those churches knew that this mark referred to the Church. *See* Dkt. No. 595-1 at p. 30 of 50. Defendants make no argument and provide no evidence that undermines this conclusion.

Second, the Lawrence Parishes are using marks that dilute the Church’s famous marks, including in their names that include the term “Episcopal” as well as by referring to themselves as being part of an “Episcopal” diocese led by an “Episcopal” bishop. Dkt. No. 595-1 at p. 31 of 50. Some of the Lawrence Parishes claim this factor is not met because § 1125(c)(1) establishes a claim against those who dilute a famous mark “after the owner’s mark has become famous,” even though many of the Lawrence Parishes claim to have used their names before the Church’s marks became famous. But this argument ignores the trademark “merger rule,” under which the key date is when the Lawrence Parishes purported to leave the Church (in 2012), not how the Lawrence Parishes were using the names when they were part of the Church or before the Church was formed. Whether the Lawrence Parishes used the infringing names prior to 2012 is

irrelevant for assessing this factor, since 2012 is when they claim to have no longer been a part of the Church. When they used their names thereafter, they diluted the Church's famous marks.

Third, the similarity between the marks used by the Lawrence Parishes and the Church's famous marks gives rise to an association between the marks. *See* Dkt. No. 595-1 at p. 31 of 50. Such an association is easily drawn between (a) parish names that include the term "Episcopal" as well as their references to being part of an "Episcopal" diocese led by an "Episcopal" bishop, and (b) the Church's marks THE EPISCOPAL CHURCH and THE PROTESTANT EPISCOPAL CHURCH IN THE UNITED STATES OF AMERICA. The connection is perhaps most direct between the Church's mark THE PROTESTANT EPISCOPAL CHURCH IN THE UNITED STATES OF AMERICA and the name "The Protestant Episcopal Church in the Diocese of South Carolina," with the latter directly implying a connection with the Church. This conclusion is supported by Robert Klein's survey, where many respondents stated that they associated the names "The Protestant Episcopal Church in the Diocese of South Carolina" and "The Episcopal Diocese of South Carolina" with the Church itself. *See* Dkt. No. 595-86.

Fourth, the association is likely to impair the distinctiveness or harm the reputation of the marks. It is as to this issue where most of the Lawrence Parishes' arguments lie. 15 U.S.C. § 1125(c)(2)(B) identifies several relevant factors, which show that dilution by blurring is likely.

The degree of similarity between the mark or trade name and the famous mark. As explained above, THE EPISCOPAL CHURCH and THE PROTESTANT EPISCOPAL CHURCH IN THE UNITED STATES OF AMERICA are similar to the Lawrence Parish names that include the word "Episcopal" (and their references to being part of an "Episcopal" diocese led by an "Episcopal" bishop) because that is the dominant term in each mark. THE PROTESTANT EPISCOPAL CHURCH IN THE UNITED STATES OF AMERICA is in fact

identical to the name “The Protestant Episcopal Church in the Diocese of South Carolina,” except that the latter implies it is a regional unit of the former.

The degree of inherent or acquired distinctiveness of the famous mark. Defendants claim that when the Church sought to register its marks, it acknowledged the marks were “merely descriptive and therefore lacking inherent distinctiveness.” *E.g.*, Dkt. No. 566-1 at 20; Dkt. No. 556 at 25. Since that time—ten or more years ago—the marks have obtained incontestable status with the PTO (*see* Dkt. Nos. 595-6, 595-10), meaning they are now “conclusively presumed to be nondescriptive or to have acquired secondary meaning.” *Lone Star Steakhouse*, 43 F.3d at 936 (*quotation omitted*); *see also, e.g., Choice Hotels*, 135 F. Supp. 3d at 462 (“the plaintiff’s marks are not only registered, but have achieved incontestable status, and this fact weighs in favor of finding that the marks are sufficiently distinctive to warrant protection”). The Lawrence Parishes’ argument is therefore based on irrelevant, outdated information.

Moreover, both marks have a high degree of commercial strength because they are understood as referring only to the Plaintiff-in-Intervention, which proves they have “acquired distinctiveness.” *See* Dkt. No. 595-1 at pp. 25-26 of 50. For this reason as well, the marks have a high degree of distinctiveness.

The extent to which the owner of the famous mark is engaging in substantially exclusive use of the mark. The Lawrence Parishes claim this factor cuts against a blurring claim because others use the term “episcopal.” *E.g.*, Dkt. No. 566-1 at 20; Dkt. No. 556 at 25. But this argument violates the anti-dissection rule, which requires the Court to look at the marks as a whole, not whether individual terms that comprise the marks are generic. This rule is explained in the Church’s summary judgment brief (Dkt. No. 595-1 at pp. 35-36 of 50), and in its opposition to Defendants’ genericness motion (Dkt. No. 610) that is being filed this day.

The relevant evidence shows that *only* the Plaintiff-in-Intervention is named and referred to as THE EPISCOPAL CHURCH and THE PROTESTANT EPISCOPAL CHURCH IN THE UNITED STATES OF AMERICA. *See* Dkt. No. 595-1 at pp. 40-47 of 50. The Lawrence Parishes identify no evidence to the contrary. This means the Church is engaging in substantially exclusive use of the marks, which favors a finding of dilution by blurring.

The degree of recognition of the famous mark. A substantial record shows that the Church's famous marks have a high degree of recognition. THE EPISCOPAL CHURCH is the widely recognized name of the Plaintiff-in-Intervention (*see* Dkt. No. 595-1 at pp. 40- 47 of 50). Further, other churches understand that THE PROTESTANT EPISCOPAL CHURCH IN THE UNITED STATES OF AMERICA refers only to the Plaintiff-in-Intervention (*id.* at p. 30 of 50). The Lawrence Parishes offer no evidence to the contrary.

Whether the user of the mark or trade name intended to create an association with the famous mark. The Lawrence Parishes' intent is evident from their actions here. Even after being served with the Complaint, many continued to call themselves by names that they used before their departure from the Church and that now infringe upon and blur the Church's famous marks. They did so because the names they were using were historical names which for many decades signified an association with TECSC and the Church itself. It is that same association that gives rise to the dilution-by-blurring claim.

Any actual association between the mark or trade name and the famous mark. There is substantial evidence that people have actually associated the names used by the Lawrence Parishes with the Church and TECSC. Those names include the parish names themselves; the names they call the diocese of which they are a part (*e.g.*, "The Episcopal Diocese of South Carolina" and "The Protestant Episcopal Church in the Diocese of South Carolina"); and the

name of the bishop of that diocese (who holds himself out as the “Bishop of The Protestant Episcopal Church in the Diocese of South Carolina”). This evidence is detailed in the Church’s summary judgment brief. *See* Dkt. No. 595-1 at pp. 20-22 of 50.

* * * * *

For all of these reasons, each element of dilution by blurring is met, as a matter of law.

F. TECSC’s False Advertising Claim Has Been Established as a Matter of Law.

TECSC’s opposition to the Lawrence Diocese’s second motion for summary judgment explains why not only should TECSC’s false advertising claim not be dismissed, but that the Court should grant TECSC summary judgment on that claim. Because those same arguments apply with respect to the Lawrence Parishes, TECSC incorporates those arguments here, in response to the Lawrence Parishes’ summary judgment motions.

G. THE EPISCOPAL CHURCH is Not Generic.

The Lawrence Parishes assert that they cannot infringe the mark THE EPISCOPAL CHURCH because it is generic. The Church’s response is detailed in its summary judgment motion on the issue of genericness (Dkt. No. 595-1 at pp. 33-47 of 50), and its opposition to Defendants’ motion for summary judgment on this issue, which is being filed this day in response to Dkt. No. 610. Further, Defendants make no argument and offer no evidence showing why the mark THE PROTESTANT EPISCOPAL CHURCH IN THE UNITED STATES OF AMERICA is generic. The Lawrence Parishes’ Motions do not seek summary judgment as to the Church’s claims arising out of their infringement and dilution of that mark.

H. Laches Does Not Apply.

The Lawrence Parishes assert that the claims of TECSC and the Church are barred by laches. For the same reasons set out in the Church’s brief opposing the Lawrence Diocese’s second motion for summary judgment, filed this day, laches does not apply here.

II. THERE ARE NO GROUNDS FOR GRANTING SUMMARY JUDGMENT TO ANY OF THE LAWRENCE PARISHES.

The Lawrence Parishes claim there are no facts showing a likelihood of confusion with the Church and TECSC’s marks. They are wrong. Those facts show that the Church and TECSC’s claims have been established as a matter of law. We discuss those facts below.

It should be noted that the Lawrence Parishes’ arguments are largely based on their assertions that the Rule 30(b)(6) witnesses for the Church and TECSC supposedly did not know about such facts at their depositions. But those witnesses could testify only about the knowledge that the Church and TECSC possessed at the time they were deposed. Much of the relevant evidence with respect to the Lawrence Parishes comes not from information in the possession of the Church and TECSC— which have limited knowledge concerning the ongoing activities of churches that claim they are no longer affiliated with the Church and TECSC—but from the Lawrence Parishes themselves. That information was obtained primarily during the Rule 30(b)(6) depositions of the Lawrence Parishes, which were completed *after* the Church and TECSC were deposed.

A. All Saints Protestant Episcopal Church, Inc. [Dkt. No. 558]

The record evidence (at Dkt. No. 595-13) shows actions of All Saints that the Court should enjoin. All Saints holds itself out as part of the Diocese of South Carolina and uses the Diocesan seal, which are marks owned by TECSC. *See* Dkt. Nos. 595-79 and 595-78. All Saints also holds itself out as being affiliated with the “Protestant Episcopal Church in the Diocese of

South Carolina,” which use infringes the Church’s marks, and its web site claims that diocese is led by Bishop Lawrence. Dkt. No. 595-75. Its incorporated name, and the name on its deeds and by-laws, is still “All Saints Protestant Episcopal Church.” Dkt. No. 595-74. Additionally, All Saints holds its real and personal property, including any property rights it may have in its names and marks, in trust for the Church and TECSC. *See* Dkt. No. 584-1 at 17-19. The connection between All Saints and the Church’s and TECSC’s marks is fostered by All Saints’ continued use of the Church’s *Book of Common Prayer* and hymnals (Dkt. No. 595-77), in the same buildings it used when it was part of the Church (Dkt. No. 595-76).

Although virtually all of All Saints’ arguments are addressed in Section I above, it argues in a footnote (at Dkt. No. 558-1 at 9 n.4) that it is entitled to summary judgment because TECSC’s marks and the Church’s marks did not have secondary meaning when All Saints was founded in 1958. But this argument fails under the trademark merger rule, which, regardless of when All Saints started using its name, prohibits it from using an infringing mark after seceding from those organizations. The argument is also factually inaccurate with respect to the mark THE PROTESTANT EPISCOPAL CHURCH IN THE UNITED STATES OF AMERICA, which was first used in or around 1789. *See* Dkt. No. 595-1 at p. 10 of 50.⁴

B. Vestry and Church Wardens of the Episcopal Church of the Parish of Christ Church [Dkt. No. 563]

The record evidence (at Dkt. No. 595-62) shows actions of Christ Church that the Court should enjoin. The legislative charter and incorporation for Christ Church states that it would “forever hereafter” be known as “The Vestry and Church-Wardens of the Episcopal Church of

⁴ Other Lawrence Parishes, including Church of the Ascension, Hagood, Church of the Holy Apostles, Church of the Holy Cross, Historic Church of the Epiphany, St. Barnabas Church, St. Bartholomews Episcopal Church, and St. Paul’s Episcopal Church of Orangeburg also make this argument, which should be rejected for the same reason it fails with respect to All Saints.

the Parish of Christ Church.” Dkt. No. 563 at 3. There is no evidence of Christ Church seeking to change that charter or its incorporated name after 2012. Christ Church holds itself out as part of the Diocese of South Carolina, which is a mark owned by TECSC. *See* Dkt. No. 595-79.

There remains an historical marker near the church door that says “Episcopal,” as well as a street sign in its cemetery with that term. Dkt. No. 595-74. Additionally, Christ Church holds its real and personal property, including any property rights it may have in its names and marks, in trust for the Church and TECSC. *See* Dkt. No. 584-1 at 17-19. The connection between Christ Church and the Church’s and TECSC’s marks is fostered by the parish’s continued use of the Church’s *Book of Common Prayer* and hymnals (Dkt. No. 595-77), in the same buildings it used when it was part of the Church (Dkt. No. 595-76).

C. Christ Church, Florence [Dkt. No. 571]

The record evidence (at Dkt. No. 595-14) shows actions of Christ Church, Florence that the Court should enjoin. The legal name of the parish has been “Christ Episcopal Church” since 1859. *See* Dkt. No. 595-14 at 20-23. Christ Church, Florence’s Facebook page continues to identify it as an “Episcopal Church”; its website contains a page dedicated to a book titled “Christ Episcopal Church Revisited” with the subtitle “Christ Episcopal Church, Florence County, South Carolina” without a disclaimer that it is no longer an Episcopal church; and at least one checking account still bears the word “Episcopal.” *See* Dkt. No. 595-74. Furthermore, an historical marker erected on the road next to Christ Church, Florence’s driveway reads “Christ Episcopal Church Founded in 1859.” Dkt. No. 595-14 at 50-51; Dkt. No. 595-74. Christ Church, Florence has never asked to change or remove this sign. *See* Dkt. No. 595-74. This is all despite the fact that Christ Church, Florence has removed and ceased other uses of the word “Episcopal” to prevent confusion. *See* Dkt. No. 595-80. Christ Church, Florence also uses TECSC’s mark “Diocese of South Carolina” on its website and refers to Mark Lawrence as the

bishop of that body. *See* Dkt. No. 595-79. Similarly, it represents that it is affiliated with the “Protestant Episcopal Church in the Diocese of South Carolina” (Dkt. No. 595-75), which use infringes the Church’s marks. Christ Church, Florence continues to use the Diocesan seal (owned by TECSC) on lapel pins and name tags worn by members and in its newsletter. *See* Dkt. No. 595-78. The connection between Christ Church, Florence and the Church’s and TECSC’s marks is fostered by the parish’s use of the Church’s *Book of Common Prayer* and hymnals. *See* Dkt. No. 595-77. And it has been doing so continuously since before it separated from the Church and in the same building it has used since 1859. *See* Dkt. No. 595-76.

D. Christ St. Paul’s Episcopal Church [Dkt. No. 588]

The record evidence (at Dkt. No. 595-15) shows actions of Christ St. Paul’s Episcopal that the Court should enjoin. Christ St. Paul’s Episcopal holds itself out as part of the Diocese of South Carolina (which is a mark owned by TECSC) and claims Bishop Lawrence leads that Diocese. *See* Dkt. No. 595-79. It uses the Diocesan seal on its web site, even though TECSC owns that mark. *See* Dkt. No. 595-78. Christ St. Paul’s Episcopal also holds itself out as being affiliated with the “Protestant Episcopal Church in the Diocese of South Carolina” (Dkt. No. 595-75), which use infringes the Church’s marks. And although the parish changed its legal name in 2013, the name was changed from “Christ-St. Paul’s Episcopal Parish” to “Christ-St. Paul’s Episcopal Church”—an infringing name. Dkt. No. 595-74. Additionally, Christ St. Paul’s Episcopal holds its real and personal property, including any property rights it may have in its names and marks, in trust for the Church and TECSC. *See* Dkt. No. 584-1 at 17-19. The connection between Christ St. Paul’s Episcopal and the Church’s and TECSC’s marks is fostered by the parish’s continued use of the Church’s *Book of Common Prayer* and hymnals (Dkt. No. 595-77), in the same buildings it used when it was part of the Church (Dkt. No. 595-76).

E. Christ the King, Waccamaw [Dkt. No. 572]

The record evidence (at Dkt. No. 595-16) shows actions by Christ the King that the Court should enjoin. Christ the King holds itself out as part of the Diocese of South Carolina, which is a mark owned by TECSC. *See* Dkt. No. 595-79. It also claims “Bishop Lawrence is the President” of that Diocese, and bishop of the “Protestant Episcopal Church in the Diocese of South Carolina” (Dkt. No. 595-75), which infringes the Church’s marks. The connection between Christ the King and the Church’s and TECSC’s marks is fostered by the parish’s use of the Church’s *Book of Common Prayer* and hymnals (Dkt. No. 595-77).

F. The Church of Our Savior of the Diocese of South Carolina [Dkt. No. 566]

The record evidence (at Dkt. No. 595-43) shows actions of Church of Our Savior that the Court should enjoin. Church of Our Savior holds itself out as part of the Diocese of South Carolina, which is a mark owned by TECSC. *See* Dkt. No. 595-79. It uses the Diocesan seal, even though TECSC owns that mark. *See* Dkt. No. 595-78. Additionally, Church of Our Savior holds its real and personal property, including any property rights it may have in its names and marks, in trust for the Church and TECSC. *See* Dkt. No. 584-1 at 17-19. The connection between Church of Our Savior and the Church’s and TECSC’s marks is fostered by the parish’s continued use of the Church’s *Book of Common Prayer* and hymnals (Dkt. No. 595-77), in the same buildings it used when it was part of the Church (Dkt. No. 595-76).

G. Church of the Advent of Marion [Dkt. No. 579]

The record evidence (at Dkt. No. 595-41) shows actions by Church of the Advent that the Court should enjoin. Church of the Advent holds itself out as part of the Diocese of South Carolina, which is a mark owned by TECSC. *See* Dkt. No. 579-1 at 2-3; Dkt. No. 595-79. It uses the Diocesan seal, even though TECSC owns that mark. *See* Dkt. No. 595-78. It uses the term “Episcopal” to identify the church’s name on a deed hung on the building’s interior wall. *See* Dkt. No. 595-74. “Church of the Advent Marion Episcopal Church The Diocese of South

Carolina” was used on a pamphlet uploaded to Facebook in October 2018, although Church of the Advent claims it has since been removed (after the Church identified it during discovery).

Dkt. No. 595-74; Dkt. No. 579-1 at 3. A sign showing the church building displaying The Episcopal Church’s shield was shown on the Lawrence Diocese’s web site, with no apparent attempt by Church of the Advent to have the image removed. *See* Dkt. No. 579-1 at 4.

Likewise, Church of the Advent used the term “Episcopal” on an exterior sign and in its bulletins until it was joined as a party in 2018. *See id.* The connection between Church of the Advent and the Church’s and TECSC’s marks is fostered by the parish making the Church’s *Book of Common Prayer* available in its pews and its use of the Church’s hymnals (Dkt. Nos. 579-1 at 3 and 595-77), in the same buildings it used when it was part of the Church (Dkt. No. 595-76).

H. Church of the Ascension, Hagood [Dkt. No. 592]

The record evidence (at Dkt. No. 595-40) shows actions by Church of the Ascension that the Court should enjoin. Church of the Ascension holds itself out as part of the Diocese of South Carolina, which is a mark owned by TECSC. *See* Dkt. No. 591-1 at 3; Dkt. No. 595-79. It uses the Diocesan seal, even though TECSC owns that mark. *See id.*; Dkt. No. 595-78. It also holds itself out as being a “member church of the Diocese of South Carolina, of which Bishop Lawrence is the President,” and represents that Bishop Lawrence the bishop of the “Protestant Episcopal Church in the Diocese of South Carolina” (Dkt. No. 595-75), which infringes the Church’s marks. Its “corporate name” “utilizes the word ‘Episcopal.’” Dkt. No. 592-1 at 5. A sign that included the term “Episcopal” was removed in 2015, but a painting of the church with that sign remains. *See* Dkt. No. 595-74. The connection between Church of the Ascension and the Church’s and TECSC’s marks is fostered by the parish making the Church’s *Book of Common Prayer* available in its pews and its use of the Church’s hymnals (Dkt. No. 595-77), in the same buildings it used when it was part of the Church (Dkt. No. 595-76).

I. Church of the Cross [Dkt. No. 566]

The record evidence (at Dkt. No. 595-17) shows actions by Church of the Cross that the Court should enjoin. Church of the Cross holds itself out as part of the Diocese of South Carolina (which is a mark owned by TECSC) and claims Bishop Lawrence leads that Diocese. *See* Dkt. No. 595-79. It also uses the “Protestant Episcopal Church in the Diocese of South Carolina” on its web site, as a reference to the diocese led by Bishop Lawrence, who it holds out as being the bishop of the “Protestant Episcopal Church in the diocese of South Carolina.” Dkt. No. 595-75. And its web site states that the parish is “in communion with the Protestant Episcopal Church [in] the Diocese of South Carolina.” *Id.* These actions infringe the Church’s marks. Additionally, Church of the Cross holds its real and personal property, including any property rights it may have in its names and marks, in trust for the Church and TECSC. *See* Dkt. No. 584-1 at 17-19. The connection between Church of the Cross and the Church’s and TECSC’s marks is fostered by the parish making the Church’s *Book of Common Prayer* available in its pews and its use of the Church’s hymnals (Dkt. No. 595-77), in the same buildings it used when it was part of the Church (Dkt. No. 595-76).

J. The Historic Church of the Epiphany, St. Johns, Berkeley [Dkt. No. 590]

The record evidence (at Dkt. No. 595-45) shows actions by Church of the Epiphany that the Court should enjoin. Church of the Epiphany holds itself out as part of the Diocese of South Carolina, which is a mark owned by TECSC. *See* Dkt. No. 590-1 at 3; Dkt. No. 595-79. It uses the Diocesan seal, even though TECSC owns that mark. *See* Dkt. No. 595-78. A “Statement of Faith” on its web site states that the church is a “parish in the Protestant Episcopal Church in the Diocese of South Carolina,” which infringes the Church’s marks. Dkt. No. 595-45 at p. 66 of 78. The parish’s web site and a new sign in front of the church say that the church is an “Anglican Episcopal Church.” Dkt. No. 595-74. Additionally, Church of the Epiphany holds its real and

personal property, including any property rights it may have in its names and marks, in trust for the Church and TECSC. *See* Dkt. No. 584-1 at 17-19. The connection between Church of the Epiphany and the Church's and TECSC's marks is fostered by the parish making the Church's *Book of Common Prayer* available in its pews and its use of the Church's hymnals (Dkt. No. 595-77), in the same buildings it used when it was part of the Church (Dkt. No. 595-76).

K. Church of the Good Shepherd [Dkt. No. 567]

The record evidence (at Dkt. No. 595-46) shows actions by Good Shepherd that the Court should enjoin. A sign in front of the church reads: "The Church of the Good Shepherd, a Parish of the Episcopal Diocese of South Carolina." Dkt. No. 595-79; *see also* Exh. 2 hereto at p. 2 (discovery responses served on Jan. 7, 2019, acknowledging this fact). Similar references to the Diocese of South Carolina are made on its website and in printed materials. *See* Dkt. No. 595-79. There is a banner in the church that uses the Diocesan seal, which is a mark owned by TECSC. *See* Dkt. No. 595-78. It also represents that it is affiliated with the "Episcopal Church in the Diocese of South Carolina" and holds itself out as being a "member church of the Diocese of South Carolina, of which Bishop Lawrence is the President," and represents that Bishop Lawrence is the bishop of the "Protestant Episcopal Church in the Diocese of South Carolina." Dkt. No. 595-75. These actions infringe the Church's marks. Additionally, Good Shepherd holds its real and personal property, including any property rights it may have in its names and marks, in trust for the Church and TECSC. *See* Dkt. No. 584-1 at 17-19. The connection between Good Shepherd and the Church's and TECSC's marks is fostered by the parish's use of the Church's *Book of Common Prayer* and hymnals (Dkt. No. 595-77), in the same buildings it used when it was part of the Church (Dkt. No. 595-76).

L. Church of the Holy Apostles [Dkt. No. 589]

The record evidence (at Dkt. No. 595-42) shows actions by Holy Apostles that the Court should enjoin. Holy Apostles claims to be a “member church of the Diocese of South Carolina” (which is a mark owned by TECSC), “of which Bishop Lawrence is the President.” Dkt. No. 595-79. It also claims to be part of a diocese whose official name is “Episcopal Diocese of South Carolina” or “Protestant Episcopal Church in the Diocese of South Carolina” (Dkt. No. 595-75), which infringes the Church’s marks. The parish used signs stating “The Episcopal Church Welcomes You” after 2012; classifies itself as “Episcopal” in its Facebook page; and testified at deposition that its legislative charter identifies the church as “The Episcopal Church of the Holy Apostles.” Dkt. No. 595-74. The connection between Holy Apostles and the Church’s and TECSC’s marks is fostered by the parish’s use of the Church’s *Book of Common Prayer* and hymnals (Dkt. No. 595-77), in the same buildings it used when it was part of the Church (Dkt. No. 595-76).

M. The Church of the Holy Cross [Dkt. No. 591]

The record evidence (at Dkt. No. 595-47) shows actions by Holy Cross that the Court should enjoin. Holy Cross holds itself out as part of the Diocese of South Carolina, which is a mark owned by TECSC. *See* Dkt. No. 595-79; Dkt. No. 595-47 at pp. 65-66 of 105. It uses the Diocesan seal, even though TECSC owns that mark. *See* Dkt. No. 595-78; Dkt. No. Dkt. No. 595-47 at pp. 65-67 of 105. Holy Cross represents that it is affiliated with the “Protestant Episcopal Church in the Diocese of South Carolina” (Dkt. No. 595-75; Dkt. No. 595-47 at pp. 69-70 of 105), which infringes the Church’s marks. Additionally, Holy Cross holds its real and personal property, including any property rights it may have in its names and marks, in trust for the Church and TECSC. *See* Dkt. No. 584-1 at 17-19. The connection between Holy Cross and the Church’s and TECSC’s marks is fostered by the parish having the Church’s *Book of Common*

Prayer and hymnals available in its pews (Dkt. No. 595-77), in the same buildings it used when it was part of the Church (Dkt. No. 595-76).

N. Church of the Holy Cross, Sullivan’s Island [Dkt. No. 587]

The record evidence (at Dkt. No. 595-19) shows actions of Holy Cross, Sullivan’s Island that the Court should enjoin. This parish refers to itself as a part of the “Diocese of South Carolina,” the “Episcopal Diocese of South Carolina,” and the “Protestant Episcopal Church in the Diocese of South Carolina,” which infringes these marks. *See* Dkt. No. 595-75; Dkt. No. 595-79. At the same time, however, it removed “The Episcopal Church” and “Diocese of South Carolina” from its constitution because it is not affiliated with those bodies. *See* Dkt. No. 595-80. The connection between Holy Cross, Sullivan’s Island and the Church’s and TECSC’s marks is fostered by the parish’s use of the Church’s *Book of Common Prayer* and hymnals, in the same buildings since each was consecrated. *See* Dkt. No. 595-77; Dkt. No. 595-76.

O. Church of the Redeemer [Dkt. No. 574]

The record evidence (at Dkt. No. 595-20) shows actions by Church of the Redeemer that the Court should enjoin. Church of the Redeemer holds itself out as part of the Diocese of South Carolina (which is a mark owned by TECSC) and claims Bishop Lawrence leads that Diocese. *See* Dkt. No. 595-79. It represents that Bishop Lawrence is the Bishop of the Protestant Episcopal Church in the Diocese of South Carolina (*see* Dkt. No. 595-75), which infringes the Church’s marks. It also displays the Diocesan shield (another mark owned by TECSC) on a chair in the church. *See* Dkt. No. 595-78. A sign on the street in front of the church building states: “Church of the Redeemer (Episcopal).” Dkt. No. 595-74. And an historical marker outside the church says “Episcopal,” which Church of the Redeemer has never sought to change. *Id.* Church of the Redeemer recognized the confusion inherent in its use of The Episcopal Church’s marks when it claimed to have stopped using “The Episcopal Church” and “The

Episcopal Church Welcomes You” because it was “not going to use something that we’re no longer a part of.” Dkt. No. 595-80. Additionally, Church of the Redeemer holds its real and personal property, including any property rights it may have in its names and marks, in trust for the Church and TECSC. *See* Dkt. No. 584-1 at 17-19. The connection between Church of the Redeemer and the Church’s and TECSC’s marks is fostered by the parish making the Church’s *Book of Common Prayer* available in its pews and its use of the Church’s hymnals (Dkt. No. 595-77), in the same buildings it used when it was part of the Church (Dkt. No. 595-76).

P. The Church of the Resurrection, Surfside [Dkt. No. 581]

The record evidence (at Dkt. No. 595-48) shows actions by Church of the Resurrection that the Court should enjoin. Church of the Resurrection holds itself out as part of the Diocese of South Carolina, which is a mark owned by TECSC. *See* Dkt. No. 595-79. It holds itself out as a “member church of the Diocese of South Carolina, of which Bishop Lawrence is the President,” and represents that Bishop Lawrence is the bishop of the “Protestant Episcopal Church in the Diocese of South Carolina” (Dkt. No. 595-75), which infringes the Church’s marks.

Additionally, Church of the Resurrection holds its real and personal property, including any property rights it may have in its names and marks, in trust for the Church and TECSC. *See* Dkt. No. 584-1 at 17-19. The connection between Church of the Resurrection and the Church’s and TECSC’s marks is fostered by the parish continuing to use the buildings it used when it was part of the Church (Dkt. No. 595-76).

Q. Grace Parish, North Myrtle Beach [Dkt. No. 565]

The record evidence (at Dkt. No. 595-21) shows actions by Grace Parish, North Myrtle Beach that the Court should enjoin. It holds itself out as being a “member church of the Diocese of South Carolina, of which Bishop Lawrence is the President,” and represents that Bishop Lawrence is the bishop of the “Protestant Episcopal Church in the Diocese of South Carolina”

(Dkt. No. 595-75; *see also* Dkt. No. 595-79), which infringes the Church's marks. Grace Parish thus claims an association with the "Episcopal" diocese through its leadership by an "Episcopal" bishop. The connection between Grace Parish and the Church's and TECSC's marks is fostered by Grace Parish's use of the Church's *Book of Common Prayer*. *See* Dkt. No. 595-77.

R. Church of the Holy Comforter [Dkt. No. 571]

The record evidence (at Dkt. No. 595-18) shows actions of Holy Comforter that the Court should enjoin. The names "Protestant Episcopal Church in the United States" and "The National Protestant Episcopal Church" appear in Holy Comforter's governing documents. *See* Dkt. No. 595-74. Similarly, Holy Comforter represents that it is affiliated with the "Protestant Episcopal Church in the Diocese of South Carolina." Dkt. No. 595-75. It continues to use these marks despite otherwise ceasing use of the word "Episcopal," because the parish wanted "to be sure that they were no longer associated with The Episcopal Church." Dkt. No. 595-80. Holy Comforter's governing documents also refer to the "Diocese of South Carolina," and the parish represents that Mark Lawrence is the Bishop of the Diocese of South Carolina. *See* Dkt. No. 595-79. The Diocesan seal still appears on an exterior sign for the parish along the street. *See* Dkt. No. 595-78. This sign used to bear the word "Episcopal" as well, and Holy Comforter continues to worship in that same building behind the sign, under the same name, and claiming to be a part of the same diocese. *See* Dkt. No. 595-76. Additionally, Holy Comforter holds its real and personal property, including any property rights it may have in its names and marks, in trust for the Church and TECSC. *See* Dkt. No. 584-1 at 17-19. The connection between Holy Comforter and the Church's and TECSC's marks is fostered by the parish's use of the Church's *Book of Common Prayer* and hymnals. *See* Dkt. No. 595-77.

S. Holy Trinity Episcopal Church [Dkt. No. 560]

The record evidence (at Dkt. No. 595-22) shows actions of Holy Trinity that the Court should enjoin. The parish's full legal name is "Holy Trinity Episcopal Church," and the parish discussed but decided against removing "Episcopal" from it. *See* Dkt. No. 595-74. As a result of the parish's legal name containing the word "Episcopal," the term appears on its governing documents and on placards within the church. *See* Dkt. No. 595-74. Notably, however, Holy Trinity felt it necessary to remove the word "Episcopal" from its exterior sign and the smaller "Episcopal Church Welcomes You" signs to avoid giving the impression it is affiliated with the Church. *See* Dkt. No. 595-76; Dkt. No. 595-80. Holy Trinity uses the term "Diocese of South Carolina" because it believes it is a member of that body. *See* Dkt. No. 595-79. The mark appears on Holy Trinity's website, and Holy Trinity represents that Mark Lawrence is the bishop of that diocese. *Id.* Similarly, Holy Trinity represents that Mark Lawrence is the bishop of the "Protestant Episcopal Church in the Diocese of South Carolina," even though it admits that "Mark Lawrence is not an Episcopal bishop." *See* Dkt. No. 595-75. Additionally, Holy Trinity holds its real and personal property, including any property rights it may have in its names and marks, in trust for the Church and TECSC. *See* Dkt. No. 584-1 at 17-19. The connection between Holy Trinity and the Church's and TECSC's marks is fostered by the parish's use of the Church's hymnals, along with the availability of the Church's *Book of Common Prayer* in the pews and opportunity for use during services, in the same building where it used those materials before its claimed dissociation. *See* Dkt. No. 595-76; Dkt. No. 595-77.

T. Holy Trinity, Grahamville [Dkt. No. 566]

The record evidence (at Dkt. No. 595-23) shows actions by Holy Trinity, Grahamville that the Court should enjoin. It holds itself out as being a member of the Diocese of South Carolina, which is a mark owned by TECSC. *See* Dkt. No. 595-79. It uses the Diocesan seal, even though TECSC owns that mark. *See* Dkt. No. 595-78. Its legal name remains "Episcopal

Church of the Holy Trinity.” Dkt. No. 595-74; Dkt. No. 595-23 at 18 of 81. And the bank checks it just finished using contained the word “Episcopal” on them. *Id.* The connection between Holy Trinity and the Church’s and TECSC’s marks is fostered by the parish’s use of the Church’s *Book of Common Prayer* and hymnals (Dkt. No. 595-77), in the same buildings it used when it was part of the Church (Dkt. No. 595-76).

U. Old St. Andrews [Dkt. No. 562]

The record evidence (at Dkt. No. 595-51) shows actions of Old St. Andrews that the Court should enjoin. For instance, the word “Episcopal” still appears on a sign along the street in front of the church building, on Old St. Andrews’ website, and in its legislative charter. *See* Dkt. No. 595-74; Dkt. No. 562-22. The “Episcopal” sign is in front of the same building Old St. Andrew’s used for worship before it claims to have dissociated from the Church. *See* Dkt. No. 595-76. These uses of the term “Episcopal” follow Old St. Andrews’ historical public association as an “Episcopal church.” *See* Dkt. No. 595-51 at 21. Old St. Andrews even still considers itself an “Episcopal church.” *See id.* at 63. Additionally, Old St. Andrews holds its real and personal property, including any property rights it may have in its names and marks, in trust for the Church and TECSC. *See* Dkt. No. 584-1 at 17-19.

Old St. Andrews still places the mark “Diocese of South Carolina” on its newsletters, in a majority of its Sunday bulletins, on its website, and on a sign inside the parish house. *See* Dkt. No. 595-79. So too for the mark “Protestant Episcopal Church in the Diocese of South Carolina,” which appears in a majority of Old St. Andrews’ Sunday bulletins. *See* Dkt. No. 595-75. Old St. Andrews presents Mark Lawrence as the bishop of the “Diocese of South Carolina” and the “Protestant Episcopal Church in the Diocese of South Carolina.” *See id.*; Dkt. No. 595-79. The Diocesan seal appears in Old St. Andrews’ newsletters and a majority of its Sunday Bulletins. *See* Dkt. No. 595-78.

These uses of the Church's and TECSC's marks continue unabated despite Old St. Andrews removing the "Episcopal Church Welcomes You" signs to avoid giving the public the false impression it is still associated with the Church. *See* Dkt. No. 595-80. The connection between Old St. Andrews and the Church's and TECSC's marks is fostered by the parish's use of the Church's *Book of Common Prayer* and hymnals. *See* Dkt. No. 595-77. Given these facts, it is little wonder that members of the public ask Old St. Andrews at least a couple of times per year if it is associated with the Church. *See* Dkt. No. 595-51 at 85-86.

V. The Vestry and Church Wardens of the Episcopal Church of the Parish of Prince George Winyah [Dkt. No. 569]

The record evidence (at Dkt. No. 595-54) shows actions by Prince George that the Court should enjoin. It holds itself out as being a member of the Diocese of South Carolina, which is a mark owned by TECSC. *See* Dkt. No. 595-79. It also represents that Bishop Lawrence is the "President" of that Diocese and bishop of the "Protestant Episcopal Church in the Diocese of South Carolina" (Dkt. No. 595-75), which infringes the Church's marks. Its legislative charter names the parish "The Vestry and Church Wardens of the Episcopal Church of the Parish of Prince George Winyah." Dkt. No. 569 at 4. Prince George "commonly refer[s] to itself" as "Prince George Episcopal Church." Dkt. No. 595-74. Its website says "Prince George Winyah Episcopal Church," and a sign with the term "Episcopal" was displayed at least until fall 2017. *Id.* The connection between Prince George and the Church's and TECSC's marks is fostered by the parish offering the Church's *Book of Common Prayer* and hymnals in its pews (Dkt. No. 595-77), in the same buildings it used when it was part of the Church (Dkt. No. 595-76).

W. St. Alban's Chapel [Dkt. No. 566]

The record evidence (at Dkt. No. 595-25) shows actions by St. Alban's Chapel that the Court should enjoin. St. Alban's Chapel claims to be part of a diocese led by Bishop Lawrence

called the Diocese of South Carolina. Dkt. No. 595-79. That mark is owned by TECSC. St. Alban's Chapel has been referred to as "Episcopal-Anglican" on the Citadel's web site, which led to a discussion with the Citadel's chaplain about the need to better differentiate the Citadel's various religious organizations. Dkt. No. 595-74. There is also evidence of a Citadel parent contacting Bishop Adams because religious services "were being offered there in the name of The Episcopal Church but, in fact, not offered by clergy of The Episcopal Church" and were instead "being offered by Bishop Lawrence's clergy." Dkt. No. 595-1 at p. 21 of 50.

X. St. Andrew's Mission [Dkt. No. 566]

The record evidence (at Dkt. No. 595-26) shows actions by St. Andrews that the Court should enjoin. St. Andrew's claims to be part of the Diocese of South Carolina, which is a mark owned by TECSC. Dkt. No. 595-79. It also uses the Diocesan seal on funeral programs, even though that mark is owned by TECSC. Dkt. No. 595-78. St. Andrew's displays a sign in front of the church that reads: "Saint Andrew's Episcopal Mission Church." Dkt. No. 595-74. The connection between St. Andrew's and the Church's and TECSC's marks is fostered by the parish's use of the Church's *Book of Common Prayer* and hymnals (Dkt. No. 595-77), in the same buildings it used when it was part of the Church (Dkt. No. 595-76).

Y. St. Barnabas Church [Dkt. No. 575]

The record evidence (at Dkt. No. 595-27) shows actions by St. Barnabas that the Court should enjoin. St. Barnabas claims to be part of a diocese led by Bishop Lawrence called the Diocese of South Carolina, which is a mark owned by TECSC. Dkt. No. 595-79. It also represents that it is affiliated with the "Protestant Episcopal Church in the Diocese of South Carolina" (Dkt. No. 595-75), which infringes the Church's marks. The parish has a sign inside the church stating "St. Barnabas Episcopal Church" (Dkt. No. 595-74), which would be highly confusing to any visitor. Notes from its Vicar dated 2014 found on its Facebook page also used

the name “St. Barnabas Episcopal Church,” and similar notes may have been used thereafter as well. *Id.* The connection between St. Barnabas and the Church’s and TECSC’s marks is fostered by the parish’s use of the Church’s *Book of Common Prayer* and hymnals (Dkt. No. 595-77), in the same buildings it used when it was part of the Church (Dkt. No. 595-76).

Z. St. Bartholomews Episcopal Church [Dkt. No. 576]

The record evidence (at Dkt. No. 595-28) shows actions by St. Bartholomews Episcopal Church that the Court should enjoin. St. Bartholomews Episcopal claims to be part of the Diocese of South Carolina, which is a mark owned by TECSC. Dkt. No. 595-79. It also represents that it is affiliated with the “Protestant Episcopal Church in the Diocese of South Carolina” (Dkt. No. 595-75), which infringes the Church’s marks. Its legal name is “St. Bartholomew’s Episcopal Church.” Dkt. No. 595-74; Dkt. No. 576-1 at 3. And the word “Episcopal” appears in two signs outside the church, in local newspaper ads, and on its business records and checking account. *See id.* Additionally, St. Bartholomews Episcopal holds its real and personal property, including any property rights it may have in its names and marks, in trust for the Church and TECSC. *See* Dkt. No. 584-1 at 17-19. The connection between St. Bartholomews Episcopal and the Church’s and TECSC’s marks is fostered by the parish’s use of the Church’s *Book of Common Prayer* and hymnals (Dkt. No. 595-77), in the same buildings it used when it was part of the Church (Dkt. No. 595-76).

AA. St. David’s Church [Dkt. No. 573]

The record evidence (at Dkt. No. 595-29) shows actions of St. David’s that the Court should enjoin. St. David’s currently uses the term “Diocese of South Carolina” to refer to the diocese lead by Mark Lawrence, and the term appears on St. David’s website. *See* Dkt. No. 595-75; Dkt. No. 595-79. It also represents that Mark Lawrence is the bishop of the “Protestant Episcopal Church in the Diocese of South Carolina,” despite otherwise removing the use of

“Episcopal” to avoid confusion. *See* Dkt. No. 595-75; 595-80. St. David’s continues to use the Diocesan seal for events such as the installation of a new rector. *See* Dkt. No. 595-78.

Additionally, St. David’s holds its real and personal property, including any property rights it may have in its names and marks, in trust for the Church and TECSC. *See* Dkt. No. 584-1 at 17-19. The connection between St. David’s and the Church’s and TECSC’s marks is fostered by the parish’s use of the Church’s *Book of Common Prayer* and hymnals, in the same building where it has worshiped in since 1916. *See* Dkt. No. 595-76; Dkt. No. 595-77.

BB. Vestry and Church Wardens of the Episcopal Church of the Parish of St. Helena [Dkt. No. 562]

The record evidence (at Dkt. No. 595-53) shows actions by St. Helena’s that the Court should enjoin. St. Helena’s claims on its web site to be a parish in the Diocese of South Carolina, which is a mark owned by TECSC. Dkt. No. 595-79. It also holds itself out as being a “member church of the Diocese of South Carolina, of which Bishop Lawrence is the President,” and represents that Bishop Lawrence is the bishop of the “Protestant Episcopal Church in the Diocese of South Carolina” (Dkt. No. 595-75), which infringes the Church’s marks. St. Helena’s continues to use the term “Episcopal” in various ways, including on a sign on the organ inside the church, a plaque inside the church, and in its incorporated name “The Vestry and Church Wardens of The Episcopal Church of the Parish of St. Helena” (which it has not sought to change). Dkt. No. 595-74. St. Helena’s also owns, and has not withdrawn, State trademark registrations for “St. Helena’s Episcopal Church” and “The Parish Church of St. Helena (Episcopal)” (Dkt. No. 562-1 at 6), the latter of which it renewed in 2016 (Dkt. No. 595-74). Additionally, St. Helena’s holds its real and personal property, including any property rights it may have in its names and marks, in trust for the Church and TECSC. *See* Dkt. No. 584-1 at 17-19. The connection between St. Helena’s and the Church’s and TECSC’s marks is fostered by

the parish's use of the Church's *Book of Common Prayer* (Dkt. No. 595-77), in the same buildings it used when it was part of the Church (Dkt. No. 595-76). The confusion created by St. Helena's conduct is confirmed by people who were asked outside St. Helena's what kind of church it was, who generally said it was an "Episcopal" church even though individuals affiliated with the Lawrence Diocese are using it at this time. Dkt. No. 595-1 at p. 21 of 50.

CC. St. James Anglican Church [Dkt. No. 593]

The record evidence (at Dkt. No. 595-30) shows actions of St. James Anglican that the Court should enjoin. St. James Anglican uses the mark "Diocese of South Carolina" to identify the body with which it is associated, including in its weekly bulletin and bylaws. *See* Dkt. No. 595-79. St. James Anglican publicly represents that Bishop Lawrence is the bishop of the "Diocese of South Carolina." *See id.*; Dkt. No. 595-75. It similarly represents that Bishop Lawrence is bishop" of the "Protestant Episcopal Church in the Diocese of South Carolina," which infringes the Church's marks. Dkt. No. 595-75. St. James Anglican sought and received written permission from the Lawrence Diocese to use the Diocesan seal because it understands the seal is diocesan property. *See* Dkt. No. 595-78. Although St. James Anglican did not become a part of the Lawrence Diocese until 2015, the parish worships in a building formerly used by an Episcopal church. *See* Dkt. No. 595-30 at 19-20. The connection between St. James Anglican and the Church's and TECSC's marks is fostered by the parish's use of the Church's *Book of Common Prayer* and hymnals. *See* Dkt. No. 595-77.

DD. St. James' Church, James Island [Dkt. No. 557]

The record evidence (at Dkt. No. 595-53) shows actions by St. James that the Court should enjoin. St. James refers to the diocese of which it is a part as the Diocese of South Carolina, which is a mark owned by TECSC. *See* Dkt. No. 595-79. It also claims Bishop Lawrence is the bishop of that diocese. *See id.* It admits to using the Diocesan seal, which is

another mark owned by TECSC. *See* Dkt. No. 595-78. And it represents that it is affiliated with the “Protestant Episcopal Church in the Diocese of South Carolina” (Dkt. No. 595-75), which infringes the Church’s marks. St. James has acknowledged that its deed states that its church building was to be a “place of worship ‘of the Protestant Episcopal Church.’” Dkt. No. 557 at 2. It also acknowledges that “Episcopal” appears on some of its business records. Dkt. No. 595-74. Additionally, St. James holds its real and personal property, including any property rights it may have in its names and marks, in trust for the Church and TECSC. *See* Dkt. No. 584-1 at 17-19. The connection between St. James and the Church’s and TECSC’s marks is fostered by the parish’s use of the Church’s *Book of Common Prayer* and hymnals (Dkt. No. 595-77), in the same buildings it used when it was part of the Church (Dkt. No. 595-76).

EE. The Vestry and Churchwardens of the Episcopal Church of the Parish of St. John’s Colleton County [Dkt. No. 562]

The record evidence (at Dkt. No. 595-63) shows actions by St. John’s that the Court should enjoin. St. John’s refers to the diocese of which it is a part as the Diocese of South Carolina, which is a mark owned by TECSC. *See* Dkt. No. 595-79. It uses the Diocesan seal, which is another mark owned by TECSC. *See* Dkt. No. 595-78. It holds itself out as being a “member church of the Diocese of South Carolina, of which Bishop Lawrence is the President,” and represents that he is the bishop of the “Protestant Episcopal Church in the diocese of South Carolina” (Dkt. No. 595-75), which infringes the Church’s marks. It was incorporated as “the Vestries and Church-wardens of the Episcopal Churches in the Parish[] of ... Saint John’s.” Dkt. No. 562-1 at 7. Additionally, St. John’s holds its real and personal property, including any property rights it may have in its names and marks, in trust for the Church and TECSC. *See* Dkt. No. 584-1 at 17-19. The connection between St. John’s and the Church’s and TECSC’s marks is

fostered by the parish's use of the Church's *Book of Common Prayer* and hymnals (Dkt. No. 595-77), in the same buildings it used when it was part of the Church (Dkt. No. 595-76).

FF. St. John's Episcopal, Charleston ("St. John's Chapel") [Dkt. No. 566]

The record evidence (at Dkt. No. 595-33) shows actions by St. John's Chapel that the Court should enjoin. St. John's Chapel identifies itself as a member of the Diocese of South Carolina, which is a mark owned by TECSC. *See* Dkt. No. 595-79. Its website refers to the parish as "St. John's Episcopal Church" and states that it is a "traditional Episcopal Church." Dkt. No. 595-74. St. John's Chapel also represents that Bishop Lawrence is the bishop of the Diocese of South Carolina, and holds him out as bishop of the "Protestant Episcopal Church in the Diocese of South Carolina" (Dkt. No. 595-33 at pp. 93-94 of 98), which infringes the Church's marks. It also uses the Diocesan seal, which is a mark owned by TECSC. *See* Dkt. No. 595-33 at pp. 84-85 of 93. The connection between St. John's Chapel and the Church's and TECSC's marks is fostered by the parish's use of the Church's *Book of Common Prayer* and hymnals (*see* Dkt. No. 595-33 at p. 92-93 of 98), and in the same buildings it used when it was part of the Church (Dkt. No. 595-76).

GG. St. John's Church of Florence, SC [Dkt. No. 577]

The record evidence (at Dkt. No. 595-18) shows actions of St. John's Florence that the Court should enjoin. St. John's Florence uses the mark "Diocese of South Carolina" on its website, and conceded that the term "probably" appears in its newsletters as well. *See* Dkt. No. 595-79. It also placed the Diocesan seal on its website, in addition to the seal appearing cross-stitched into a chair. *See* Dkt. No. 595-78. St. John's Florence has continued to use these marks while conducting services in the same space it used prior to the purported dissociation. *See* Dkt. No. 595-76. The connection between St. John's Florence and the Church's and TECSC's marks

is fostered by the parish's use of the Church's *Book of Common Prayer* and hymnals. *See* Dkt. No. 595-77.

HH. Vestry and Church Wardens of St. Jude's Church of Walterboro [Dkt. No. 566]

The record evidence (at Dkt. No. 595-52) shows actions by St. Jude's that the Court should enjoin. St. Jude's claims on its website to be part of the Diocese of South Carolina, which is a mark owned by TECSC. *See* Dkt. No. 595-79. It also uses the Diocesan seal in its parish handbook. *See* Dkt. No. 595-78 and Dkt. No. 595-79 at p. 100 of 119. St. Jude's holds itself out as being a "member church of the Diocese of South Carolina, of which Bishop Lawrence is the President," and represents that Bishop Lawrence is the bishop of the "Protestant Episcopal Church in the Diocese of South Carolina" (Dkt. No. 595-75), which infringes the Church's marks. A sign in the Narthex of the church refers to St. Jude's as "Episcopal." Dkt. No. 595-74. Additionally, St. Jude's holds its real and personal property, including any property rights it may have in its names and marks, in trust for the Church and TECSC. *See* Dkt. No. 584-1 at 17-19. The connection between St. Jude's and the Church's and TECSC's marks is fostered by the parish's use of the Church's *Book of Common Prayer* and hymnals (Dkt. No. 595-77), in the same buildings it used when it was part of the Church (Dkt. No. 595-76).

II. St. Luke's Church, Hilton Head [Dkt. No. 570]

The record evidence (at Dkt. No. 595-24) shows actions of St. Luke's that the Court should enjoin. St. Luke's refers to the "Diocese of South Carolina" on its website, holds itself out as being a member of the diocese, and claims Mark Lawrence leads it. *See* Dkt. No. 595-75; Dkt. No. 595-79. St. Luke's also represents that Mark Lawrence is the bishop of the "Protestant Episcopal Church in the Diocese of South Carolina," even though it believes use of the word "Episcopal" can broadcast an affiliation with the Church (*see* Dkt. No. 595-75; Dkt. No. 595-80),

and even though it believes the Lawrence Diocese no longer is the “Protestant Episcopal Church in the Diocese of South Carolina.” *See* Dkt. No. 595-49. St. Luke’s uses the Diocesan seal when advertising events conducted by the Lawrence Diocese. *See* Dkt. No. 595-78. Additionally, St. Luke’s holds its real and personal property, including any property rights it may have in its names and marks, in trust for the Church and TECSC. *See* Dkt. No. 584-1 at 17-19. The connection between St. Luke’s and the Church’s and TECSC’s marks is fostered by the parish’s use of the Church’s *Book of Common Prayer* and hymnals, in the same space since 1999. *See* Dkt. No. 595-76; Dkt. No. 595-77.

JJ. St. Luke and St. Paul, Radcliffeboro [Dkt. No. 599]

The record evidence (at Dkt. No. 595-44) shows actions of St. Luke and St. Paul that the Court should enjoin. The bottom of every page on St. Luke and St. Paul’s website claims the parish is a member of the “Protestant Episcopal Church in the Diocese of South Carolina.” *See* Dkt. No. 595-74. It likely places that term in bulletins and elsewhere as well because the parish believes it is the official name of the diocese of which the parish is a part (and for which it serves as the cathedral church). *See* Dkt. No. 595-75. It tells the public that Mark Lawrence is the bishop of the “Protestant Episcopal Church in the Diocese of South Carolina.” *Id.* Yet at the same time it claims to have stopped referring to itself as “Episcopal” to avoid confusion. *See* Dkt. No. 595-80. St. Luke & St. Paul also uses the mark “Diocese of South Carolina” on its website and represents that Mark Lawrence is the bishop of that body. *See* Dkt. No. 595-79; Dkt. No. 599-44 at 44. The Diocesan seal appears on a banner and on Bishop Lawrence’s chair in the sanctuary. *See* Dkt. No. 595-78. St. Luke and St. Paul conducts these infringing activities in the same building it used prior to 2012, when it was generally known as an “Episcopal church” and placed the word “Episcopal” on an exterior sign. *See* Dkt. No. 595-76.

Additionally, St. Luke and St. Paul holds its real and personal property, including any property

rights it may have in its names and marks, in trust for the Church and TECSC. *See* Dkt. No. 584-1 at 17-19. The connection between St. Luke and St. Paul and the Church's and TECSC's marks is fostered by the parish's use of the Church's *Book of Common Prayer* and hymnals. *See* Dkt. No. 595-77.

KK. The Vestry and Church Wardens of the Episcopal Church of the Parish of St. Matthew's [Dkt. No. 559]

The record evidence (at Dkt. No. 595-55) shows actions by St. Matthew's that the Court should enjoin. St. Matthew's claims to be part of the Diocese of South Carolina, which is a mark owned by TECSC. *See* Dkt. No. 595-79. It also claims Bishop Lawrence is the bishop of that diocese. *See id.* And it represents that it is affiliated with the "Protestant Episcopal Church in the Diocese of South Carolina" (Dkt. No. 595-75), which infringes the Church's marks. Its incorporated name is "The Vestry and Wardens of the Episcopal Church of the Parish of St. Matthew" (Dkt. No. 559-1 at 3), which it has not changed. The name is the same in the church's Constitution. *See* Dkt. No. 595-74. Its sign said "St. Matthew's Parish Episcopal Church" as of 2018, although it claims the sign has been removed. *See id.* Additionally, St. Matthew's holds its real and personal property, including any property rights it may have in its names and marks, in trust for the Church and TECSC. *See* Dkt. No. 584-1 at 17-19. The connection between St. Matthew's and the Church's and TECSC's marks is fostered by the parish's use of the Church's *Book of Common Prayer* and hymnals (Dkt. No. 595-77), in the same buildings it used when it was part of the Church (Dkt. No. 595-76).

LL. St. Matthews Church [Dkt. No. 571]

The record evidence (at Dkt. No. 595-34) shows actions of St. Matthews Church that the Court should enjoin. St. Matthews Church refers to itself as being a part of the "Diocese of South Carolina," and it uses that mark in its newsletters and Sunday bulletins and likely on its

website and Facebook page as well. *See* Dkt. No. 595-79. The connection between St. Matthews Church and the Church's and TECSC's marks is fostered by the parish's use of the Church's *Book of Common Prayer* and hymnals, in the same buildings where it used them prior to 2012. *See* Dkt. No. 595-76; Dkt. No. 595-77.

MM. St. Matthias Episcopal Church, Inc. [Dkt. No. 571]

The record evidence (at Dkt. No. 595-35) shows actions by St. Matthias Episcopal Church that the Court should enjoin. It holds itself out as part of the Diocese of South Carolina (which is a mark owned by TECSC), and claims that Bishop Lawrence leads that Diocese. *See* Dkt. No. 595-79. It uses the Diocesan seal, which is also a mark owned by TECSC. *See* Dkt. No. 595-78. It was named "St. Matthias' Episcopal Church," and used that name on its website and Facebook page, until July 2018, when it claims to have changed its name. Dkt. No. 595-74. A "marquee that's by the front door" has "a laser cut name of the church at the heading that says 'St. Matthias Episcopal Church.'" Dkt. No. 595-35 at p. 38 of 112. It continues to use the name "St. Matthias Episcopal Church" in various ways on its website, including, for example, on the registration form for its golf event and in identifying the name of its Fellowship Hall. *See* Dkt. No. 595-35 at pp. 108 and 111 of 112. A plaque listing its rectors still says "St. Matthias' Episcopal Church." *Id.* The connection between St. Matthias Episcopal Church and the Church's and TECSC's marks is fostered by the parish's continued use of the Church's hymnals (Dkt. No. 595-77), in the buildings it used when it was part of the Church (Dkt. No. 595-76).

NN. The Protestant Episcopal Church, of the Parish of Saint Michael, in Charleston, in the State of South Carolina [Dkt. No. 562]

The record evidence (at Dkt. No. 595-50) shows actions by St. Michael's that the Court should enjoin. It holds itself out as part of the Diocese of South Carolina, which is a mark owned by TECSC. *See* Dkt. No. 595-79. It uses the Diocesan seal, which is also owned by

TECSC. Dkt. No. 595-78. “Protestant Episcopal Church in the Diocese of South Carolina” appears on its website. Dkt. No. 595-75; Dkt. No. 595-20 at p. 98 of 101. Its legal name is “the Protestant Episcopal Church, The Parish of St. Michael’s, in Charleston, in the State of South Carolina.” Dkt. No. 595-74. This name appears on an historical sign at the church building. *See id.* St. Michael’s also claims ownership of the State trademark registrations for “The Protestant Episcopal Church, of the Parish of St. Michael, in Charleston, in the State of South Carolina” and for “St. Michael’s Episcopal Church.” Those registrations have not been abandoned or amended. Additionally, St. Michael’s holds its real and personal property, including any property rights it may have in its names and marks, in trust for the Church and TECSC. *See* Dkt. No. 584-1 at 17-19. The connection between St. Michael’s and the Church’s and TECSC’s marks is fostered by the parish making the Church’s *Book of Common Prayer* and hymnals available in church pews (Dkt. No. 595-77), in the same buildings it used when it was part of the Church (Dkt. No. 595-76). There are multiple examples of actual confusion with respect to St. Michael’s, including a couple mistakenly worshipping several times at St. Michael’s because they thought it was an “Episcopal” church, and people asked outside St. Michael’s what kind of church it was, who generally said it was an “Episcopal” church even though individuals affiliated with the Lawrence Diocese are using it at this time. Dkt. No. 595-1 at p. 21 of 50.

OO. St. Paul’s Church Bennettsville [Dkt. No. 573]

The record evidence (at Dkt. No. 595-36) shows actions by St. Paul’s Bennettsville that the Court should enjoin. It holds itself out as part of the Diocese of South Carolina, which is a mark owned by TECSC. *See* Dkt. No. 595-79. It also holds itself out as a “member church of the Diocese of South Carolina, of which Bishop Lawrence is the President,” and represents that Bishop Lawrence is the bishop of the “Protestant Episcopal Church in the Diocese of South Carolina” (Dkt. No. 595-75), which infringes the Church’s marks. St. Paul’s refers to itself as

“St Paul’s Episcopal Church” on its website. Dkt. No. 595-74; Dkt. No. 595-36 at pp. 72-73 of 95. And it displays a sign with the term “Episcopal” etched into it. *Id.* Additionally, Paul’s holds its real and personal property, including any property rights it may have in its names and marks, in trust for the Church and TECSC. *See* Dkt. No. 584-1 at 17-19. The connection between St. Paul’s and the Church’s and TECSC’s marks is fostered by the parish’s use of the Church’s *Book of Common Prayer* and hymnals (Dkt. No. 595-77), in the same buildings it used when it was part of the Church (Dkt. No. 595-76).

PP. St. Paul’s Episcopal Church of Conway [Dkt. No. 578]

The record evidence (at Dkt. No. 595-37) shows actions by St. Paul’s Conway that the Court should enjoin. It holds itself out as part of the Diocese of South Carolina, which is a mark owned by TECSC. *See* Dkt. No. 595-79. It also uses the Diocesan seal (a mark owned by TECSC), for example on invitations for the installation of a rector. *See* Dkt. No. 595-78. St. Paul’s holds itself out as “member church of the Diocese of South Carolina, of which Bishop Lawrence is the President,” and represents that Bishop Lawrence is the bishop of the “Protestant Episcopal Church in the Diocese of South Carolina” (Dkt. No. 595-75), which infringes the Church’s marks. Its legal name is “St. Paul’s Episcopal Church,” which it uses on its bank checks. Dkt. No. 575-74. The connection between St. Paul’s and the Church’s and TECSC’s marks is fostered by the parish making the Church’s *Book of Common Prayer* and hymnals available in church pews (Dkt. No. 595-77), in the same buildings it used when it was part of the Church (Dkt. No. 595-76).

QQ. St. Paul’s Episcopal Church of Orangeburg [Dkt. No. 561]

The record evidence (at Dkt. No. 595-56) shows actions by St. Paul’s Orangeburg that the Court should enjoin. It holds itself out as part of the Diocese of South Carolina (which is a mark owned by TECSC), and claims Bishop Lawrence leads that Diocese. *See* Dkt. No. 561-1 at

3; Dkt. No. 595-79. Its incorporated name is “St. Paul’s Episcopal Church of Orangeburg.” Dkt. No. 561-1 at 3. St. Paul’s Orangeburg continues to represent that it is affiliated with the “Protestant Episcopal Church in the Diocese of South Carolina” (Dkt. No. 595-75), which infringes the Church’s marks. And it continues to refer to itself as an “Episcopal” church in its bylaws, on Facebook, on an historical placard on church property that was erected in 2016, and on the church’s checks. *See* Dkt. No. 595-74. The connection between St. Paul’s Orangeburg and the Church’s and TECSC’s marks is fostered by the parish’s continued use of the Church’s *Book of Common Prayer* and hymnals (Dkt. No. 595-77), in the same buildings it used when it was part of the Church (Dkt. No. 595-76).

RR. St. Paul’s Church, Summerville [Dkt. No. 583]

The record evidence (at Dkt. No. 595-56) shows actions by St. Paul’s Church, Summerville that the Court should enjoin. It holds itself out as part of the Diocese of South Carolina (which is a mark owned by TECSC) and claims Bishop Lawrence leads that Diocese. *See* Dkt. No. 595-79. And the parish holds out Bishop Lawrence as the Bishop of the “Protestant Episcopal Church in the Diocese of South Carolina” (Dkt. No. 595-75), which infringes the Church’s marks. As recently as this summer, it referred to itself as “St. Paul’s Episcopal Church,” and its by-laws currently state that the purpose of the parish is “for the mission, support, and maintenance of the Christian church in Summerville in the Episcopal Diocese of South Carolina.” Dkt. No. 595-74. Additionally, St. Paul’s Church holds its real and personal property, including any property rights it may have in its names and marks, in trust for the Church and TECSC. *See* Dkt. No. 584-1 at 17-19. The connection between St. Paul’s Church, Summerville and the Church’s and TECSC’s marks is fostered by the parish’s continued use of the Church’s *Book of Common Prayer* and hymnals (Dkt. No. 595-77), in the same buildings it used when it was part of the Church (Dkt. No. 595-76).

SS. The Protestant Episcopal Church, of the Parish of Saint Philip [Dkt. No. 556]

The record evidence (at Dkt. No. 595-49) shows actions by St. Philip's that the Court should enjoin. It holds itself out as a member of the Diocese of South Carolina, which is a mark owned by TECSC. *See* Dkt. No. 595-79. Its legal name is "The Protestant Episcopal Church, the Parish of Saint Philip in Charleston, South Carolina." Dkt. No. 595-74; Dkt. No. 556 at 3. St. Philip's holds itself out as a "member church of the Diocese of South Carolina, of which Bishop Lawrence is the President," and represents that Bishop Lawrence is bishop of the "Protestant Episcopal Church in the Diocese of South Carolina" (Dkt. No. 595-75), which infringes the Church's marks. Additionally, St. Philip holds its real and personal property, including any property rights it may have in its names and marks, in trust for the Church and TECSC. *See* Dkt. No. 584-1 at 17-19. The connection between St. Philip's and the Church's and TECSC's marks is fostered by the parish's continued use of the Church's *Book of Common Prayer* and hymnals (Dkt. No. 595-77), in the same buildings it used when it was part of the Church (Dkt. No. 595-76). It is therefore no surprise that, when people outside of St. Philip's were asked what kind of church it was, they overwhelmingly said it was an "Episcopal" church, even though it is currently under the control of the Lawrence Diocese. *See* Dkt. No. 595-1 at p. 21 of 50.

TT. St. Timothy's Church [Dkt. No. 582]

The record evidence (at Dkt. No. 595-39) shows actions by St. Timothy's that the Court should enjoin. It holds itself out as being sponsored by the Diocese of South Carolina, which is a mark owned by TECSC. *See* Dkt. No. 595-79. It uses the Diocesan seal, which is also a mark owned by TECSC. *See* Dkt. No. 595-78. And St. Timothy's represents that it is affiliated with an organization led by Bishop Lawrence, who it claims is bishop of the "Protestant Episcopal

Church in the Diocese of South Carolina” (Dkt. No. 595-75), which infringes the Church’s marks.

UU. Trinity Episcopal Church [Dkt. No. 562]

The record evidence (at Dkt. No. 595-60 and 595-61) shows actions of Trinity Episcopal that the Court should enjoin. Its legal name is “Trinity Episcopal Church.” *See* Dkt. No. 565-60 at 37. That name appears on the parish’s newsletters, Sunday bulletins, Facebook page, and website. *See* Dkt. No. 595-74. It also appears on a sign in front of the building that was erected *after* Trinity Episcopal purports to have dissociated from the Church. *See id.* That building was used before and after the disassociation. Dkt. No. 595-76. Trinity Episcopal uses the mark “Diocese of South Carolina” “continuously,” including in newsletters and its governing documents, to express its affiliation. *See* Dkt. No. 595-79. It represents that Mark Lawrence is the bishop of the “Diocese of South Carolina” and the “Protestant Episcopal Church in the Diocese of South Carolina” (*see id.*; Dkt. No. 595-75), which infringes TECSC’s and the Church’s marks, respectively. It uses the Diocesan seal in its newsletters and possibly its Sunday bulletins as well. *See* Dkt. No. 595-78. Additionally, Trinity Episcopal holds its real and personal property, including any property rights it may have in its names and marks, in trust for the Church and TECSC. *See* Dkt. No. 584-1 at 17-19. The connection between Trinity Episcopal Church and the Church’s and TECSC’s marks is fostered by the parish’s use of the Church’s *Book of Common Prayer* and hymnals. *See* Dkt. No. 595-77.

VV. Trinity Church of Myrtle Beach [Dkt. No. 564]

The record evidence (at Dkt. No. 595-58) shows actions of Trinity Myrtle Beach that the Court should enjoin. As Trinity Myrtle Beach was known as “Trinity Episcopal Church” for decades, the word “Episcopal” appears on business records as well as on a stamp on the outside of the Church’s *Book of Common Prayer* found in the pews. *See* Dkt. No. 595-74; *see also* Dkt.

No. 595-58 at 26-27. Trinity Myrtle Beach has also placed the mark “Diocese of South Carolina” on its exterior sign (as part of the Diocesan Seal) and in its “Statement of Faith” to indicate the body to which it belongs. *See* Dkt. No. 595-79. Trinity Myrtle Beach further represents to the public that Mark Lawrence is the bishop of the “Diocese of South Carolina” and the “Protestant Episcopal Church in the Diocese of South Carolina,” while acknowledging that the word “Episcopal” can cause the public to believe there is an affiliation with The Episcopal Church. *See id.*; Dkt. No. 595-75, Dkt. No. 595-80. In addition to displaying the Diocesan seal on its exterior sign, Trinity Myrtle Beach believes it distributes materials from Bishop Lawrence bearing the seal. *See* Dkt. No. 595-78. Trinity Myrtle Beach holds its real and personal property, including any property rights it may have in its names and marks, in trust for the Church and TECSC. *See* Dkt. No. 584-1 at 17-19. The connection between Trinity Myrtle Beach and the Church’s and TECSC’s marks is fostered by the parish’s use of the Church’s *Book of Common Prayer* and hymnals, in the same building since prior to 2009. *See* Dkt. No. 595-76; Dkt. No. 595-77.

WW. Trinity Episcopal Church, Pinopolis [Dkt. No. 571]

The record evidence (at Dkt. No. 595-59) shows actions of Trinity Pinopolis that the Court should enjoin. The parish’s legal name is “Trinity Episcopal Church Pinopolis.” Dkt. No. 595-59 at 26. The word “Episcopal” appears in documents on file with the Secretary of State as well as the parish’s checking accounts, tax records, and vendor bills. *See* Dkt. No. 595-74. Various plaques within the church building, which Trinity Pinopolis has used since prior to the purported dissociation, contain the word “Episcopal” as part of the parish’s name. *Id.*; Dkt. No. 595-76. Trinity Pinopolis represents that it is a part of the “Protestant Episcopal Church in the Diocese of South Carolina” (Dkt. No. 595-75), which infringes the Church’s marks. These continued uses of the word “Episcopal” to refer to itself and the Lawrence Diocese stand in

contrast to Trinity Pinopolis’s assertion that it otherwise stopped using the term because it wanted to preserve its new identity as separate from The Episcopal Church. *See* Dkt. No. 595-80. Additionally, Trinity Pinopolis holds its real and personal property, including any property rights it may have in its names and marks, in trust for the Church and TECSC. *See* Dkt. No. 584-1 at 17-19.

Trinity Pinopolis also continues to use “Diocese of South Carolina” on its website, in emails to the congregation, and in a brochure for visitors and newcomers. *See* Dkt. No. 595-79. The Diocesan seal appears on its website. *See* Dkt. No. 595-78. It further represents that Mark Lawrence is the bishop of the “Diocese of South Carolina.” *See* Dkt. No. 595-79. The connection between Trinity Pinopolis and the Church’s and TECSC’s marks is fostered by the parish’s use of the Church’s hymnals, along with the availability of the Church’s *Book of Common Prayer* in the pews and opportunity for use during services. *See* Dkt. No. 595-77.

XX. The Well Ministries [Dkt. No. 600]

The record evidence (at Dkt. No. 595-57) shows actions by The Well Ministries that the Court should enjoin. It holds itself out as part of the Diocese of South Carolina (which is a mark owned by TECSC) and claims Bishop Lawrence leads that Diocese. *See* Dkt. No. 595-79. It claims Bishop Lawrence is the bishop of the Protestant Episcopal Church in the Diocese of South Carolina, which infringes the Church’s marks. Dkt. No. 595-75.⁵ This connection between The Well Ministries and the Church and TECSC’s marks is fostered by its use of the Church’s *Book of Common Prayer* (Dkt. No. 595-77), in the space it used before the Lawrence Diocese purported to leave the Church (Dkt. No. 595-76). Despite its claim to never having any

⁵ The Well Ministries refrains from referring to “Episcopal Diocese of South Carolina” in order to distance itself from The Episcopal Church. Dkt. No. 595-75. It understands that “Episcopal Diocese of South Carolina” refers to the diocese recognized by The Episcopal Church. *Id.*

connection with the Church or TECSC, in fact, The Well Ministries was formed “as a Mission in March 2012 into the diocese that is under the authority of Bishop Mark Lawrence” (at Dkt. No. 600 at 2), whereas the Lawrence Diocese did not purport to leave the Church until at least October of that year. Thus, when it was formed, The Well Ministries was part of TECSC, and therefore part of The Episcopal Church.

The Well Ministries makes several other arguments not already addressed in Section I. First, it claims (at 6-7) its proper name is “The Well Ministries,” and that it has not been properly named as a Defendant. “The Well by the Sea, Myrtle Beach” is the name of the party to this action. Dkt. No. 146 at 7; Dkt. No. 150 at 5. “The Well by the Sea” is the name the church uses publically, and it is located in Myrtle Beach. *See, e.g.*, <http://www.thewellbythesea.org/>. Its counsel has stated that the church does business as “The Well by the Sea” (Exh. 3 hereto), and in fact entered her appearance as counsel for “The Well by the Sea.” Dkt. No. 158. It was therefore proper to name the Defendant “The Well by the Sea, Myrtle Beach.”

In any event, if any remedy is needed, the appropriate remedy would be to permit TECSC and the Church to amend their pleadings to change the name of the Defendant from “The Well by the Sea, Myrtle Beach” to “The Well Ministries.”⁶ Doing so would be consistent with the Fourth Circuit’s statement that “[a] suit in law is not a children’s game, but a serious effort on the part of adult human beings to administer justice; and the purpose of process is to bring parties into court. If it names them in such terms that every intelligent person understands who is meant, as is the case here, it has fulfilled its purpose.” *A.H. Fischer Lumber Co. v. A.H. Fischer*

⁶ *See, e.g., Hampton v. Wal-Mart Stores East, L.P.*, 2010 WL 99081, at *2 (W.D.N.C. Jan. 6, 2010) (proper remedy is to allow correctly named entity to “be substituted as the proper party defendant”); *Hinzman v. Super. Toyota, Inc.*, 660 F. Supp. 401, 403-04 (N.D. W. Va. 1987) (granting “leave to the plaintiff to file an amended complaint for substitution of parties”); *Dietz v. McAdams-Norman Prop., II, LLC*, 2013 WL 247651, at *2 (W.D. Va. Jan. 23, 2013) (allowing amendment to correct defendant’s name).

Co., Inc., 162 F.2d 872, 873 (4th Cir. 1947). “The Well Ministries” and its counsel have been participating in this suit since The Well by the Sea was named as a Defendant. They would suffer no prejudice by an amendment to the pleadings. As such, Defendants’ argument provides no basis for dismissing the entity calling itself “Well by the Sea” from this suit.

Second, Well by the Sea claims (at 9-12) it is not liable for vicarious trademark infringement. But TECSC and the Church have asserted claims against Well by the Sea based on its own conduct. This includes holding itself out as part of the Diocese of South Carolina (a mark owned by TECSC), and holding out Bishop Lawrence as Bishop of the Protestant Episcopal Church in the Diocese of South Carolina (which infringes the Church’s marks). These associations are enhanced by Well by the Sea’s use of the Church’s *Book of Common Prayer*, in the same space it used before the Lawrence Diocese purported to leave the Church.

Third, Well by the Sea claims (at 30-31) that TECSC cannot assert a claim concerning the name and mark the “Diocese of South Carolina” because it “is blocked from referring to itself” by that name and calls itself “TECSC and not the Diocese of South Carolina.” This ignores the posture of this case as it comes before this Court. TECSC started calling itself by that acronym only after the State Circuit Court enjoined it from using its historic name, the “Diocese of South Carolina.” Even though the South Carolina Supreme Court reversed the State Circuit Court on all issues, TECSC continues using that acronym because the State Circuit Court has not yet entered a final judgment on all claims in dispute in that suit. Once it does so, TECSC will again be free to use its historic name and mark.

CONCLUSION

The Court should deny the Lawrence Parishes’ Motions for Summary Judgment.

Dated: January 11, 2019

Respectfully submitted,

/s/ Allan R. Holmes

Allan R. Holmes (Fed. ID# 1925)
Cheryl H. Ledbetter (Fed. ID# 11446)
Timothy O. Lewis (Fed. ID# 9864)
Gibbs & Holmes
171 Church Street, Suite 110
Charleston, South Carolina 29401
Telephone: (843) 722-0033
Facsimile: (843) 722-0114

David Booth Beers
Adam M. Chud
Admitted *Pro Hac Vice*
Goodwin Procter LLP
901 New York Ave., N.W.
Washington, D.C. 20001
Telephone: (202) 346-4000
Facsimile: (202) 346-4444

Mary E. Kostel
Admitted *Pro Hac Vice*
Special Counsel
The Episcopal Church
c/o Goodwin Procter LLP
901 New York Ave., N.W.
Washington, D.C. 20001
Telephone: (202) 346-4184
Facsimile: (202) 346-4444

Counsel for The Episcopal Church

/s/ Jason S. Smith

Thomas S. Tisdale, Jr. Bar No. 4106
Jason S. Smith, Bar No. 11387
HELLMAN YATES & TISDALE
105 Broad Street, Third Floor
Charleston, South Carolina 29401
Telephone: (843) 266-9099
Facsimile: (843) 266-9188

*Counsel for Bishop vonRosenberg, Bishop Adams,
and The Episcopal Church in South Carolina*

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was served upon all counsel of record via the Court's ECF system on January 11, 2019.

/s/ Allan R. Holmes
Allan R. Holmes