

CAUSE NO. 141-237105-09

THE EPISCOPAL CHURCH, et al.,	)	IN THE DISTRICT COURT OF
	)	
VS.	)	TARRANT COUNTY, TEXAS
	)	
FRANKLIN SALAZAR, et al.	)	141 <sup>ST</sup> DISTRICT COURT

**AMENDED ORDER ON SUMMARY JUDGMENT**

This Amended Order on Summary Judgment supersedes the Orders on Summary Judgment signed by the Court on January 21, 2011.

On January 14, 2011, came on for consideration (1) The Episcopal Church’s Motion for Summary Judgment, (2) The Local Episcopal Parties’ Amended Motion for Partial Summary Judgment; and (3) Defendants’ Motion for Partial Summary Judgment. Having considered the pleadings, motions, any responses and replies, evidence on file subject to the Court’s rulings on the objections to that evidence, the governing law, and arguments of counsel, the Court orders as follows:

The Episcopal Church’s Motion for Summary Judgment is **GRANTED** in part.

The Local Episcopal Parties’ Amended Motion for Partial Summary Judgment is **GRANTED** in part.

Defendants’ Motion for Partial Summary Judgment is **DENIED**.

The Court hereby issues a DECLARATORY JUDGMENT pursuant to Texas Civil Practice and Remedies Code §§ 37.001, et seq., declaring that:

1. The Episcopal Church (the “Church”) is a hierarchical church as a matter of law, and since its formation in 1983 the Episcopal Diocese of Fort Worth (the “Diocese”) has been a constituent part of the Church. Because the Church is hierarchical, the Court follows Texas precedent governing hierarchical church property disputes, which holds that in the event of a dispute among its members, a constituent part of a hierarchical church consists of those

individuals remaining loyal to the hierarchical church body. See, e.g. *Brown v. Clark*, 102 Tex. 323, 116 S.W. 360 (1909); *Presbytery of the Covenant v. First Presbyterian Church*, 552 S.W.2d 865 (Tex.Civ.App. - Texarkana 1977, no writ). Under the law articulated by Texas courts, those are the individuals who remain entitled to the use and control of the church property. *Id.*

2. As a further result of the principles set out by the Supreme Court in *Brown* and applied in Texas to hierarchical church property disputes since 1909, the Court also declares that, because The Episcopal Church is hierarchical, all property held by or for the Diocese may be used only for the mission of the Church, subject to the Church's Constitution and canons.

3. Applying those same cases and their recognition that a local faction of a hierarchical church may not avoid the local church's obligations to the larger church by amending corporate documents or otherwise invoking nonprofit corporations law, see *Green v. Westgate Apostolic Church*, 808 S.W.2d 547, 552 (Tex. App. - Austin 1991, writ denied); *Presbytery of the Covenant*, 552 S.W.2d at 870, 872; *Church of God in Christ, Inc. v. Cawthon*, 507 F.2d 599, 600-02 (5th Cir. 1975); *Norton v. Green*, 304 S.W.2d 420, 423-24 (Tex. Civ. App. - Waco 1957, writ ref'd n.r.e.), the Court further declares that the changes made by Defendants to the articles and bylaws of the Diocesan Corporation are *ultra vires* and void.

The Court hereby ORDERS the Defendants to surrender all Diocesan property, as well as control of the Diocesan Corporation, to the Diocesan plaintiffs 30 days after Judgment becomes final.

The Court hereby ORDERS the Defendants to desist from holding themselves out as leaders of the Diocese when this Order becomes final and appealable.

Signed this 8 day of February, 2011.

  
\_\_\_\_\_  
JUDGE PRESIDING