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REPORTER'S RECORD

VOLUME 1 OF 1

Cause No. 141-237105-09

THE EPISCOPAL DIOCESE OF X IN THE DISTRICT COURT  
FORT WORTH, THE X  
CORPORATION OF THE X  
EPISCOPAL DIOCESE OF X  
FORT WORTH, and THE X  
EPISCOPAL CHURCH, X  
X  
Plaintiffs, X

VS. X

FRANKLIN SALAZAR, JO ANN X  
PATTON, WALTER VIRDEN, X  
III, ROD BARBER, CHAD X  
BATES, JACK LEO IKER, X  
and THE ANGLICAN X

PROVINCE OF THE SOUTHERN X TARRANT COUNTY, TEXAS  
CONE'S "DIOCESE OF FORT X  
WORTH," holding itself X  
out as "THE EPISCOPAL X  
DIOCESE OF FORT WORTH," X

Defendants/Third-Party X  
Plaintiff X

VS. X

EDWIN F. GULICK, JR., X  
MARGARET MIEULI, WALT X  
CABE, ANNE T. BASS, X  
J. FREDERICK BARBER, X  
CHRISTOPHER JAMBOR, X  
DAVID MADISON and X  
KATHLEEN WELLS X

Third-Party Defendants X 141ST JUDICIAL DISTRICT

**Motion for Reconsideration**

**COPY**

1           BE IT REMEMBERED that on the 2nd day of  
2 October, 2009, the following proceedings came on to be  
3 heard in the above-entitled and -numbered cause before  
4 the Honorable John P. Chupp, judge presiding, held in  
5 Fort Worth, Tarrant County, Texas.

6           The proceedings were reported by machine  
7 shorthand.

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## A P P E A R A N C E S

## 2 APPEARING FOR PLAINTIFFS:

3 Mr. Jonathan D.F. Nelson  
State Bar No. 14900700  
4 HILL GILSTRAP, P.C.  
1400 West Abram Street  
5 Arlington, Texas 76013  
Telephone: (817) 261-2222  
6 Facsimilie: (817) 274-9724

7 -and-

8 Ms. Kathleen Wells  
State Bar No. 02317300  
9 TAYLOR OLSON ADKINS SRALLA ELAM  
6000 Western Place, Suite 200  
10 I-30 at Bryant-Irvin Road  
Fort Worth, Texas 76107  
11 Telephone: (817) 332-2580  
Facsimilie: (817) 332-4740  
12

## 13 APPEARING FOR DEFENDANTS:

14 Mr. J. Shelby Sharpe  
State Bar No. 18123000  
15 SHARPE TILLMAN & MELTON  
6100 Western Place  
16 Suite 1000  
Fort Worth, Texas 76107  
17 Telephone: (817) 338-4900  
Facsimilie: (817) 332-6818  
18

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## P R O C E E D I N G S

(Friday, October 2, 2009, 8:40 a.m.)

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3  
4 THE COURT: All right. We are here on  
5 your motion for reconsideration of the Rule 12 order.

6 MR. SHARPE: Your Honor, we have three  
7 motions pending today.

8 THE COURT: No.

9 MR. SHARPE: Yes.

10 THE COURT: What else --

11 MR. SHARPE: But that's number three.

12 THE COURT: My docket -- Al, what's  
13 your docket say?

14 THE BAILIFF: Says motion for  
15 reconsideration.

16 MR. SHARPE: But your fiat -- you've  
17 got three fiats that say three motions.

18 THE COURT: What else is pending?

19 MR. SHARPE: We have a motion for  
20 continuance of the plaintiff's partial summary  
21 judgment --

22 THE COURT: Okay.

23 MR. SHARPE: -- which they have agreed  
24 to continue it, and I have two orders. One has a  
25 blank in it, and the other one is just a plain vanilla

1 continuance. And we prefer the one with the blank in  
2 it, so long as it's after January 15. But we reached  
3 an agreement on that.

4 THE COURT: Okay.

5 MR. SHARPE: The other is the motion  
6 for leave to file the third party --

7 THE COURT: Oh, okay.

8 MR. SHARPE: -- and that's -- would be  
9 the one we would hear, which would be extremely short,  
10 and the other one's not going to be long, so -- when  
11 we get into it.

12 But may I approach the bench and give  
13 you these orders?

14 THE COURT: Yes, that's fine.

15 MR. NELSON: And, Your Honor, I agree  
16 with Mr. Sharpe. It would be better if we fill in the  
17 blank for the specific time for the hearing on the  
18 motion for partial summary judgment.

19 MR. SHARPE: That one right there, Your  
20 Honor. This is just a plain vanilla continuance.

21 THE COURT: Okay. You want me to fill  
22 in the date here?

23 MR. SHARPE: No, we just -- you'll fill  
24 it in later. We will get with your court coordinator  
25 and get something after the 15th of January.

1 THE COURT: Fine. Okay. Very good.  
2 We'll do that.

3 MR. SHARPE: And your other motion is  
4 just a motion for leave to file the third-party action  
5 because the time period had gone by, we had to request  
6 leave. We're simply asking to bring in the people who  
7 hired Mr. Nelson on behalf of the diocese to sue the  
8 diocese and --

9 THE COURT: Yeah.

10 MR. SHARPE: -- and the standard is it  
11 would delay the trial, and since we haven't even  
12 started discovery, we haven't signed a rule --

13 THE COURT: Right.

14 MR. SHARPE: -- a level three order, we  
15 think the Court should grant a leave for us to bring  
16 in the people who hired him.

17 THE COURT: Well, I mean, I think you  
18 can sue whoever you want to sue, you know.

19 MR. SHARPE: In fact, during the  
20 Rule 12, you said you were going to grant this  
21 particular motion, though it wasn't before you then.

22 THE COURT: No, I know. I mean, I  
23 think you can sue whoever you want. I mean, I don't  
24 think that's a big deal. What do y'all think on that?

25 MR. NELSON: I'm not sure "big deal" is

1 what I would use, but the -- honestly, the Court has  
2 discretion to do it. I think if there were competing  
3 motions for summary judgment on file, these parties  
4 wouldn't be necessary for a final determination, but  
5 you do have discretion.

6 THE COURT: Yeah, I mean, I'll let them  
7 in. I mean, if it -- you know, at some point in time  
8 we may let them out, I guess.

9 MR. SHARPE: And may I approach?

10 THE COURT: Yeah, you may.

11 MR. SHARPE: It's just a plain vanilla  
12 order granting leave to file.

13 THE COURT: Okay.

14 MR. SHARPE: And Mr. Nelson said he  
15 will file an answer on their behalf.

16 THE COURT: Okay. I have read your  
17 motion for reconsideration and your memorandum brief  
18 in support thereof. It seems to me that we should  
19 have a hearing on whether or not what they did in  
20 November was valid, and I don't think this is the  
21 hearing for it.

22 I mean, it -- the way I see this is if  
23 y'all come in and have an evidentiary hearing,  
24 basically, on the November convention, and you're  
25 going to say what they did was valid, and you're going



1 to say what they did was invalid. And once we make  
2 that determination, I think the case starts heading in  
3 the right direction to where we need to go.

4 And then I think if I rule in your  
5 favor, then, yeah, I think your Rule 12 is probably  
6 granted. But I think until we have an evidentiary  
7 hearing on that, I don't know that it's proper to do  
8 it yet.

9 MR. SHARPE: Okay. May I respond,  
10 Judge?

11 THE COURT: Yeah, please.

12 MR. SHARPE: The first thing is that  
13 your September 16 order has already found and  
14 determined that Nelson and Wells do not represent the  
15 diocese associated with Bishop Iker, that's been found  
16 by you in that order.

17 And the critical thing has to do with  
18 their pleading. Their pleading is what sets forth the  
19 judicial admission that we have only one diocese, we  
20 have only one diocesan corporation, but what we have  
21 are competing individuals who are claiming the right  
22 to be the duly-elected officers. That's where the  
23 real dispute is.

24 And by granting our Rule 12 motion, it  
25 doesn't defeat that at all, and it doesn't predecide

1 "Was the November election" -- once that's heard on  
2 the merits -- "was that proper, was the February 7  
3 election, was that proper?" That's coming down the  
4 line.

5                   But what you have previously found,  
6 Your Honor, is that Nelson and Wells are represented  
7 by a group of officials claiming to be the officials  
8 of the diocese.

9                   THE COURT: So are you, though.

10                   MR. SHARPE: And -- correct. And what  
11 I'm saying is, that is a representation of people, not  
12 organizations, and so --

13                   THE COURT: Let me ask you this. Why  
14 could I not just grant the same thing against you?

15                   MR. SHARPE: Well, first of all,  
16 there's no Rule 12 motion filed against me.

17                   THE COURT: You're -- no, you're  
18 exactly right. But he can file one, and I can grant  
19 it against you, too.

20                   MR. SHARPE: Right.

21                   THE COURT: And say neither of you -- I  
22 mean, I can grant it for both of y'all and say neither  
23 of you represent the diocese.

24                   MR. SHARPE: But here's the point.  
25 When you have a judicial admission that there's one

1 diocese that began in 1983, when you have a judicial  
2 admission that there's one diocesan corporation that  
3 began in 1983, the competition is not over, "Are there  
4 two diocese," or "Are there two diocesan  
5 corporations," the battle is over the individuals,  
6 that's all that it is.

7           And by granting this, they get to  
8 represent the individuals, and I'm representing the  
9 individuals, and ultimately, you will determine who  
10 are the properly-elected officials. That's really  
11 where it goes down. That's why, had the Court just  
12 signed the Rule 12 order, based on what you have done  
13 today, they're in here representing the officials.  
14 I'm in here representing the officials, also. And the  
15 declaratory judgment that they have in the plaintiffs'  
16 petition on behalf of the Episcopal Church, plus what  
17 they're going to file on behalf of these individuals,  
18 which I'm anticipating a declaratory judgment that's  
19 going to mirror what the current petition is, we have  
20 all of those issues there, but we have the parties  
21 properly aligned based on the judicial admissions,  
22 because those judicial admissions are not only binding  
23 on them, they can't even argue against them, but  
24 they're binding on you, too, Your Honor.

25           THE COURT: Well, I -- but I can just

1 as easily find that you're not representing the  
2 diocese.

3 MR. SHARPE: If you ever get a Rule 12  
4 motion before you and the proof shows that, then, yes,  
5 you could do that, but we would have to have an  
6 evidentiary hearing on the Rule 12 --

7 THE COURT: Right.

8 MR. SHARPE: -- against me, but --

9 THE COURT: But it's the same thing. I  
10 mean, I don't understand why -- why this is such a big  
11 fight, I guess, in that you -- what you're saying is  
12 if I grant the Rule 12 motion, the case still goes on,  
13 and it's not a big deal.

14 And so why are we fighting over this,  
15 when we could be fighting over the November  
16 convention, because that's what we need to fight over?

17 MR. SHARPE: The November convention  
18 has to do with duly election of officials, but when  
19 you have a plaintiff that is claiming to have its  
20 inception in 1983, and it sues a diocese that has all  
21 of those records from 1983, you can't have a plaintiff  
22 diocese and a defendant diocese. That is two  
23 plaintiffs. That's -- that's two parties, and the  
24 judicial admissions foreclose that.

25 But the issue is correctly stated by

1 the Court, but you only get it in the proper legal  
2 posture by granting the Rule 12, because you've  
3 already brought the other parties in.

4 THE COURT: But here's -- but maybe I'm  
5 going to grant it for them if they file it --

6 MR. SHARPE: And if --

7 THE COURT: -- and I'm not going to  
8 grant it for you.

9 And just because I don't grant it for  
10 you doesn't mean that -- if I don't grant it for you  
11 today, the Rule 12, this case still goes forward, and  
12 they can go file their Rule 12 motion, and if I -- and  
13 maybe I'll grant it for them. And then -- because  
14 that's what your argument is.

15 MR. SHARPE: Yes.

16 THE COURT: If I don't grant it for  
17 you, I have to grant it for them, right?

18 MR. SHARPE: No.

19 THE COURT: Yeah, because there's only  
20 one diocese, is what you're telling me. So if -- so  
21 if I don't grant yours today, they're going to come in  
22 and file one tomorrow, and I'm going to grant it for  
23 them, and then you're -- you're not the diocese.

24 MR. SHARPE: Until you hear the  
25 evidence, Your Honor, I would --

1 THE COURT: But I have to.

2 MR. SHARPE: You've got to hear the  
3 evidence on their Rule 12.

4 THE COURT: I already did. I heard it  
5 last time.

6 MR. SHARPE: You never heard me on the  
7 witness stand.

8 THE COURT: No, no, no, I'm sorry. I'm  
9 sorry. I heard your Rule 12 motion.

10 MR. SHARPE: Yes, and --

11 THE COURT: And I've already heard it.  
12 I heard the evidence on your motion last time we came  
13 down here.

14 MR. SHARPE: But you heard it only as  
15 to whether or not they --

16 THE COURT: I know.

17 MR. SHARPE: -- were properly before  
18 the Court, not whether I'm properly before the Court.

19 THE COURT: And that motion hasn't been  
20 filed yet. You're right.

21 MR. SHARPE: And whether it will or  
22 not.

23 THE COURT: I don't know. I just -- I  
24 don't think this is the right vehicle to do what you  
25 want to do. And, obviously, I don't know what you're

1 wanting to do.

2 I think we need to have -- why are we  
3 waiting until January to do the summary judgment?

4 MR. SHARPE: That was when they wanted  
5 it reset.

6 THE COURT: Okay.

7 MR. SHARPE: And that should give some  
8 adequate time to do some discovery between now and  
9 then, to be able to prepare a response to their  
10 motion.

11 THE COURT: Because it just -- and I  
12 may be missing it, I don't know. But it just seems to  
13 me we need to have a hearing on the November  
14 convention, and -- because I'm not going to grant --  
15 I'm not -- I mean, I'm going to deny your motion  
16 today, because I've already heard it once.

17 I would like to have a hearing to see  
18 if the November convention vote was valid.

19 MR. SHARPE: And there will come a  
20 proper time, but the parties need to be represented by  
21 the appropriate attorneys, because, Your Honor, if --  
22 let's just say a lawsuit were brought by me against  
23 you, and I claim that I am Judge Chupp, and Mr. Nelson  
24 is my attorney. You're going to say, "Wait a minute.  
25 I'm Judge Chupp. You're not Judge Chupp. I did not

1 hire this man to bring a suit in my name."

2                   Now, if you ignore that, you are giving  
3 some credence to the fact that I am Judge Chupp, not  
4 whether I was lawfully brought into being, but who I  
5 am. That's the reason why -- and, by the way, the  
6 case that we've cited to you out of Houston is  
7 directly in point that, one, you don't just get who  
8 hired the person, you also can attack "Was the person  
9 really hired by that individual," and that's the  
10 reason why.

11                   Because, Your Honor, with you denying  
12 the Rule 12, there's no adequate remedy on appeal.  
13 There's no adequate remedy. And under these judicial  
14 admissions, I have no choice but to go over there and  
15 seek a mandamus based on what's in this record.

16                   THE COURT: You know, and you might  
17 need to do that. And, but the thing is, I may be  
18 leaning that they're the diocese and you're not, and  
19 so if I believe that, how can I grant it?

20                   MR. SHARPE: What you need to be  
21 leaning towards, if you're going to lean, prior to any  
22 evidentiary hearing, is a determination of who are the  
23 lawfully elected people. That's the only place you  
24 should be leaning.

25                   THE COURT: Exactly. And that's why we



1 need to have a hearing on the November convention.

2 MR. SHARPE: But that doesn't say --

3 THE COURT: I don't know that your guys  
4 are lawfully elected.

5 MR. SHARPE: And, you know what,  
6 they -- you have a suit against the trustees of the  
7 diocesan corporation. You have a suit against the  
8 diocese, that's plaintiffs' suit.

9 The diocesan corporation has intervened  
10 and sued those claiming to be its trustees. That's  
11 before you.

12 Now with you having granted leave for  
13 the diocese to bring in their elected bishop and their  
14 standing committee, we now have the individuals before  
15 the Court that can go forward, but they go forward  
16 properly based upon the law of judicial admissions.  
17 They go forward properly with them representing those  
18 individuals and me representing the individuals over  
19 here.

20 And once the determination is made,  
21 "Who are the properly elected officials," that decides  
22 the entire case. It's not the particular  
23 organizations, but they don't have the right, when  
24 you've only got one -- now, let me say this --

25 THE COURT: Or you don't.

1 MR. SHARPE: Okay. That's assuming you  
2 prove that the people in November weren't properly --  
3 but there's one --

4 THE COURT: And that's what I want to  
5 do.

6 MR. SHARPE: Okay. But let me say  
7 this. Here's one big problem that you have about the  
8 November convention. There's a judicial admission in  
9 their pleading that that November convention was  
10 Bishop Iker and all of those people. What they're  
11 claiming is that the vote to realign cost them their  
12 office, which is a matter for the merits, not whether  
13 the diocese or the diocesan corporation hired them.

14 THE COURT: But don't you think we  
15 could save everybody a lot of money and a lot of time  
16 if we just had the hearing on the -- about the  
17 convention?

18 MR. SHARPE: I think you're better off  
19 to grant the motion, and let's go forward with the  
20 people --

21 THE COURT: What's the difference?

22 MR. SHARPE: -- and get decided --

23 THE COURT: What's the difference?

24 MR. SHARPE: There's a huge difference.  
25 Because, one, the diocese did not hire these people.

1 THE COURT: Or they didn't hire you,  
2 one of the two.

3 MR. SHARPE: And that can only be  
4 determined in a Rule 12 hearing and --

5 THE COURT: And I'm saying that a group  
6 of people calling themselves the diocese hired them.

7 MR. SHARPE: No, calling themselves  
8 officials of the diocese.

9 THE COURT: Or calling themselves  
10 officials of the Fort Worth Diocese hired them.  
11 That's what --

12 MR. SHARPE: That's what you said in  
13 the Rule 12 hearing.

14 THE COURT: Right.

15 MR. SHARPE: Right.

16 THE COURT: That's what they're doing.  
17 There's a group of people that call themselves the  
18 Fort Worth Diocese, and until we have a hearing to  
19 determine whether or not that group of people actually  
20 is the diocese, which I don't think that's the hearing  
21 we're having.

22 MR. SHARPE: No.

23 THE COURT: Well, the hearing we're  
24 having is, "Did a group of people calling themselves  
25 the Fort Worth Diocese hire them," and they did.

1 I think you can have a hearing on  
2 whether or not those people really are the diocese  
3 by -- I don't know why you want to --

4 MR. SHARPE: It's on the merits, Your  
5 Honor, that you get to that issue.

6 THE COURT: But I think that can be --  
7 I really think that this case can probably be taken  
8 care of in a summary judgment, and that you're going  
9 to allege that your people are the duly-elected  
10 diocese, and they're going to have to come up with  
11 some evidence to show that they did something wrong in  
12 their election. And maybe they can, maybe they can't.  
13 And I would assume that you're going to say they  
14 can't.

15 I have read the bylaws and the  
16 constitution and all that stuff. I mean, I've read it  
17 all. And so they're going to have to come up with  
18 something saying that what they did was wrong.

19 MR. SHARPE: They're going to have to  
20 show that what they -- that what took place in  
21 November cost them their positions. And there's  
22 nothing in the constitution and canons or case law  
23 that --

24 THE COURT: Then why don't we have  
25 that -- why don't we have that hearing, then?

1 MR. SHARPE: That's coming down the  
2 line, Your Honor.

3 But right now it's, did the diocese  
4 that has been in existence since '83, whose officials  
5 were none questioned until November, no question about  
6 that. The issue as to whether or not they forfeited  
7 their office is an issue on the merits, but those  
8 people, none of them, was shown to have hired these  
9 particular people. And that's why the Rule 12, Your  
10 Honor, should be granted, and let's go forward with  
11 the officials, but not them representing the plaintiff  
12 diocese.

13 THE COURT: But they had an election,  
14 though. They had an election in February, and they  
15 elected -- they elected new members.

16 MR. SHARPE: And the proof before you  
17 shows that they weren't legally elected, Your Honor.

18 THE COURT: I don't know that it does  
19 show that. It --

20 MR. SHARPE: Well, I'm just saying the  
21 proof before you shows that.

22 THE COURT: Okay.

23 MR. SHARPE: Whether you acknowledge it  
24 or not, that's your call.

25 THE COURT: Okay. I mean, I think

1 we're going to end up wasting a lot of time and a lot  
2 of money to prove a point here. I mean, that's what  
3 it seems like to me.

4 MR. SHARPE: This is a viable point,  
5 Your Honor. It's not a non-essential point in any  
6 way, shape, manner, or form.

7 THE COURT: Okay. It's -- okay.

8 MR. SHARPE: And, Your Honor, I can  
9 tell you that this was carefully researched before I  
10 ever even filed it. I don't -- in my whole practice I  
11 have filed two Rule 12 motions. The first one of  
12 which was granted, this one was granted to a large  
13 degree, except for just the last portion of it. And I  
14 can assure you that it was done with deep research and  
15 in consultation with -- I'll be very candid with the  
16 Court, it was done in consultation with Bill Dorsaneo  
17 and former Chief Justice Phillips, and they were  
18 absolutely in point that this is exactly what has to  
19 be done.

20 MR. NELSON: Your Honor --

21 MR. SHARPE: I mean, that's just --  
22 that's a matter of fact.

23 MR. NELSON: Your Honor, just for the  
24 record here, I'm going to object to what somebody  
25 outside this hearing said.

1 MR. SHARPE: I -- that has nothing to  
2 do -- I'm just saying this wasn't done haphazardly.

3 THE COURT: And I don't think it was.  
4 And I don't think my research on this was done  
5 haphazardly either.

6 MR. SHARPE: That's your --

7 THE COURT: Yeah, I mean, it just --

8 MR. SHARPE: But really, I will have --  
9 because of the nature of a Rule 12, I will have no  
10 choice but to do that.

11 And I think since the Court and counsel  
12 are in agreement, the main thing we're here on the  
13 suit is, "Who are the properly elect officials," and  
14 that's what should be decided.

15 And I think my Rule 12 does not defeat  
16 as -- I --

17 THE COURT: Well, let's decide it.

18 MR. SHARPE: We will.

19 THE COURT: Let's do it next week. I  
20 mean, seriously, why don't we just do that?

21 MR. SHARPE: Your Honor, that cannot be  
22 decided in a hearing next week. We have done zero  
23 discovery. There are depositions I want to take of  
24 their people to find out, "Were they duly elected,"  
25 and until I take their deposition and get them to

1 prove up their constitution, their bylaws, and what  
2 they did, and the notices, and stuff like that, we  
3 can't be ready for --

4 THE COURT: Well, then, if you need  
5 to -- I mean, if you need time to find out if they're  
6 duly-elected -- I mean, because earlier you said they  
7 weren't. And that's your opinion, that they weren't.

8 MR. SHARPE: Well, I --

9 THE COURT: It's their opinion that  
10 they were. And so we have two people with two  
11 different stories on this.

12 MR. SHARPE: But the constitution and  
13 the bylaws don't change.

14 THE COURT: You're exactly right. They  
15 don't.

16 MR. SHARPE: You either comply with  
17 them or you don't.

18 THE COURT: You're exactly right.

19 MR. SHARPE: And I think even their own  
20 documents are going to show they did not comply. But  
21 we've got to get those documents, but that is on the  
22 merits, that is not a Rule 12 hearing.

23 THE COURT: Okay.

24 MR. SHARPE: Thank you, Your Honor.

25 THE COURT: All right.



1 Do y'all have anything?

2 MR. NELSON: Well, if the Court is  
3 going to deny the consideration, no. If the Court  
4 is --

5 THE COURT: I mean, I'm denying the  
6 motion for reconsideration and I'm standing on the  
7 ruling that I made last time.

8 And you can take it to the Appellate  
9 Court, and they may make me change my ruling. I would  
10 prefer we spend our time and resources on a hearing  
11 about the November convention, but I mean, it's your  
12 time and resources, so you can do whatever you want  
13 with them.

14 And I think after we had a hearing on  
15 that, then the Rule 12 motion would be proper then,  
16 because then we would know.

17 But, I mean, you don't agree with me,  
18 and that's fine. You don't have to. I mean -- and I  
19 think we may just be talking around the same point,  
20 and I'm just looking at it differently than you are,  
21 but --

22 MR. SHARPE: There's no question you're  
23 absolutely looking at it different than I am.

24 THE COURT: Yeah.

25 MR. SHARPE: That's indisputable.

1 THE COURT: Yeah.

2 MR. SHARPE: But let me say this, Your  
3 Honor, the rules of Court must be followed.

4 THE COURT: I agree.

5 MR. SHARPE: And case law concerning  
6 judicial admissions must be followed, and that's where  
7 I see a violation, and that's where it's so, in my  
8 opinion, important, that we not violate the rules,  
9 interpretation of the rules, or the law as relates to  
10 judicial admissions.

11 THE COURT: But, I mean, let's just --  
12 okay. And, I mean, you can -- let's say you do go get  
13 a mandamus, and they make me over turn it, we're still  
14 in the same position. I mean, in that we still have a  
15 lawsuit going on, and we're still going to have to  
16 determine whether or not the November, you know,  
17 convention was proper, and they elected the proper --  
18 did the election properly and all of that. We're  
19 still going to be doing the same thing.

20 MR. SHARPE: But it's being done by the  
21 proper parties, is all I'm --

22 THE COURT: Okay.

23 MR. SHARPE: That's all I'm saying.

24 THE COURT: Okay.

25 MR. SHARPE: Nothing more than that.

1 THE COURT: Okay. I mean, we just --  
2 we disagree. And that's -- it happens. And that's  
3 why they have an Appellate Court, so -- you know.

4 MR. SHARPE: And, Your Honor, even  
5 judges disagree.

6 THE COURT: You're exactly right, we  
7 do. And, you know, I may just be missing it. You may  
8 be exactly right. I may just absolutely be missing  
9 it.

10 MR. SHARPE: And I know this, if you  
11 are, it's conscientious, and it's not for any other  
12 reason.

13 THE COURT: No, it's not. I mean, I  
14 just look at it differently than you do, and that just  
15 happens. I mean, people are different.

16 MR. SHARPE: I understand.

17 THE COURT: Okay. Well, I hope to see  
18 y'all soon on another motion.

19 MR. SHARPE: The next motion that's  
20 currently set would be some after January the 15th.  
21 I'm unaware of any other motion before then.

22 MR. NELSON: That's true, Your Honor.

23 THE COURT: Okay. Well --

24 MR. SHARPE: Unless we can get a bunch  
25 of discovery completed and file something where you

1 have a hearing on more than one motion for summary  
2 judgment.

3 THE COURT: Okay. I mean, I think  
4 that's what we should do.

5 MR. NELSON: Your Honor, I do, too. I  
6 think this is a case that the Court can take up. I  
7 don't think -- I think Mr. Sharpe and I would agree  
8 that the salient facts of this case are not in  
9 dispute, and it's a matter of law. And, really, the  
10 Court can take up competing motions for summary  
11 judgment and issue an order.

12 THE COURT: I would think so, too.

13 And I will stop the hearing now so that  
14 you won't have to pay as much for the record.

15 MR. NELSON: Thank you, Your Honor.

16 MR. SHARPE: Thank you.

17 MS. WELLS: Thank you, Your Honor.

18 THE COURT: Okay.

19 (Hearing adjourned, 9:02 a.m.)

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## C E R T I F I C A T E

THE STATE OF TEXAS X

COUNTY OF TARRANT X

I, Christina Fett, Official Court Reporter in and for the 141st District Court, State of Texas, County of Tarrant, do hereby certify that the above and foregoing contains a true and correct transcription of all portions of evidence and other proceedings requested in writing by counsel for the parties to be included in this volume of the reporter's record in the aforementioned cause, all of which occurred in open court or in chambers and were reported by me.

I FURTHER CERTIFY that this reporter's record of the proceedings truly and correctly reflects the exhibits, if any, admitted by the respective parties.

I FURTHER CERTIFY that I have no financial interest in the matters shown herein, and that I am not related to any of the parties or their counsel.

I FURTHER CERTIFY that the total cost for the preparation of this reporter's record of the proceedings is \$180.00, and was paid by Plaintiffs.

WITNESS MY OFFICIAL HAND this the 7th day of October, 2009.



Christina Fett, Texas CSR 4590  
CSR Expires 12-31-11  
Official Court Reporter, 141st District Court  
Tarrant County Family Law Center  
200 E. Weatherford, 4th Floor  
Fort Worth, Texas 76196-0402  
Telephone 817-884-1423  
Facsimile 817-212-6837