

THE EPISCOPAL CHURCH, THE RT.  
REV. C. WALLIS OHL, ROBERT HICKS  
FLOYD MCKNEELY, SHANNON SHIPP,  
DAVID SKELTON, and WHIT SMITH

Plaintiffs

VS.

FRANKLIN SALAZAR, JO ANN PATTON,  
WALTER VIRDEN, III, ROD BARBER, CHAD  
BATES, THE RT. REV. JACK LEO IKER, JUDY  
MAYO, JULIA SMEAD, THE REV. CHRISTOPHER  
CANTRELL, THE REV. TIMOTHY PERKINS, and  
THE REV. RYAN REED

Defendants/Counter-Defendants

THE ANGLICAN PROVINCE OF THE SOUTHERN  
CONE'S "DIOCESE OF FORT WORTH"

Defendant/Third-Party Plaintiff/  
Counter-Defendant

THE ANGLICAN PROVINCE OF THE SOUTHERN  
CONE'S "CORPORATION OF THE EPISCOPAL  
DIOCESE OF FORT WORTH"

Intervenor/Third-Party Plaintiff/  
Defendant/Counter-Defendant

ST. ANTHONY OF PADUA CHURCH (Alvarado),  
ST. ALBAN'S CHURCH (Arlington), ST. MARK'S  
CHURCH (Arlington), CHURCH OF ST. PETER and  
ST. PAUL (Arlington), CHURCH OF ST. PHILIP  
THE APOSTLE (Arlington), ST. VINCENT'S  
CATHEDRAL (Bedford), ST. PATRICK'S CHURCH  
(Bowie), ST. ANDREW'S CHURCH (Breckenridge),  
GOOD SHEPHERD CHURCH (Brownwood), ST.  
JOHN'S CHURCH (Brownwood), CHURCH OF ST.  
JOHN THE DIVINE (Burkburnett), HOLY  
COMFORTER CHURCH (Cleburne), ST.  
MATTHEW'S CHURCH (Comanche), TRINITY  
CHURCH (Dublin), HOLY TRINITY CHURCH  
(Eastland), CHRIST THE KING CHURCH (Fort  
Worth), HOLY APOSTLES CHURCH (Fort Worth),  
IGLESIA SAN JUAN APOSTOL (Fort Worth),

IN THE DISTRICT COURT OF

FILED  
TARRANT COUNTY  
2010 OCT 18 PM 1:55  
THOMAS A. WILDER  
DISTRICT CLERK

TARRANT COUNTY, TEXAS

141<sup>ST</sup> DISTRICT COURT

IGLESIA SAN MIGUEL (Fort Worth), ST. )  
ANDREW'S CHURCH (Fort Worth), ST. ANNE'S )  
CHURCH (Fort Worth), CHURCH OF ST. )  
BARNABAS THE APOSTLE (Fort Worth), ST. )  
JOHN'S CHURCH (Fort Worth), ST. MICHAEL'S )  
CHURCH (Richland Hills), CHURCH OF ST. SIMON )  
OF CYRENE (Fort Worth), ST. TIMOTHY'S )  
CHURCH (Fort Worth), ST. PAUL'S CHURCH )  
(Gainesville), GOOD SHEPHERD CHURCH )  
(Granbury), CHURCH OF THE HOLY SPIRIT )  
(Graham), ST. ANDREW'S CHURCH (Grand )  
Prairie), ST. JOSEPH'S CHURCH (Grand Prairie), ST. )  
LAURENCE'S CHURCH (Southlake), ST. MARY'S )  
CHURCH (Hamilton), TRINITY CHURCH )  
(Henrietta), ST. MARY'S CHURCH (Hillsboro), ST. )  
ALBAN'S CHURCH (Hubbard), ST. STEPHEN'S )  
CHURCH (Hurst), CHURCH OF ST. THOMAS THE )  
APOSTLE (Jacksboro), CHURCH OF OUR LADY )  
OF THE LAKE (Laguna Park), ST. GREGORY'S )  
CHURCH ) (Mansfield), ST. LUKE'S CHURCH )  
(Mineral Wells), CHURCH OF ST. PETER BY THE )  
LAKE (Graford), ALL SAINT'S CHURCH )  
(Weatherford), ALL SAINT'S CHURCH (Wichita )  
Falls), CHURCH OF THE GOOD SHEPHERD )  
(Wichita Falls), CHURCH OF ST. FRANCIS OF )  
ASSISI (Willow Park), and CHURCH OF THE )  
ASCENSION & ST. MARK (Bridgeport) )

Intervenors/Third-Party Plaintiffs/  
Defendants/Counter-Defendants )

VS. )

MARGARET MIEULI, ANNE T. BASS, WALT )  
CABE, THE REV. CHRISTOPHER JAMBOR, THE )  
REV. FREDERICK BARBER, THE REV. DAVID )  
MADISON, ROBERT M. BASS, CHERIE SHIPP, )  
DR. TRACE WORRELL, THE REV. JAMES )  
HAZEL, THE REV. JOHN STANLEY, THE RT. )  
REV. EDWIN F. GULICK, JR. and KATHLEEN )  
WELLS, )

Third-Party Defendants and Counterclaimants )

THE EPISCOPAL CHURCH, )

Third-Party Defendant )

**INDIVIDUAL PLAINTIFFS' ORIGINAL ANSWER TO INTERVENING  
CONGREGATIONS' ORIGINAL COUNTERCLAIM**

TO THE HONORABLE JUDGE OF SAID COURT:

Now come Plaintiffs The Rt. Rev. C. Wallis Ohl, Robert Hicks, Floyd McKneely, Shannon Shipp, David Skelton, and Whit Smith ("Individual Plaintiffs") and—subject to and without waiving any Motion to Strike Intervening Congregations' Plea in Intervention, Motion to Sever and Abate Intervening Congregations' Plea in Intervention, and any motion to show authority under Texas Rule of Civil Procedure 12 as well as their right to amend—file their Original Answer to the Intervening Congregations' Original Counterclaim against them and would respectfully show the Court the following:

1. This dispute revolves around the effect of the withdrawal by some of the individual former leaders of the Episcopal Diocese of Fort Worth and some of the individual former leaders of its parishes and missions from The Episcopal Church (the "Church"). Bishop Iker and other such leaders maintain that, after having withdrawn from the Church and pledged their allegiance to a different denomination, they nevertheless are entitled to continue to hold the leadership positions of the Diocese and, thus, use and possess Diocesan and Diocesan Corporation assets, in contravention of the rights of the remaining Episcopalians in the Diocese. Texas law, however, provides that when two factions of a local unit of a hierarchical church are in dispute over control of the local unit, the faction that is loyal to the hierarchical church—even if it is a minority—is the faction entitled to that control. The Episcopal Church is such a hierarchical church, and the Diocese of Fort Worth is one of its subordinate units. Thus, when Bishop Iker and the other leaders withdrew from the Church and affiliated with another denomination, they relinquished all authority and capacity to hold leadership positions in the Church, including in the Diocese, its Diocesan Corporation, its Endowment Fund, and its

parishes and missions. This is also consistent with Bishop Iker's sworn testimony and position in other litigation before November 2008 when he left The Episcopal Church. Since the withdrawal of Bishop Iker and other leaders from the Church, the remaining Episcopalians in the Diocese have properly filled those vacancies, and it is those Episcopalians who have the right, under Texas law and the rules of the Church, to control the Diocese and its assets as well as the parishes and missions and their assets. This is the case whether the Anglican Province of the Southern Cone's "Diocese of Fort Worth", the Anglican Province of the Southern Cone's "Corporation of the Episcopal Diocese of Fort Worth", and/or the Intervening Congregations are viewed as factions or as new entities.

2. Subject to and without waiving any Motion to Strike the Plea in Intervention and Third-Party Petition filed by the Intervening Congregations or any Motion to Sever and Abate Intervening Congregations' Plea in Intervention and also without waiving the right to assert lack of authority under Texas Rule of Civil Procedure 12, Individual Plaintiffs file this Original Answer to Intervening Congregations' Original Counterclaim.

**A. General Denial**

3. Individual Plaintiffs deny each and every, all and singular, the allegations of the Intervening Congregations' Original Counterclaim and demand strict proof thereof.

**B. Verified Denials**

4. Individual Plaintiffs are not liable to be sued in their individual capacities, pursuant to § 84.004 of the Texas Civil Practice and Remedies Code, because their alleged actions, if any, were undertaken in the course and scope of their duties or functions as volunteers of a charitable organization, the Episcopal Diocese of Fort Worth ("the Diocese") and/or the Corporation of the Episcopal Diocese of Fort Worth ("the Corporation") and/or the Fund for the Endowment of the Episcopate, and solely on behalf of the same charitable organization.

5. To the extent that the Intervening Congregations claim to be the same congregations as the congregations that remain part of the Episcopal Diocese of Fort Worth that was formed in 1982, the Intervening Congregations lack capacity to sue because they are either entities of unknown form which have no relation to the Church or the Diocese or factions not recognized by the Church.

6. To the extent that the Intervening Congregations claim to be the same congregations as the congregations that remain part of the Episcopal Diocese of Fort Worth that was formed in 1982, the Intervening Congregations are not entitled to recover in the capacity in which they have sued because they are either entities of unknown form which have no relation to the Church or the Diocese or factions not recognized by the Church.

7. To the extent that the Intervening Congregations claim to be the same congregations as the congregations that remain part of the Episcopal Diocese of Fort Worth that was formed in 1982, there is a defect in the parties because the Intervening Congregations are misidentified. The Intervening Congregations are either entities of unknown form which have no relation to the Church or the Diocese or factions not recognized by the Church.

**C. Additional Defenses**

8. Individual Plaintiffs are immune from any civil liability, pursuant to § 84.004 of the Texas Civil Practice and Remedies Code, because their alleged actions, if any, were undertaken in the course and scope of their duties or functions as volunteers of a charitable organization, the Episcopal Diocese of Fort Worth and/or the Corporation of the Episcopal Diocese of Fort Worth and/or the Fund for the Endowment of the Episcopate, and solely on behalf of the same charitable organization.

9. Individual Plaintiffs are immune from any civil liability, pursuant to §§ 22.221 and 22.222 of the Texas Business Organizations Code.

10. The Intervening Congregations are judicially estopped and/or quasi-estopped from taking positions that are contrary to the admissions in prior litigation of their purported leaders, including Bishop Jack Leo Iker, Canon Charles Hough III, Assisting Bishop William C. Wantland, and former Assistant to the Bishop Billie Boyd, that The Episcopal Church is a hierarchical church in which dioceses are subordinate to the General Convention; that church officials who leave The Episcopal Church are no longer qualified to hold church offices and have no authority over Church property; that parish property is impressed with an express trust in favor of the Diocese; that the Dennis Canon applies to the Church property in the Diocese; that the unqualified accession to the Constitution and canons of the Church is binding on congregations of the Diocese; that Episcopal bishops must adhere to the Church Constitution and canons or be subject to discipline; and that individuals who leave The Episcopal Church are no longer qualified to serve in church offices or use or possess church property. In addition, these statements are judicial admissions by the Intervening Congregations' purported leaders that conclusively prove, as a matter of law, that the Intervening Congregations have no authority over or right to use or possess property of the Church, the Diocese, the Diocesan Corporation, the Endowment Fund, or any parishes, missions, or congregations of the Diocese.

11. The Intervening Congregations lack standing to pursue their claims.

12. The Intervening Congregations have unclean hands.

## II. PRAYER

WHEREFORE, Premises Considered, Individual Plaintiffs pray that upon final hearing the Intervening Congregations take nothing by their Original Counterclaim and that the Court grant Individual Plaintiffs any and all other relief to which they may show themselves to be justly entitled.

Respectfully submitted,

By: Jon Nelson w/ permission 

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**Attorneys for Individual Plaintiffs**

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing Individual Plaintiffs' Original Answer to Intervening Congregations' Original Counterclaim has been sent this 18th day of October, 2010, by hand-delivery or Federal Express to:

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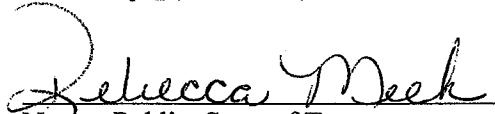
**VERIFICATION**

On this day, KATHLEEN WELLS personally appeared before me, the undersigned Notary Public, and after being duly sworn stated under oath that she is the Chancellor of the Episcopal Diocese of Fort Worth; that the only legitimate association bearing the name "Episcopal Diocese of Fort Worth" is the association that is a subordinate unit of the Protestant Episcopal Church in the United States of America; that she is counsel of record for the Individual Plaintiffs; that the only legitimate association bearing the name "Corporation of the Episcopal Diocese of Fort Worth" is the corporation of which the Rt. Rev. C. Wallis Ohl is Chairman of the Board of Trustees, a Texas non-profit corporation with its principal office in Fort Worth, Texas, formed pursuant to the Constitution and canons of the Episcopal Diocese of Fort Worth to hold and manage the property of the Diocese subject to the Constitutions and canons of the Protestant Episcopal Church in the United States of America and the Diocese; and that the facts in Paragraphs 4 through 7 of the Individual Plaintiffs' Original Answer to Intervening Congregations' Original Counterclaim are within her personal knowledge and are correct.



Kathleen Wells

SUBSCRIBED AND SWORN TO BEFORE ME this 24 day of September, 2010.

  
Notary Public, State of Texas

