

THE EPISCOPAL CHURCH, et al.

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IN THE DISTRICT COURT OF

vs.

TARRANT COUNTY, TEXAS

FRANKLIN SALAZAR, et al.

141ST DISTRICT COURT

FILED
TARRANT COUNTY
2020 JAN - 7 PM 4: 07
THOMAS A. WILDBER
DISTRICT CLERK

**NOTICE OF ADOPTION BY REFERENCE
PURSUANT TO TEX. R. CIV. P. 58**

TO THE HONORABLE JUDGE OF SAID COURT:

Now come The Rev. Christopher Jambor and Stephanie Burk, individually and as representatives of All Saints' Episcopal Church (Fort Worth); The Rev. ClayOla Gitane and Cynthia Eichenberger as representatives of All Saints' Episcopal Church (Weatherford); The Rev. ClayOla Gitane and Harold Parkey as representatives of Christ the King Episcopal Church (Fort Worth); Bill McKay and Ian Moore as representatives of Episcopal Church of the Good Shepherd (Granbury); Ann Coleman as a representative of Episcopal Church of the Good Shepherd (Wichita Falls); Constant Roberts Marks, IV and William Davis as representatives of St. Alban's Episcopal Church (Arlington); Vernon Gotcher and Ken Hood as representatives of St. Stephen's Episcopal Church (Hurst); Sandra Shockley as a representative of St. Mary's Episcopal Church (Hamilton); Sarah Walker as representative of Episcopal Church of the Holy Apostles (Fort Worth); Linda Johnson as a representative of St. Anne's Episcopal Church (Ft. Worth); the Rev. Susan Slaughter and Larry Hathaway individually and as representatives of St. Luke-in-the-Meadow Episcopal Church (Fort Worth); David Skelton as a representative of St. Mary's Episcopal Church (Hillsboro); The Rt. Rev. C. Wallis Ohl representing All Saints' Episcopal Church (Wichita Falls); St. Simon

of Cyrene Episcopal Church (Fort Worth); Episcopal Church of the Ascension & St. Mark (Bridgeport); Episcopal Church of the Good Shepherd (Brownwood); Holy Comforter Episcopal Church (Cleburne); St. Elisabeth's Episcopal Church (Fort Worth); Holy Spirit Episcopal Church (Graham); Holy Trinity Episcopal Church (Eastland); Our Lady of the Lake Episcopal Church (Laguna Park); Trinity Episcopal Church (Dublin); Trinity Episcopal Church (Henrietta); Iglesia San Juan Apostol (Fort Worth); Iglesia San Miguel (Fort Worth); St. Anthony of Padua Episcopal Church (Alvarado); St. Alban's Episcopal Church (Hubbard); St. Andrew's Episcopal Church (Fort Worth); St. Andrew's Episcopal Church (Breckenridge); St. Andrew's Episcopal Church (Grand Prairie); St. Barnabas the Apostle Episcopal Church (Keller); St. Gregory's Episcopal Church (Mansfield); St. John's Episcopal Church (Fort Worth); St. John's Episcopal Church (Brownwood); St. John the Divine Episcopal Church (Burkburnett); St. Joseph's Episcopal Church (Grand Prairie); St. Laurence's Episcopal Church (Southlake); St. Luke's Episcopal Church (Mineral Wells); St. Mark's Episcopal Church (Arlington); St. Matthew's Episcopal Church (Comanche); St. Michael's Episcopal Church (Richland Hills); St. Paul's Episcopal Church (Gainesville); St. Patrick's Episcopal Church (Bowie); St. Peter-by-the-Lake Episcopal Church (Graford); St. Peter and St. Paul Episcopal Church (Arlington); St. Phillip the Apostle Episcopal Church (Arlington); St. Thomas the Apostle Episcopal Church (Jacksboro); St. Timothy's Episcopal Church (Fort Worth); and St. Vincent's Episcopal Church (Bedford); St. Stephen's Episcopal Church (Wichita Falls); (collectively, the "Episcopal Congregations")¹ and, under the authority of Tex. R. Civ. Pro. 58 and without waiving their motion for continuance filed on even date, adopt the following pleadings and filings *in toto*:

¹ Each of these Episcopal Congregations continues to be part of The Episcopal Church and its Episcopal Diocese of Fort Worth.

1. The Episcopal Church's Motion for Summary Judgment and Brief in Support.
2. The Local Episcopal Parties' Amended Motion for Partial Summary Judgment.
3. The Episcopal Church's Response or Memorandum in Opposition to Defendants' Motion for Partial Summary Judgment.
4. The Local Episcopal Parties' Response to Defendants' Motion for Partial Summary Judgment.
5. The Local Episcopal Parties' Objections to Defendants' Summary Judgment Evidence.
6. All of the summary judgment evidence filed and relied upon by The Episcopal Church and The Local Episcopal Parties in support of their motions or amended motions for summary judgment or partial summary judgment, including the Appendix filed on or about October 18, 2010, the Supplemental Evidence and Second Supplemental Evidence and all of the summary judgment evidence filed in support of the responses of The Episcopal Church and The Local Episcopal Parties to Defendants' Motion for Partial Summary Judgment. Specifically, The Episcopal Congregations adopt the following exhibits:

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| EXHIBIT A | Affidavit of The Rt. Rev. C. Wallis Ohl (A1-10) |
| TAB 1 | Report of the Resolutions Committee, 27 th Annual Convention, November 13-14, 2009 (A11-22) |
| TAB 2 | Letters of Congratulations and Commendation (A23-25) |
| TAB 3 | Notice of Deposition of Priests and Deacons (A26-27) |
| EXHIBIT B | Affidavit of The Rt. Rev. Edwin F. Gulick (A28-34) |
| TAB 1 | Amended and Restated Articles of Incorporation of Corporation of The Episcopal Diocese of Fort Worth (April 14, 2009) (A35-39) |
| TAB 2 | March 3, 2009 letter to the Hon. William T. McGee, Jr. from Kathleen Wells, Chancellor of The Episcopal Diocese of Fort Worth (A40-41) |
| EXHIBIT C | Third Affidavit of Robert Bruce Mullin (A42-43) |

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| TAB 1 | Statement of Robert Bruce Mullin (A44-113) |
| EXHIBIT D | Second Affidavit of Mark Duffy (A114-119) |
| TAB 1 | Constitution & Canons for the Government of the Protestant Episcopal Church in the United States of America Otherwise Known as The Episcopal Church (Church Publishing Inc., 2009) (A120-293) |
| TAB 2 | Revised Title IV in effect until July 1, 2011 (A294-358) |
| TAB 3 | Excerpts from <u>The Episcopal Church Annual</u> (Morehouse Church Resources, 2010) (A359-366) |
| TAB 4 | 1785, 1786, and 1789 Journals of the General Convention, collected in <u>Journals of the General Conventions of the Protestant Episcopal Church in the United States of America, from the Year 1784, to the Year 1814, Inclusive</u> (Philadelphia: John Bioren, 1817) (A367-386) |
| TAB 5 | Excerpts from <i>The Book of Common Prayer</i> (New York: The Church Hymnal Corporation, September 1979) (A387-392) |
| TAB 6 | Excerpts from the 1979 Journal of the General Convention (A393-400) |
| TAB 7 | Excerpts from the 1868 Journal of the General Convention (A401-403) |
| TAB 8 | Excerpts from the 1940 Journal of the General Convention (A404-407) |
| TAB 9 | Excerpts from the 1904 Journal of the General Convention (A408-414) |
| TAB 10 | Deposition of the Right Rev'd Robert W. Duncan dated September 19, 2008 (A415) |
| TAB 11 | Resolution adopted by the Executive Council at its meeting on June 11-14, 2007 (A416) |
| TAB 12 | Excerpts from the 1838 Journal of the General Convention (A417-418) |
| TAB 13 | Excerpts from the 1895 Journal of the General Convention (A419-421) |
| TAB 14 | Excerpts from the 1895 Constitution of the Diocese of Dallas (A422-424) |
| TAB 15 | Excerpts from the 1896 Canons of the Diocese of Dallas (A425-429) |
| TAB 16 | Excerpts from the Minutes of the June 18, 1982, Special Convention of the Diocese of Dallas (A430-432) |
| TAB 17 | Excerpts from the 1982 Journal of the General Convention (A433-435) |
| TAB 18 | Constitution & Canons for the Government of the Protestant Episcopal Church in the United States of America Otherwise Known as The Episcopal Church (Seabury Prof'l Servs., 1979) (A436-503) |
| TAB 19 | The Proceedings of the Primary Convention of the Episcopal Diocese of Fort Worth (1982) (A504-525) |
| TAB 20 | Journal of the Eighty-Seventh Annual Meeting of the Diocese of Dallas (1982) (A526-531) |

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| TAB 21 | Excerpts from the 1982 Constitution and Canons of the Episcopal Diocese of Fort Worth (A532-539) |
| TAB 22 | Declaration of Conformity executed by the Rt. Rev. A. Donald Davies (A540) |
| TAB 23 | Declaration of Conformity executed by the Rt. Rev. Clarence C. Pope (A541) |
| TAB 24 | Declaration of Conformity executed by the Rt. Rev. Jack Leo Iker (A542) |
| TAB 25 | Excerpts from The Proceedings of the Seventh Annual Convention of the Episcopal Diocese of Fort Worth (Oct. 6-7, 1989) (A543-546) |
| TAB 26 | Excerpts from the Journal of the Special Diocesan Convention (Sep. 27, 2003) (A547-549) |
| TAB 27 | Excerpts from the 1985, 1988, 1991, 1994, 1997, 2000, 2003, and 2006 Journals of the General Convention (A550-573) |
| TAB 28 | Excerpts from the Journal of the Twelfth Annual Meeting of the Diocese of Fort Worth (Oct. 7-8, 1994) (A574-577) |
| TAB 29 | Excerpts from the Journal of the Episcopal Diocese of Fort Worth 2006 (A578-597) |
| TAB 30 | Excerpts from the Journal of the Tenth Annual Meeting of the Diocese of Fort Worth (Oct. 2-3, 1992) (A598-601) |
| TAB 31 | Excerpts from The Order of Service for the Ordination and Consecration of the Reverend Jack Leo Iker to be a Bishop in the Church of God and Bishop Coadjutor of the Diocese of Forth Worth (A602-605) |
| TAB 32 | Excerpts from the Journal of the Thirteenth Annual Meeting of the Diocese of Fort Worth (Nov. 3-4, 1995) (A606-607) |
| TAB 33 | Renunciation of Ordained Ministry and Declaration of Removal and Release of the Rt. Rev. Jack Leo Iker dated December 5, 2008 (A608) |
| TAB 34 | Forms signed by Bishop Edwin F. Gulick (Oct. 15, 2009) and the members of the Standing Committee of the Diocese of Fort Worth (Nov. 12, 2009) consenting to the ordination and consecration of Scott A Benhase as Bishop of the Diocese of Georgia (A609-610) |
| TAB 35 | Excerpts from <u>The Episcopal Church Annual</u> (Morehouse Church Resources, 2009) (A611-614) |
| TAB 36 | Constitution & Canons for the Government of the Protestant Episcopal Church in the United States of America Otherwise Known as The Episcopal Church (Church Publishing Inc., 2006) (A615-802) |
| TAB 37 | Excerpts from <u>The Episcopal Church Annual</u> (Morehouse-Barlow Co., 1984) (A803-804) |

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| TAB 38 | Excerpts from Proceedings of a Convention of the Clergy and Laity of the Protestant Episcopal Church in the State of Texas, 1849 (A805-808) |
| TAB 39 | Excerpts from the 1850 Journal of the General Convention (A809-821) |
| TAB 40 | Excerpts from the Journal of the Twenty-Fifth Annual Council of the Protestant Episcopal Church in the Diocese of Texas, May 28-30, 1874 (A822-824) |
| TAB 41 | Excerpts from the 1874 Journal of the General Convention (A825-859) |
| TAB 42 | Excerpts from the Journal of the Fourth Annual Convocation of the Protestant Episcopal Church in the Missionary District of Northern Texas, May 30 through June 1, 1878 (A860-863) |
| EXHIBIT E | Affidavit of Gregory S. Straub (A864-865) |
| TAB 1 | Excerpts from the 2009 Journal of the General Convention (A866-876) |
| TAB 2 | 2009 Annual Report of the Episcopal Diocese of Fort Worth (A877-880) |
| EXHIBIT F | Affidavit of Kathleen Wells (A881-888) |
| TAB 1 | September 8, 2008 Third Report from the Bishop and Standing Committee concerning The Anglican Province of the Southern Cone (A889) |
| TAB 2 | "10 Reasons Why Now Is the Time to Realign", September 2008 (A890-892) |
| TAB 3 | Report of the Committee on Constitution and Canons to the 26 th Annual Convention of the Episcopal Diocese of Fort Worth (A893-894) |
| TAB 4 | Proposed Resolution for Admission to the Anglican Province of the Southern Cone (A895) |
| TAB 5 | "As We Realign" (A896-897) |
| TAB 6 | Responses to Attempted Inhibition of the Bishop (A898-899) |
| TAB 7 | Notice of Special Meeting of the Convention of the Episcopal Diocese of Fort Worth, Feb. 7, 2009 (A900) |
| TAB 8 | Certificates of Registration of Diocesan Name and Seal (A901-904) |
| TAB 9 | Documents Showing Use of Diocesan Name and Seal (A905-916) |
| TAB 10 | Excerpts from the Proceedings of the Twenty-Fifth Annual Convention of the Episcopal Diocese of Fort Worth, November 2007 (A917-932) |
| TAB 11 | Excerpts from the Journal of the Twenty-Seventh Annual Convention of the Episcopal Diocese of Fort Worth, November 13-14, 2009 & Special Meeting of Convention, February 7, 2009 (A933-973) |
| TAB 12 | Applicable Canon regarding Corporation of the Episcopal Diocese of Fort Worth (A974-975) |

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| EXHIBIT G | Affidavit of Jonathan Nelson (A976-981) |
| TAB 1 | Plaintiffs' Second Amended Original Petition in <i>Corp. of the Episcopal Diocese of Fort Worth v. McCauley</i> (A982-1001) |
| TAB 2 | Plaintiffs' Motion for Summary Judgment, including Affidavits of Bishop Jack Iker and Reverend Canon Billie Boyd, filed in <i>Corp. of the Episcopal Diocese of Fort Worth v. McCauley</i> (A1002-1033) |
| TAB 3 | Plaintiffs' Second Supplemental Evidence in Support of Their Motion for Summary Judgment, including Affidavits of Reverend Canon Billie Boyd and The Reverend Canon Charles A. Hough, III, filed in <i>Corp. of the Episcopal Diocese of Fort Worth v. McCauley</i> (A1034-1041) |
| TAB 4 | Affidavit of The Rt. Rev. William C. Wantland, filed in <i>Corp. of the Episcopal Diocese of Fort Worth v. McCauley</i> (A1042-1046) |
| TAB 5 | Brief of <i>Amici Curiae</i> Rt. Rev. Jack Leo Iker, Bishop of the Episcopal Diocese of Fort Worth, and Rt. Rev. Robert Duncan, Bishop of the Episcopal Diocese of Pittsburgh, filed in <i>Dixon v. Edwards</i> (A1047-1073) |
| TAB 6 | Petition in <i>The Episcopal Diocese of Dallas v. Mattox</i> , No. 84-8573 (95 th District Court Dallas) (A1074-1138) |
| TAB 7 | Judgment in <i>The Episcopal Diocese of Dallas v. Mattox</i> (A1139-1206) |
| TAB 8 | Articles of Incorporation of Corporation of the Episcopal Diocese of Fort Worth (Filed February 28, 1983) (A1209-1212) |
| TAB 9 | Articles of Amendment to the Articles of Incorporation of Corporation of the Episcopal Diocese of Fort Worth (Filed November 4, 1987) (A1213-1214) |
| TAB 10 | Articles of Amendment to the Articles of Incorporation of Corporation of the Episcopal Diocese of Fort Worth (Filed November 27, 1991) (A1215-1221) |
| TAB 11 | Amended and Restated Articles of Incorporation of Corporation of the Episcopal Diocese of Fort Worth (Filed September 5, 2006) (A1222-1225) |
| TAB 12 | Amended and Restated Articles of Incorporation of Corporation of the Episcopal Diocese of Fort Worth (Filed April 14, 2009) (A1226-1230) |
| TAB 13 | Certificate of Correction to Amended and Restated Articles of Incorporation of Corporation of the Episcopal Diocese of Fort Worth (filed April 21, 2009) (A1231-1236) |
| EXHIBIT H | Affidavit of The Rev. Canon Charles K. Robertson (A1237-1238) |
| TAB 1 | Letter to The Most Rev'd Katharine Jefferts Schori from the Rt. Rev'd Dorsey F. Henderson, Jr. dated January 9, 2008, and regarding the Rt. Rev'd John-David Schofield (with attachment) (A1239-1248) |

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| TAB 2 | Deposition of the Right Rev'd John-David M. Schofield dated March 12, 2008 (A1249) |
| TAB 3 | Letter to The Most Rev'd Katharine Jefferts Schori from the Rt. Rev'd Dorsey F. Henderson, Jr. dated December 17, 2007, and regarding the Rt. Rev'd Robert W. Duncan (with attachment) (A1250-1261) |
| TAB 4 | Forms signed by Bishop Wallis C. Ohl (June 14, 2010 & July 17, 2010) consenting to the ordination and consecration of bishops (A1262) |
| TAB 5 | Letter to six former members of the Standing Committee of the Diocese of Fort Worth from The Most Rev'd Katharine Jefferts Schori dated December 15, 2008 (A1263-1264) |
| EXHIBIT I | Supplemental Affidavit of Mark Duffy (A1265-1266) |
| TAB 1 | Excerpts from the 1979 Journal of the General Convention (A1267-1269) |
| EXHIBIT J | Second Supplemental Affidavit of Mark Duffy (A1270-1271) |
| TAB 1 | 1982 Resolution Number 1982-A010 to Amend Constitution Article V.1 (A1272) |
| TAB 2 | 1982 Resolution Number 1982-B018 to Ratify the Division of the Diocese of Dallas Into Two Jurisdictions (A1273) |
| EXHIBIT K | November 29, 2010 Supplemental Affidavit of Kathleen Wells (A1274-1275) |
| TAB 1 | 2010 Constitution and Canons of the Episcopal Diocese of Fort Worth (A1276-1284) |
| EXHIBIT L | January 5, 2011 Affidavit of The Rt. Rev. C. Wallis Ohl (A1285-1288) |
| TAB 1 | Excerpts from The Directory of the Episcopal Diocese of Fort Worth (REDACTED) (A1289-1302) |
| TAB 2 | Notice of Deposition of Priests and Deacons (A1303-1304) |
| TAB 3 | Notices of Inhibition (A1305-1306) |
| EXHIBIT M | January 4, 2011 Affidavit of Cherie Shipp (A1307-1308) |
| TAB 1 | Amended & Restated Bylaws of the Corporation of the Episcopal Diocese of Fort Worth (A1309-15) |
| EXHIBIT N | Intervening Congregations' Supplemental Response to Requests for Disclosure (A1316-1342) |
| EXHIBIT O | Certified Copies of Deeds to Local Church Property |
| TAB 1 | Deed for Camp Crucis Property to Charles Avery Mason, as Bishop of the Protestant Episcopal Church, for the Diocese of Dallas (A1343-45) |

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| TAB 2 | Deed for Camp Crucis Property to A. Donald Davies, Bishop of the Diocese of Dallas of the Episcopal Church in the United States of America (A1346-48) |
| TAB 3 | Deed for Alemeda St. Property to All Saints Episcopal School (A1349-58) |
| TAB 4 | Deed for Alemeda St. Property to Episcopal Diocese of Fort Worth (A1359-65) |
| TAB 5 | Deed for Alemeda St. Property from Diocese to Corporation (A1366-72) |
| TAB 6 | Deed for St. Mary's Property to Alexander C. Garrett, as Bishop of the Protestant Episcopal Church, for the Missionary District of Northern Texas (A1373-77) |

I.


In *Lockett v. HB Zachry Co.*, 285 S.W.3d 63, 72-73 (Tex. App. – Houston [1st Dist] 2009, no pet.) the court observed, “Texas courts have recognized adoption of a co-party’s motion for summary judgment as a procedurally legitimate practice.” *Id.* at 72 (citing *State ex rel Grimes County Taxpayers Ass’n v. Tex. Mun. Power Agency*, 565 S.W.2d 258, 264 (Tex. Civ. App. – Houston [1st Dist.] 1978, writ dismissed); *Chapman v. King Ranch, Inc.*, 41 S.W.3d 693 (Tex. App. – Corpus Christi 2001), *rev’d on other grounds*, 118 S.W.3d 742 (Tex. 2003), *cert. denied*, 541 U.S. 1030 (2004)).

II.

The above pleadings are adopted for the express purposes of asserting, on behalf of the Episcopal Congregations, the grounds and arguments for summary judgment asserted by The Episcopal Church and Local Episcopal Parties and all evidence supporting them, as well as responding to Defendants’ Motion for Partial Summary Judgment.

WHEREFORE, PREMISES CONSIDERED, again without waiving the relief requested by their Motion for Continuance filed on even date, the Episcopal Congregations adopt by reference the pleadings and filings listed above, including the relief sought therein.

Respectfully submitted,



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ATTORNEYS FOR EPISCOPAL CONGREGATIONS

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing notice of adoption by reference pursuant to Tex. R. Civ. Pro. 58 has been sent this 7 day of January, 2011, by certified mail return receipt requested to:

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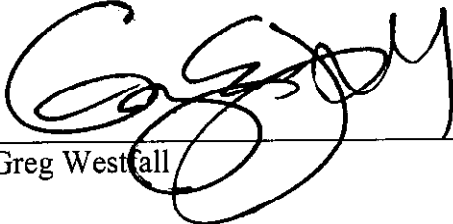
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