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November 8, 2010

Via Electronic Mail and Hand Delivery

Caitlin V. Fields, Esquire
Law Clerk to the Honorable Randy I. Bellows
Fairfax County Circuit Court
4110 Chain Bridge Road
5th Floor Judges' Chambers
Fairfax, VA 22030

**RE: In re: Multi-Circuit Court Episcopal Church property litigation,
Fairfax County Circuit Court, Omnibus Case No. CL 2007-248724**

Dear Ms. Fields:

Per Judge Bellows' Order entered on October 15, 2010, please find enclosed the CANA Congregations' Statement of Position in Accordance with this Court's Order Entered on October 15, 2010 (other than Church of Our Saviour at Oatlands).

Please let me know if you have any questions.

Very truly yours,

PETERSON SAYLOR, PLC



George O. Peterson

Enclosure

cc: All counsel via electronic mail and U.S. Mail

VIRGINIA:

IN THE CIRCUIT COURT FOR FAIRFAX COUNTY

| | | |
|---------------------------------------|---|----------------------------|
| In re: |) | |
| Multi-Circuit Episcopal Church |) | Civil Case Numbers: |
| Litigation |) | CL 2007-248724, |
| |) | CL 2007-1625, |
| |) | CL 2007-1235, |
| |) | CL 2007-1236, |
| |) | CL 2007-1238, |
| |) | CL 2007-5250, |
| |) | CL 2007-5364, |
| |) | CL 2007-5683, |
| |) | CL 2007-5682, |
| |) | CL 2007-5684, and |
| |) | CL 2007-5902, |

CANA CONGREGATIONS’ STATEMENT OF POSITION IN ACCORDANCE WITH THIS COURT’S ORDER ENTERED ON OCTOBER 15, 2010

COME NOW Truro Church, The Falls Church, Church of the Apostles, Church of the Epiphany, St. Margaret’s Church, St. Paul’s Church, St. Stephen’s Church, Church of the Word, and various Trustees (the “CANA Congregations”),¹ we submit the following in response to the Court’s October 15, 2010 Order.

I. Outstanding Matters

The parties have executed a dismissal order in compliance with the directive from the Supreme Court. There are no pending motions.

II. Issues to Be Tried

The Diocese’s and ECUSA’s complaints seek a declaration that they have a proprietary or contractual interest in the Congregations’ property. The Congregations have denied the existence of such an interest and have asserted affirmative defenses and counterclaims. The counter-

¹ As discussed below, Church of Our Savior at Oatlands is filing separately.

claims include a request for a declaration that the Congregations have sole and exclusive ownership of their property and claims for unjust enrichment and constructive trust.

III. Amendment of Pleadings

The Congregations do not currently envision amending their answers and counterclaims. The Congregations' answers rely in large part on Va. Code § 57-9, which requires "the court" to determine whether the statutory requirements have been met and thus calls for a bench trial. In the wake of the Supreme Court's decision holding that § 57-9 has not been satisfied, a jury trial on the declaratory judgment actions is now feasible. Accordingly, the Congregations respectfully request trial by jury on all remaining issues in the case. If necessary, they will seek amendment of their answers to make a jury trial demand.

Church of Our Savior at Oatlands does not join in this request and is seeking a separate bench trial. The Congregations do not oppose Oatlands' request for a separate bench trial.

IV. Trial

The Congregations believe that having a consolidated trial for all congregations other than Oatlands would be more efficient than individual trials. While the deed language and course of dealing of each Congregation may vary, there are still both a common narrative and a number of common factual issues. Judging by their proposed pre-trial order, the Diocese and ECUSA agree with continued consolidation.

The parties are negotiating an agreed scheduling order that would set appropriate deadlines consistent with a trial in the April–June 2011 time period, assuming the Court's schedule permits that. The Congregations envision that the Diocese and ECUSA, as the plaintiffs, would proceed first at trial and put on their entire case. The Congregations would put on their case after the

Diocese and ECUSA rest, assuming denial of a motion to strike. The Congregations estimate that their case-in-chief would take approximately two weeks.

V. Discovery

The Congregations see the need for discovery focused primarily on the nature and source of the contractual and proprietary interest claimed by the Diocese and ECUSA. The Congregations are preparing comments on a scheduling order recently proposed by the Diocese and ECUSA that addresses, among other things, the scope of discovery and discovery deadlines. The Congregations anticipate that fact and expert discovery could take up to six months, depending on the scope of expert testimony and whether any disputes arise that require resolution by the court.

VI. Pretrial Motions and Briefing


The Congregations do not believe that the case with respect to them is appropriate for disposition by summary judgment, given the inherently fact-intensive issues raised by the Diocese's and ECUSA's complaints and the Congregations' defenses and counterclaims. However, some discrete legal and evidentiary issues may be appropriately resolved through partial motions for summary judgment or motions in limine.

Dated: November 8, 2010

Respectfully submitted,

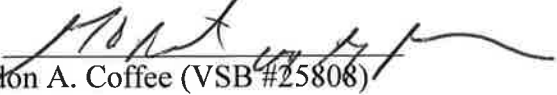
Respectfully submitted,

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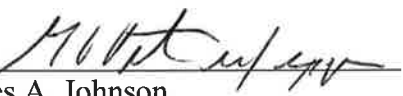
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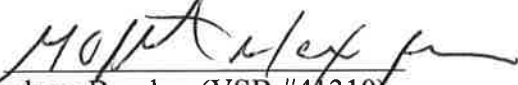
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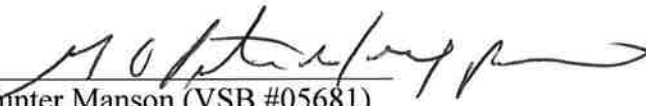
Counsel for Church of the Apostles, Church of the Epiphany, Herndon, St. Margaret's Church, St. Paul's Church, Haymarket, and St. Stephen's Church and their Related Trustees

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Counsel for St. Stephen's Church

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of November, 2010 a copy of the foregoing CANA Congregations' Statement of Position in Accordance with this Court's Order Entered on October 15, 2010, was sent by electronic mail and first-class mail, postage prepaid, to:

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Fairfax, VA 22030

With a copy by electronic mail and hand-delivery to:


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Law Clerk to the Honorable Randy I. Bellows
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Fairfax, VA 22030

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November 8, 2010

Via Hand Delivery

The Honorable John T. Frey
Clerk of the Circuit Court of Fairfax County
Fairfax County Circuit Court
4110 Chain Bridge Road
Fairfax, VA 22030

**RE: In re: Multi-Circuit Court Episcopal Church property litigation,
Fairfax County Circuit Court, Omnibus Case No. CL 2007-248724**

The Episcopal Church v. Truro Church et al. (Circuit Court of Fairfax County;
CL 2007-1625);

The Protestant Episcopal Church in the Diocese of Virginia v. Church of the
Epiphany, Herndon (Circuit Court of Fairfax County; CL 2007-1235);

The Protestant Episcopal Church in the Diocese of Virginia v. Truro Church
(Circuit Court of Fairfax County; CL 2007-1236);

The Protestant Episcopal Church in the Diocese of Virginia v. Church of the
Apostles (Circuit Court of Fairfax County; CL 2007-1238);

The Protestant Episcopal Church in the Diocese of Virginia v. The Church at The
Falls – The Falls Church (Circuit Court of Arlington County Case No. 07-
125)(Circuit Court of Fairfax County; CL 2007-5250);

The Protestant Episcopal Church in the Diocese of Virginia v. Church of Our
Saviour at Oatlands (Circuit Court of Loudoun County Case. No. 44148)(Circuit
Court of Fairfax County; CL 2007-5364);

The Protestant Episcopal Church in the Diocese of Virginia v. St. Margaret's
Church (Circuit Court of Prince William Case No. CL 73465)(Circuit Court of
Fairfax County; CL 2007-5682);

The Protestant Episcopal Church in the Diocese of Virginia v. St. Paul's Church, Haymarket (Circuit Court of Prince William County Case No. CL 73466)(Circuit Court of Fairfax County; CL 2007-5683);

The Protestant Episcopal Church in the Diocese of Virginia v. Church of the Word (Circuit Court of Prince William County Case No. CL 73464)(Circuit Court of Fairfax County; CL 2007-5684); and

The Protestant Episcopal Church in the Diocese of Virginia v. St. Stephen's Church (Circuit Court of Northumberland County Case No. CL 07-16)(Circuit Court of Fairfax County; CL 2007-5902).

Dear Mr. Frey:

Please find enclosed for filing the CANA Congregations' Statement of Position in Accordance with this Court's Order Entered on October 15, 2010 (other than Church of Our Saviour at Oatlands) with the One-Page Coversheets for the above-styled cases.

Please let me know if you have any questions.

Very truly yours,

PETERSON SAYLOR, PLC



George O. Peterson

Enclosures

cc: All counsel via electronic mail and U.S. Mail

VIRGINIA:

IN THE CIRCUIT COURT FOR FAIRFAX COUNTY

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CANA CONGREGATIONS' STATEMENT OF POSITION IN ACCORDANCE WITH THIS COURT'S ORDER ENTERED ON OCTOBER 15, 2010

This acts as a one-page cover sheet reference pleading to the complete CANA Congregations' Statement of Position in Accordance with This Court's Order Entered on October 15, 2010 (other than Church of Our Saviour at Oatlands), which was filed in CL 2007-248724 (the omnibus case file), filed on November 8, 2010. The CANA Congregations' Statement of Position in Accordance with this Court's Order Entered on October 15, 2010 and this corresponding one-page reference pleading applies to the Omnibus case number: CL 2007 – 248724 and the following cases:

1. *The Protestant Episcopal Church in the Diocese of Virginia v. Truro Church* (Circuit Court of Fairfax County; CL 2007-1236);
2. *The Protestant Episcopal Church in the Diocese of Virginia v. Church of the Apostles* (Circuit Court of Fairfax County; CL 2007-1238);
3. *The Protestant Episcopal Church in the Diocese of Virginia v. Church of the Epiphany, Herndon* (Circuit Court of Fairfax County; CL 2007-1235);

4. *The Protestant Episcopal Church in the Diocese of Virginia v. St. Paul's Church, Haymarket* (Circuit Court of Prince William County Case No. CL 73466)(Circuit Court of Fairfax County; CL 2007-5683);
5. *The Protestant Episcopal Church in the Diocese of Virginia v. St. Margaret's Church* (Circuit Court of Prince William Case No. CL 73465)(Circuit Court of Fairfax County; CL 2007-5682);
6. *The Protestant Episcopal Church in the Diocese of Virginia v. Church of the Word* (Circuit Court of Prince William County Case No. CL 73464)(Circuit Court of Fairfax County; CL 2007-5684);
7. *The Protestant Episcopal Church in the Diocese of Virginia v. Church of Our Saviour at Oatlands* (Circuit Court of Loudoun County Case. No. 44148)(Circuit Court of Fairfax County; CL 2007-5364);
8. *The Protestant Episcopal Church in the Diocese of Virginia v. The Church at The Falls – The Falls Church* (Circuit Court of Arlington County Case No. 07-125)(Circuit Court of Fairfax County; CL 2007-5250);
9. *The Protestant Episcopal Church in the Diocese of Virginia v. St. Stephen's Church* (Circuit Court of Northumberland County Case No. CL 07-16)(Circuit Court of Fairfax County; CL 2007-5902); and
10. *The Episcopal Church v. Truro Church et al.* (Circuit Court of Fairfax County; CL 2007-1625).

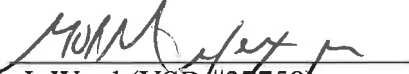
For the complete CANA Congregations' Statement of Position in Accordance with this Court's Order Entered on October 15, 2010, please see the omnibus case file, CL 2007 – 248724.

Dated: November 8, 2010

Respectfully submitted,


Respectfully submitted,

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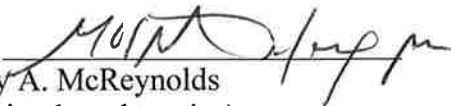
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Counsel for St. Stephen's Church

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