

LAW OFFICES OF  
**CARR & CARR**

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS  
LANSDOWNE PROFESSIONAL PARK  
44135 WOODRIDGE PARKWAY, SUITE 260  
LEESBURG, VIRGINIA 20176-1244  
Email: Northvajim@aol.com

JAMES E. CARR, P.C.  
ANN B. CARR, P.C.

Phone: (703) 777-9150  
Facsimile : (703) 726-0125

January 5, 2011

**BY HAND**

Office of the Clerk  
Circuit Court of Fairfax County  
Fairfax Judicial Center  
4110 Chain Bridge Rd  
Fairfax, Virginia 22030-4009

In Re: *Multi-Circuit Church Property Litigation*  
(Omnibus Case No. CL 2007-0248724)

Ladies/Gentlemen:

Enclosed for filing in the Omnibus Case No. CL 2007-0248724, is an original Praecipe/Notice scheduling this case on Judge Bellows' civil docket for Friday, January 21, 2011, at 10:00 a.m., along with the original Church of Our Saviour at Oatlands' Motion to Determine Sufficiency and to Compel Discovery Responses from the Episcopal Diocese of Virginia and the Episcopal Church, and the original Cover Sheets for filing in Case Nos.:

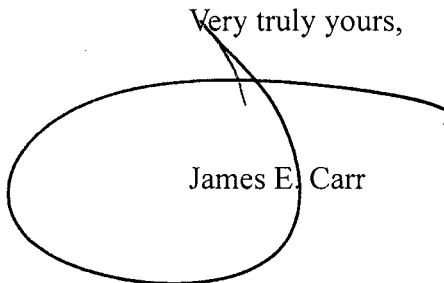
1. *The Episcopal Church v. Truro Church et al.* (Circuit Court of Fairfax County; CL 2007-1625);
2. *The Protestant Episcopal Church in the Diocese of Virginia v. Church of Our Saviour at Oatlands* (Circuit Court of Loudoun County Case No. 44148) (Circuit Court of Fairfax County; CL 2007-5364);

If you have any questions concerning the foregoing, please advise.

Best regards.

Office of the Clerk  
Circuit Court of Fairfax County  
Re: Multi-Circuit Church Property Litigation  
(Case No. CL 2007-0248724)  
January 5, 2011  
Page 2 of 2

Very truly yours,



James E. Carr

JEC/tlc  
enclosures

cc:

Ms. Caitlin Fields, Law Clerk to the Honorable Randy I. Bellows  
Bradfute W. Davenport, Jr., Esq.  
George A. Somerville, Esq.  
Joshua D. Heslinga, Esq.  
Heather H. Anderson, Esq.  
Mary E. Kostel, Esq.  
Soyong Cho, Esq.  
Adam Chud, Esq.  
Mary C. Zinsner, Esq.  
Scott H. Phillips, Esq.  
Paul N. Farquharson, Esq.  
James A. Johnson, Esq.  
R. Hunter Manson, Esq.  
E. Andrew Burcher, Esq.  
Thomas C. Palmer, Esq.  
Gordon A. Coffee, Esq.  
Steffen N. Johnson, Esq.  
Gene C. Schaerr, Esq.  
Andrew C. Nichols, Esq.  
Scott J. Ward, Esq.  
Timothy R. Obitts, Esq.  
Dawn W. Sikorski, Esq.  
George O. Peterson, Esq.  
Tania M.L. Saylor, Esq.  
Mary A. McReynolds, Esq.  
Robert C. Dunn, Esq.  
E. Duncan Getchell, Esq.

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**CARR & CARR**

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LANSDOWNE PROFESSIONAL PARK  
44135 WOODRIDGE PARKWAY, SUITE 260  
LEESBURG, VIRGINIA 20176-1244  
Email: Northvajim@aol.com

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Phone: (703) 777-9150  
Facsimile : (703) 726-0125

January 5, 2011

**BY HAND**

Ms. Caitlin Fields, Law Clerk to the Honorable Randy I. Bellows  
Judges' Chambers, Circuit Court of Fairfax County  
Fairfax Judicial Center, 5<sup>th</sup> Floor  
4110 Chain Bridge Rd  
Fairfax, Virginia 22030-4009

In Re: *Multi-Circuit Church Property Litigation*  
(Omnibus Case No. CL 2007-0248724)

Dear Ms. Fields:

Enclosed are copies of the Praeceptum/Notice scheduling this case on Judge Bellows' civil docket for Friday, January 21, 2011, at 10:00 a.m., the Church of Our Saviour at Oatlands' Motion to Determine Sufficiency and to Compel Discovery Responses from the Episcopal Diocese of Virginia and the Episcopal Church, and Cover Sheets, the originals of which have been filed in Case Nos.:

1. *The Episcopal Church v. Truro Church et al.* (Circuit Court of Fairfax County; CL 2007-1625);
2. *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).

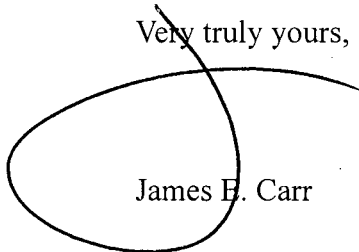
In addition to the hard copies of the exhibits to the Motion, I have also provided a copy of the same exhibits on disc, in case this provides greater ease of reference or storage.

If you have any questions concerning the foregoing, please advise.

Best regards.

Ms. Caitlin Fields, Law Clerk to the Honorable Randy I. Bellows  
Circuit Court of Fairfax County  
Re: Multi-Circuit Church Property Litigation  
(Case No. CL 2007-0248724)  
January 5, 2011  
Page 2 of 2

Very truly yours,

A handwritten signature in black ink, appearing to be "James E. Carr", is written over a large, hand-drawn oval. The signature is written in a cursive style.

James E. Carr

JEC/tlc  
enclosures

cc:

Bradfute W. Davenport, Jr., Esq.  
George A. Somerville, Esq.  
Joshua D. Heslinga, Esq.  
Heather H. Anderson, Esq.  
Mary E. Kostel, Esq.  
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Mary A. McReynolds, Esq.  
Robert C. Dunn, Esq.  
E. Duncan Getchell, Esq.

VIRGINIA: IN THE CIRCUIT COURT OF FAIRFAX COUNTY

In Re: Multi-Circuit Episcopal Church Litigation

Plaintiff vs.

Civil Action No. CL 2007-248724

Previous Chancery No. CH

Defendant

SERVE:

FRIDAY MOTIONS DAY - PRAECIPE/NOTICE

Moving Party: [ ] Plaintiff [x] Defendant [ ] Other

Title of Motion: Church of Our Saviour at Oatlands' Motion to Compel, etc [x] Attached [ ] Previously Filed

DATE TO BE HEARD: January 21, 2011 Time Estimate (combined no more than 30 minutes): 30 Minutes

Time to be Heard: [ ] 9:00 a.m. with a Judge [ ] 9:00 a.m. without a Judge [x] 10:00 a.m. (Civil Action Cases) Does this motion require 2 weeks notice? [x] Yes [ ] No [ ] 11:30 a.m. (DOMESTIC/Family Law Cases) Does this motion require 2 weeks notice? [ ] Yes [ ] No

Case continued from: (Date) continued to: (Date)

Moving party will use Court Call telephonic appearance: [ ] Yes [x] No

Judge Randy I. Bellows must hear this motion because (check one reason below):

- [ ] The matter is on the docket for presentation of an order reflecting a specific ruling previously made by that Judge. [x] This Judge has been assigned to this entire case by the Chief Judge; or, [x] The Judge has advised counsel that all future motions, or this specific motion, should be placed on this Judge's Docket; or, [ ] This matter concerns a demurrer filed in a case where that Judge previously granted a demurrer in favor of demurrant.

PRAECIPE by: James E. Carr, Esquire Law Offices of Carr & Carr Printed Attorney Name/ Moving Party Name Firm Name

44135 Woodridge Parkway, Suite 260, Leesburg, Virginia 20176 Address

(703) 777-9150 (703) 726-0125 014567 northvajim@aol.com Tel. No. Fax No. VSB No. E-Mail Address (optional)

CERTIFICATIONS

I certify that I have in good faith conferred or attempted to confer with other affected parties in an effort to resolve the subject of the motion without Court action, pursuant to Rule 4:15(b) of the Rules of the Supreme Court of Virginia; and, I have read, and complied with, each of the Instructions for Moving Party on the reverse side of this form.

Moving Party/Counsel of Record

CERTIFICATE OF SERVICE

I certify on the 5th day of January, 2011, a true copy of the foregoing Praecipe was

[ ] mailed [ ] faxed [x] delivered to all counsel of record pursuant to the provisions of Rule 4:15(e) of the Rules of the Supreme Court of Virginia.

Moving Party/Counsel of Record

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

IN RE: MULTI-CIRCUIT CHURCH  
PROPERTY LITIGATION

Civil Case Number:

CL 2007- 0248724

FILED IN: Multi-Circuit Church Property Litigation CL2007-0248724; *The Protestant Episcopal Church in the Diocese of Virginia v. Church of Our Saviour at Oatlands* (No. CL 2007-5364); and *The Episcopal Church v. Truro Church et al.*, (No. CL 2007-1625).

**CHURCH OF OUR SAVIOUR AT OATLANDS' MOTION TO  
DETERMINE SUFFICIENCY AND TO COMPEL DISCOVERY RESPONSES  
FROM THE EPISCOPAL DIOCESE OF VIRGINIA AND THE EPISCOPAL CHURCH**

COMES NOW the Church of Our Saviour at Oatlands, by and through its counsel, and for its Motion states as follows:

The subject discovery and responses at issue are attached. The Church of Our Saviour notes deficiencies as follows:

**a. Responses to Requests for Admissions, from the Episcopal Diocese of Virginia:**

Requests Nos. 6, 11, 14, 16, 17, 18, 19, 23, 39, 40, 41, 42, 48, 50, 53, 74, 79, 83, 84, 85, 86, 93, 97: There is neither admission nor denial to the specific statement set forth in each Request. No objection is stated to any Request. There is no indication of reasonable inquiry and insufficient information to answer. Additionally, as to each of the specific statements contained in Requests Nos. 79, 83, 84, 85 and 93, the Diocese has presumed to restate the statement to include an undefined modifying term – “loyal Episcopalians”.

Requests Nos. 43, 49, 51, and 69, the Response given is challenged. The “reasonable inquiry” contended to have been made (if any), can only be taken as sufficient if the records of the Diocese are so incomplete and/or the systems for retrieval of said records are so inadequate as to render the Diocese incapable of the answering whether the statement in each Request is correct or not. The information at issue is singularly within the possession, custody and control of the Diocese. No objection to any Request is stated.

**b. Responses to Requests for Admissions, from the Episcopal Church:**

Requests Nos. 38, 30, 40, 41 and 42: The denial in each Response does not “fairly meet the substance of the requested admission” (Rule 4:11(a)), insofar as it ignores the clear language cited in an attached exhibit. No objection to any Request is stated.

**c. Answers to Interrogatories, from the Diocese:**

Interrogatory No. 1: This Interrogatory effectively relates only to Responses to Requests for Admission Nos. 88, 89, and 93. The specific statement in each of these Requests concerns information which is in the exclusive possession, custody and control of the Diocese of Virginia. It is patently incredible for the Diocese to contend that it is not answering a Request because it has insufficient knowledge of its own records.

Interrogatories Nos. 2, 3, 4, and 5: The Answers state nothing “with specificity”. The Diocese has simply referenced numerous items without specifics, most of which are so vaguely referenced as to be unidentifiable (i.e. “the deeds to the property at issue in this case”, “the oaths subscribed”, “the course of dealing between the parties”, and “a large number of documents regarding the above factors have already been produced to counsel for the Congregations... and many of the remaining documents are either publicly and equally available...”. “The Diocese has produced numerous documents supporting these bases and will

continue to produce documents as requested...”). These are not sufficient responses.

Interrogatory Nos. 6 and 7: The response made would appear to indicate that the Diocese has conducted a search of its records, but wishes to cloak the results of that search and the information and documents identified there from. The Diocese does not identify the specific information and documents responsive to the specific discovery requests of the Church of Our Saviour at Oatlands. Rather, the Diocese points to the Diocese’s repositories of literally hundreds of thousands of pages of documents and invites the Church of Our Saviour at Oatlands to conduct its own search, without a provision of a functional finding index or other ready means to identify or obtain specific documents. These are not sufficient responses.

Interrogatory No. 8: See same deficiencies under Nos. 1 through 7 hereinabove. In addition, this Answer has the further evasive statement: “The Diocese notes it has or will produce for inspection numerous documents constituting much of the course of dealing between the parties”. To this further layer of ambiguous reference, the Church of Our Saviour at Oatlands would comment that, to date, other than Constitutions and Canons, the Diocese has never provided to the Congregation any documents specifically identified as “course of dealing documents”. The Church of Our Saviour at Oatlands is still left to speculate as to what specific documents the Diocese relies upon for “course of dealing” evidence in this case, other than the Constitutions and Canons they have referenced.

**d. Answers to Interrogatories, from the Episcopal Church:**

Interrogatories Nos. 2 and 3: If the quoted allegation of the Diocese of Virginia is not also the allegation of the Episcopal Church, then the Interrogatory is “not applicable”. Otherwise, it should be answered by the Episcopal Church.

Interrogatories Nos. 4 and 7: Reference to “express and implied promises to



adhere” and “the course of dealing between the Church of Our Saviour at Oatlands and the Diocese” are ambiguous references and not responsive to the request to “state fully and with specificity”.

**e. Responses to Requests for Production of Documents, from the Diocese:**

Requests for Production Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 18, 19, 20, 21, 23, 24, 25, 26, 28, and 38: No documents have been provided with response to any of these Requests. The responses variously indicate the Diocese’s “presumption” that the Church of Our Saviour has the documents already, invites the Church of Our Saviour at Oatlands to conduct an investigation into the hundreds of thousands of pages of records within the archives of the Diocese, or simply ignore a specific request altogether. Vague references are also used (i.e... “numerous course of dealing of documents have already been produced”..., “... to the extent the Diocese has any documents that have not previously been produced, they are contained within Diocesan records...” No documents identified as “course of dealing” documents have been provided in response to Church of Our Saviour at Oatlands’ discovery, and it can only be guessed what “Diocesan records” contain what responsive documents. These particular requests seek to elicit those fundamental documents (if any) the Diocese relies upon as a basis for its claims, but the Diocese refuses to identify the same. This is simply an evasive and insufficient form of response. In regard to the response to Requests Nos. 24 and 26, it is further noted no representation has been made of a good faith effort to find the subject documents, nor is there explanation pursuant to the General Instruction as to how the requested records, which previously existed, are now lost or destroyed. Finally, a particular February 23, 1973 letter relevant to a number of these requests, has been improperly redacted by the Diocese on an insubstantial contention of attorney-client privilege (see Exhibit 16 hereto). That letter contains

information then of common interest among the Diocese and its component parts, i.e. the Rector of St.James, the Church of Our Saviour, and Church counsel, among all of whom this information was shared, and as to which there was no “litigation” involved or contemplated (as indicated by the face of the attachment to Exhibit 16 and the content of the Church of Our Saviour exhibits introduced at the November, 2007 trial proceedings).

**f. Responses to Requests for Production, from the Episcopal Church:**

Requests for Production Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14 and 15:

The October 13, 1975 letter referenced in response to No. 1 (and cross-referenced in all other responses) has not been provided, and the “Additional documents that may be responsive...[attached to Our Saviour’s Requests for Admission]” referenced in response to No. 3 (and cross-referenced in all other responses) are not identified.

**g. Responses to Further Requests for Admission, from the Diocese:**

Request No. 1: It is simply not responsive to the specific Request and content of the referenced exhibit.

**g. Responses to Further Requests for Admission, from the Episcopal Church:**

Request No. 1: Either the specific language of the Response has been ignored, or the Episcopal Church makes such denial without having produced any such document (see Responses to Request for Production of Documents Nos. 3 through 15).

Requests Nos. 2 and 3: The response given to each Request is challenged as being patently inconsistent with the clear content of the exhibit attached and the response filed to the same Request by the Episcopal Diocese of Virginia.

WHEREFORE, the Church of Our Saviour at Oatlands prays for a determination of sufficiency and an order to compel and for such other and further relief as may be required.

Dated: January 5, 2011

Respectfully submitted,

CHURCH OF OUR SAVIOUR AT OATLANDS

By: \_\_\_\_\_

James E. Carr, Esquire, VSB# 014567

CARR & CARR

44135 Woodridge Parkway, Suite 260

Leesburg, Virginia 20176

703-777-9150 Phone

703-726-0125 Facsimile

*Counsel for Church of Our Saviour at Oatlands*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 5th day of January, 2011 he caused all counsel to be served with copies of the foregoing Church of Our Saviour at Oatland's Motion to Determine Sufficiency and to Compel Discovery Responses from the Episcopal Diocese of Virginia and the Episcopal Church, and cover sheet for filing, by electronic mail to the listed counsel of record and to lead counsel by first class postage prepaid mail:

Bradfute W. Davenport, Jr., Esq. (lead counsel)  
brad.davenport@troutmansanders.com  
George A. Somerville, Esq.  
george.somerville@troutmansanders.com  
Joshua D. Heslinga, Esq.  
Joshua.Heslinga@troutmansanders.com  
TROUTMAN SANDERS, LLP  
P.O. Box 1122  
Richmond, VA 23218

Mary C. Zinsner, Esq.  
mary.zinsner@troutmansanders.com  
TROUTMAN SANDERS, LLP  
1660 International Drive, Suite 600  
McLean, VA 22102

Thomas C. Palmer, Esq.(lead counsel)  
TPalmer@TheBraultFirm.com  
BRAULT PALMER GROVE  
WHITE & STEINHILBER, LLP  
3554 Chain Bridge Rd, Suite 400  
Fairfax, VA 22030-1010

E. Andrew Burcher, Esq.(lead counsel)  
eaburcher@thelandlawyers.com  
WALSH, COLUCCI, LUBELEY,  
EMRICH & WALSH, PC  
4310 Prince William Pkwy  
Suite 300  
Prince William, Virginia 22192

Mary E. Kostel, Esq. (lead counsel)  
MKostel@goodwinproctor.com  
Soyong Cho, Esq.  
scho@goodwinproctor.com  
Adam Chud, Esq. (pro hac vice)  
achud@goodwinproctor.com  
GOODWIN PROCTER, LLP  
901 New York Ave., N.W.  
Washington, D.C. 20001

Heather H. Anderson, Esq.  
Heather H. Anderson, P.C.  
handersonlaw@gmail.com  
P.O. Box 50158  
Arlington, VA 22205

R. Hunter Manson, Esq. (lead counsel)  
manson@kaballero.com  
PO Box 539  
876 Main Street  
Reedville, Virginia 22539

James A. Johnson, Esq.(lead counsel)  
JJohnson@semmes.com  
Paul N. Farquharson, Esq.  
PFarquharson@semmes.com  
Scott H. Phillips, Esq.  
SPhillips@semmes.com  
SEMMES BOWEN & SEMMES, PC  
Suite 1400  
25 South Charles Street  
Baltimore, Maryland 21201

Gordon A. Coffee, Esq. (lead counsel)  
GCoffee@winston.com  
Steffen N. Johnson, Esq.  
SJohnson@winston.com  
Gene C. Schaerr, Esq.  
Gschaerr@winston.com  
Andrew C. Nichols, Esq.  
ANichols@winston.com  
WINSTON & STRAWN LLP  
1700 K Street, N.W.  
Washington, D.C. 20006

Scott J. Ward, Esq. (lead counsel)  
SJW@GG-Law.com  
Timothy R. Obitts, Esq.  
TRO@GG-Law.com  
Dawn W. Sikorski, Esq.  
DWS@GG-Law.com  
GAMMON & GRANGE, PC  
8280 Greensboro Drive  
7<sup>th</sup> Floor  
McLean, Virginia 22102

E. Duncan Getchell, Esq. (lead counsel)  
[dgetchell@oag.state.va.us](mailto:dgetchell@oag.state.va.us)  
Stephen R. McCullough, Esq.  
SMcCullough@oag.state.va.us  
Office of the Attorney General  
900 East Main Street  
Richmond, Virginia 23219

George O. Peterson, Esq. (lead counsel)  
GPeterson@petersonsaylor.com  
Tania M.L. Saylor, Esq.  
tsaylor@petersonsaylor.com  
Peterson Saylor, PLC  
4163 Chain Bridge Road  
Fairfax, VA 22030

Mary A. McReynolds, Esq. (lead counsel)  
Mary A. McReynolds, PC  
MaryMcReynolds@mac.com  
1050 Connecticut Ave, NW  
10<sup>th</sup> Floor  
Washington, DC 20036

Robert C. Dunn, Esq. (lead counsel)  
rdunn@robdunnlaw.com  
Law Office of Robert C. Dunn  
707 Prince Street  
PO Box 117  
Alexandria, Virginia 22313-0117

*With a copy by electronic mail and hand-delivered to:*

Ms. Caitlin Fields  
Law Clerk to the Honorable Randy I. Bellows  
Circuit Court of Fairfax County  
Fairfax Judicial Center  
4110 Chain Bridge Road  
Fifth Floor Judges' Chambers  
Fairfax, VA 22030-4009  
[Caitlin.Fields@fairfaxcounty.gov](mailto:Caitlin.Fields@fairfaxcounty.gov)



---

James E. Carr, Esquire

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

IN RE: MULTI-CIRCUIT CHURCH  
PROPERTY LITIGATION

Civil Case Number:

CL 2007 – 0248724

FILED IN: *The Protestant Episcopal Church in the Diocese of Virginia v. Church of Our Saviour at Oatlands* (No. CL 2007-5364); and *The Episcopal Church v. Truro Church et al.*, (No. CL 2007-1625).

**COVER SHEET FOR THE CHURCH OF OUR SAVIOUR AT OATLANDS' MOTION TO DETERMINE SUFFICIENCY AND TO COMPEL DISCOVERY RESPONSES FROM THE EPISCOPAL DIOCESE OF VIRGINIA AND THE EPISCOPAL CHURCH**

This will serve as a one page cover sheet pleading for the **Church of Our Saviour at Oatland's Motion to Determine Sufficiency and to Compel Discovery Responses from the Episcopal Diocese of Virginia and the Episcopal Church**, which is being filed in CL 2007-248724 (the omnibus case file), on December 7, 2010. The foregoing pleading and this corresponding one-page reference pleading applies to the **Multi-Circuit Church Property Litigation Omnibus case number CL 2007-48724** and the following cases: *The Protestant Episcopal Church in the Diocese of Virginia v. Church of Our Saviour at Oatlands* (No. CL 2007-5364); and *The Episcopal Church v. Truro Church et al.*, (No. CL 2007-1625). For the complete foregoing pleading, please see the Omnibus case file, CL 2007 – 248724.

Dated: January 5, 2011

Respectfully submitted,

**CHURCH OF OUR SAVIOUR AT OATLANDS**

By Counsel



---

JAMES E. CARR, ESQUIRE, VSB#14567

CARR & CARR

44135 Woodridge Pkwy, Suite 260

Leesburg, Virginia 20176

703-777-9150 Phone

703-726-0125 Facsimile

[northvajim@aol.com](mailto:northvajim@aol.com)

*Counsel for Church of Our Saviour at Oatlands  
And Related Trustees*

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

IN RE: MULTI-CIRCUIT CHURCH  
PROPERTY LITIGATION

Civil Case Number:

CL 2007 - 0248724

**FILED IN:** *The Protestant Episcopal Church in the Diocese of Virginia v. Church of Our Saviour at Oatlands* (No. CL 2007-5364); and *The Episcopal Church v. Truro Church et al.*, (No. CL 2007-1625).

**COVER SHEET FOR THE CHURCH OF OUR SAVIOUR AT OATLANDS' MOTION TO DETERMINE SUFFICIENCY AND TO COMPEL DISCOVERY RESPONSES FROM THE EPISCOPAL DIOCESE OF VIRGINIA AND THE EPISCOPAL CHURCH**

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Dated: January 5, 2011

Respectfully submitted,

**CHURCH OF OUR SAVIOUR AT OATLANDS**

By Counsel

  
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*Counsel for Church of Our Saviour at Oatlands  
And Related Trustees*