

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

ALL SAINTS' EPISCOPAL CHURCH

Plaintiff,

vs.

Civil Action No. 4:10-CV-00783-Y

THE RT. REV. JACK LEO IKER

Defendant.

ORIGINAL ANSWER OF THE RT. REV. JACK LEO IKER

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Defendant The Rt. Rev. Jack Leo Iker, hereafter “the Bishop,” files this original answer to the complaint.

A. Admissions and Denials

1.1 Paragraph 1.1 of the complaint is admitted that All Saints’ Episcopal Church is a religious nonprofit corporation, but the balance of the paragraph is denied.

1.2 Paragraph 1.2 of the complaint is admitted.

2.1 Paragraph 2.1 of the complaint is denied, except to the extent that it alleges a point of law, the Bishop need not reply.

2.2 The Bishop admits he resides in Tarrant County, Texas, but to the extent that paragraph 2.2 of the complaint alleges a point of law, the Bishop need not reply.

2.3 The Bishop admits he is within the venue of the court, but to the extent that paragraph 2.3 of the complaint alleges a point of law, the Bishop need not reply.

3.1 The Bishop denies the allegations of paragraph 3.1 of the complaint, except to the extent it alleges a point of law, the Bishop need not reply.

3.2 The Bishop denies the allegation in paragraph 3.2 of the complaint, but admits that he is no longer a Bishop in The Episcopal Church.

3.3 The Bishop denies all allegations in paragraph 3.3 of the complaint, but admits that there are many churches holding services named “All Saints’ Episcopal Church.”

3.4 The Bishop denies the allegations of paragraph 3.4 of the complaint, except to the extent it alleges a point of law, the Bishop need not reply

4.1 The Bishop denies the allegations of paragraph 4.1 of the complaint, but admits that All Saints’ Episcopal Church was founded in 1946 in Fort Worth and its status for the period of time described; that articles of incorporation were filed in 1953 with the Texas Secretary of State; and the location and dedication of the church building on Crestline.

4.2 Paragraph 4.2 of the complaint is denied.

4.3 Paragraph 4.3 of the complaint is denied.

4.4 Paragraph 4.4 of the complaint is admitted.

4.5 Paragraph 4.5 of the complaint is admitted only to the extent that it describes the content of the bylaws of All Saints’ Episcopal Church, but it is denied to the extent of the interpretation placed on those bylaws.

4.6 Paragraph 4.6 of the complaint is admitted as to the annual Diocesan Convention for the Diocese of Fort Worth having been held on November 15, 2008, and the delegates voted to change certain portions of the Diocesan Constitution and Canons and that the delegates subsequently voted to realign The Episcopal Diocese of Fort Worth with the Anglican Province of the Southern Cone, but denies the remainder of Paragraph 4.6.

4.7 Paragraph 4.7 of the complaint is denied.

4.8 Paragraph 4.8 of the complaint is admitted.

4.9 Paragraph 4.9 of the complaint is admitted.

4.10 Paragraph 4.10 of the complaint is denied.

4.11 The Bishop denies the allegations of paragraph 4.11 of the complaint, except to the extent paragraph 4.11 of the complaint alleges a point of law, the Bishop need not respond.

4.12 Paragraph 4.12 of the complaint is denied, except to the extent that it alleges that the Bishop is no longer a Bishop in The Episcopal Church, which is admitted.

4.13 Paragraph 4.13 of the complaint is denied.

4.14 Paragraph 4.14 of the complaint is denied.

4.15 Paragraph 4.15 of the complaint is denied.

4.16 Paragraph 4.16 of the complaint is denied.

4.17 Paragraph 4.17 of the complaint is denied.

4.18 Paragraph 4.18 of the complaint is denied.

4.19 The Bishop denies the allegations of paragraph 4.19 of the complaint, but admits that All Saints' Episcopal Church is a church in The Episcopal Diocese of Fort Worth of which he is the Bishop and to the extent that the paragraph alleges a point of law, the Bishop need not reply.

5.1 The Bishop need not respond to paragraph 5.1 of the complaint because he has already responded to the paragraphs referenced in paragraph 5.1 of the complaint.

5.2 The Bishop denies all of the allegations of paragraph 5.2 of the complaint, but admits that All Saints' Episcopal Church is a parish in The Episcopal Diocese of Fort Worth.

5.3 The Bishop denies the allegation of paragraph 5.3 of the complaint, except to the extent it alleges a point of law, the Bishop need not reply.

5.4 The Bishop denies all of the allegations of paragraph 5.4 of the complaint.

5.5 The Bishop denies the allegations of paragraph 5.5 of the complaint, except to the extent it alleges a point of law, the Bishop need not reply.

5.6 The Bishop denies the allegations of paragraph 5.6 of the complaint.

5.7 The Bishop denies the allegations of paragraph 5.7 of the complaint, except to the extent it alleges a point of law, the Bishop need not reply.

5.8 Paragraph 5.8 of the complaint is denied.

5.9 Paragraph 5.9 of the complaint is denied.

5.10 Paragraph 5.10 of the complaint is denied.

5.11 Paragraph 5.11 of the complaint is denied.

5.12 Paragraph 5.12 of the complaint is denied.

5.13 Paragraph 5.13 of the complaint is denied.

5.14 Paragraph 5.14 of the complaint need not be responded to as it raises a point of law.

6.1 The Bishop need not reply to paragraph 6.1 of the complaint as it is a statement of law.

6.2 All other factual allegations contained in the complaint, which are not expressly admitted herein, are denied.

B. No Claim of Ownership

6.3 The Bishop does not now and never has used the name All Saints' Episcopal Church nor has he published this name on any website belonging to him.

6.4 The Bishop has never engaged in any of the conduct he is alleged to have engaged concerning the use of the name All Saints' Episcopal Church.

C. Malicious Prosecution and Abuse of Process

6.5 The filing of the complaint in this Court, which has no factual or legal foundation, constitutes malicious prosecution and abuse of process in violation of Rule 11, Federal Rules of Civil Procedure, and 28 U.S.C. '1927, entitling the Bishop to recover his damages, which are mainly the cost of attorney's fees, until these proceedings are concluded from those who authorized this suit as well as the attorneys who have filed it. In addition, the Bishop seeks to have Plaintiff's attorneys sanctioned for filing the complaint containing allegations that prove the Bishop has no liability to plaintiff.

6.6 FRCP 11 requires attorneys signing pleadings to make certain representations to the court. 28 U.S. C. § 1927 provides a remedy against counsel who unreasonably and vexatiously multiply the proceedings in a case. Plaintiff's attorneys Hill Gilstrap, P.C. ("Hill Gilstrap") have violated FRCP 11 and 28 U.S. C. § 1927 by bringing the present lawsuit. The present lawsuit was brought for improper purpose and seeks to harass the Bishop, as well as unreasonably and vexatiously multiply the proceedings in the dispute between the parties and needlessly increase the cost of litigation. The claims presented by Hill Gilstrap are not warranted by existing law and the factual contentions presented by Hill Gilstrap lack evidentiary support, even after a reasonable opportunity for discovery.

6.7 Plaintiff does not own any trademarks. Plaintiff does not own a mark “All Saints’ Episcopal Church” for religious services and works.

6.8 Plaintiff judicially admits that it is affiliated with The Episcopal Church (“TEC”), and that Plaintiff’s bylaws require that its “corporate affairs shall be conducted in conformity with the Constitution and Canons” of TEC.

6.9 Plaintiff and Hill Gilstrap are well aware that TEC has been engaged in litigation with the Bishop in state court since April 14, 2009, in Tarrant County, as Cause No. 141-237105-09 where one of the issues in the state court lawsuit is who owns the property, including trademarks. In the state court lawsuit, TEC takes the position that it owns all trademarks, including trademarks used by a diocese and parishes and churches, not the diocese and parishes and churches. Hill Gilstrap is affiliated with Jonathan Nelson, one of the attorneys in the state court lawsuit against the Bishop, who is of counsel to that firm.

6.10 Hill Gilstrap has violated FRCP 11 and 28 U.S. C. § 1927 by bringing the present lawsuit for the purpose of harassing the Bishop, as well as unreasonably and vexatiously multiply the proceedings in the dispute between the parties and case needlessly increase the cost of litigation.

D. Prayer

WHEREFORE, Defendant The Rt. Rev. Jack Leo Iker prays that the Court deny all relief sought against him and that he recover from those who authorized this suit on behalf of All Saints’ Episcopal Church and the attorneys who filed it a recovery of damages, until this litigation is completed, namely all attorney’s fees and costs of defense, or sanctions or such other relief as the court may deem just and proper.

Respectfully submitted,

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Attorneys for Defendant
The Rt. Rev. Jack Leo Iker

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing ORIGINAL ANSWER OF THE RT. REV. JACK LEO IKER has been served by certified mail, return receipt requested, and/or regular mail, this _____ day of October, 2010, on the following:

Anne Michels
Michael Kim
Frank Gilstrap
Hill Gilstrap, P.C.
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Arlington, Texas 76013
Tel: 817-261-2222 / Fax: 817-861-4685

ATTORNEYS FOR PLAINTIFF

J. Shelby Sharpe

