

Re: The Supreme Court of California's Opinion in "Episcopal Church Cases"

The purpose of this document is to address the impact of the recent decision by the Supreme Court of California involving a property dispute between St. James Parish (in Newport Beach, California) and the Episcopal Diocese of Los Angeles and TEC. The questions that naturally arise as a result of the opinion appear to be the following.

Does the opinion by the California Supreme Court constitute binding precedent for a court in Texas? The answer is "No." The California Supreme Court's decision does **not** constitute binding precedent in Texas. In other words, *no* judge or court in the State of Texas is obligated to follow this decision. Importantly, Texas courts have a history of declining to follow California decisions. *See, e.g., Kubinsky v. Van Zandt Realtors*, 811 S.W.2d 711, 715 (Tex.App.—Fort Worth 1991, writ denied) ("Appellants further point to the California case *Easton v. Strassburger*, which imposed a duty on the listing agent to inspect the listed residential property and to disclose to prospective purchasers all facts materially affecting the value or desirability of the property that such an investigation would reveal. *Easton*, 199 Cal.Rptr. at 389-90, 199 Cal.Rptr. 383. However, in light of our discussion of TRELTA, *we decline to follow the California Court of Appeals*. We believe that the imposition of such liability in this situation should be left to the Texas Legislature."); *In re Contests of City of Laredo, to Adjudication of Water Rights in Middle Rio Grande Basin and Contributing Texas Tributaries*, 675 S.W.2d 257, 270 (Tex.App.—Austin 1984, writ ref'd n.r.e.) ("... *this Court declines to follow* the opinions of the *California* and New Mexico *courts*.") (Emphasis added).

What impact, if any, will the decision have in TEC's litigation against The Episcopal Diocese of Fort Worth? This question is more difficult to answer but we believe that the decision should have little positive use for TEC in the coming litigation. Indeed, we believe the decision will be more helpful to The Episcopal Diocese of Fort Worth than to TEC for the simple reason that the California court used "neutral principles of law" to determine which party owned the property in question. Using "neutral principles of law" required the California court to consider such facts as the deeds to the property in question, articles of incorporation, and the constitution and canons of the Episcopal Diocese of Los Angeles and TEC, as well as relevant California statutes. The California Supreme Court made its decision using the *specific* facts of that particular dispute between St. James Parish, on the one side, and the Episcopal Diocese and TEC, on the other side, while applying a *specific* California statute to those *specific* facts.

The word "specific" has been italicized to highlight something very important. We expect the Texas courts to likewise use "neutral principles of law" to decide the looming litigation over our property. But, when TEC and its new Diocese sue to confiscate our property, the specific facts and law of our particular dispute here in Fort Worth will be very different from those confronting the California Supreme Court. For

example, just one of the distinguishing features of our dispute will be the fact that our *Diocese*—rather than a Parish within a Diocese (i.e. St. James Parish, Newport Beach, California)—disaffiliated from TEC. In sum, we believe the stark differences in the facts, as well as the differences between Texas law and California law, will lead to defeat for TEC and its new Diocese in the Texas courts. *See, e.g., In re Anaheim Angels Baseball Club, Inc.*, 993 S.W.2d 875, 880 (Tex.App.—El Paso 1999, orig. proceeding) (“Finally, the Angels point us to an unpublished California case which found a similar (although not identical) clause to be an arbitration agreement. *We note that case turned on the player's voluntary participation in the “arbitration” proceedings, and is therefore distinguishable from the case before us on its facts. In any event, we decline to follow the reasoning of the California court*, as it seems to us clear this dispute clause references an administrative appeal.”) (Emphasis added). From our perspective, the California Supreme Court opinion has only one real use for TEC and its new Diocese here in Fort Worth—as a propaganda tool.

So are we sure to win the lawsuit? Our understanding of the law and facts lead us to believe that we will prevail in the courts of Texas. But, at the same time, it would be foolish to place our ultimate trust in humans or the laws of humans. Our ultimate trust is and must remain in the Lord Jesus Christ and His perfect will for our Diocese.

We must also keep in mind that the history of Christ’s Church is one of persecution and suffering. Indeed, all across the world today fellow Christians are losing their church buildings, their businesses, and even their lives on account of the Gospel of Jesus Christ. God is calling us to stand and suffer persecution for the sake of His Gospel. We cannot shrink from this calling. We must continue to trust in our Lord and Savior Jesus Christ and faithfully proclaim His most Holy Gospel—regardless of the earthly consequences. And this, by God’s grace, we will do.

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