

THE EPISCOPAL DIOCESE OF
FORT WORTH, THE CORPORATION OF
THE EPISCOPAL DIOCESE OF FORT
WORTH, and THE EPISCOPAL CHURCH,

Plaintiffs

v.

FRANKLIN SALAZAR, JO ANN PATTON,
WALTER VIRDEN III, ROD BARBER,
CHAD BATES, JACK LEO IKER, and THE
ANGLICAN PROVINCE OF THE
SOUTHERN CONE'S "DIOCESE OF FORT
WORTH," holding itself out as "THE
EPISCOPAL DIOCESE OF FORT WORTH,"

Defendants/Third-Party Plaintiff

v.

EDWIN F. GULICK, JR., MARGARET
MIEULI, WALT CABE, ANNE T. BASS,
J. FREDERICK BARBER, CHRISTOPHER
JAMBOR, DAVID MADISON and KATHLEEN
WELLS

Third-Party Defendants

IN THE DISTRICT COURT

THOMAS A. WILDER
DISTRICT CLERK

2009 AUG 19 PM 4: 35

FILED
TARRANT COUNTY

TARRANT COUNTY, TEXAS

141ST JUDICIAL DISTRICT

**MOTION FOR LEAVE TO FILE THIRD-PARTY PETITION
OF DEFENDANT THE EPISCOPAL DIOCESE OF FORT WORTH**

TO THIS HONORABLE COURT:

Defendant The Episcopal Diocese of Fort Worth, who is wrongly named in Plaintiffs' Original Petition as The Anglican Province of The Southern Cone's "Diocese of Fort Worth", hereafter "the association," pursuant to Rule 38, Texas Rules of Civil Procedure, files this motion for leave to file third-party petition and respectfully requests leave of the Court to file a third-party petition against Edwin F. Gulick, Jr., Margaret Mieuli, Walt Cabe, Anne T. Bass, J.

Frederick Barber, Christopher Jambor, David Madison and Kathleen Wells, as third-party defendants.

1.

There is only one Texas unincorporated association named The Episcopal Diocese of Fort Worth. Its principle office is at 2900 Alameda Street, Fort Worth, Tarrant County, Texas 76108 where all of the records of the association are kept. This unincorporated association has been in continuous operation since its inception in 1983 operating under the Texas Unincorporated Association Act and the association's constitution and canons.

2.

Edwin F. Gulick, Jr., Margaret Mieuli, Walt Cabe, Anne T. Bass, J. Frederick Barber, Christopher Jambor, David Madison and Kathleen Wells, who hold no office in the association have without authority authorized suit in the name of association against defendants named in these proceedings. A copy of the proposed third-party petition is attached hereto as Exhibit "A" and incorporated herein by reference. Thus, the presence of these third-party defendants is necessary for a proper disposition of the suit.

3.

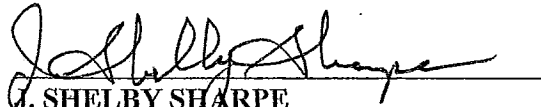
The causes of action asserted in the third-party petition are for a declaratory judgment interpreting Article 4 of the association's constitution and injunctive relief pertaining to the lack of authority of third-party defendants to instigate proceedings in this Court in the association's name and to conduct adversely affecting activities within the association. The claims in the third-party petition arise out of the same factual matters alleged in Plaintiffs' Original Petition that initiated these proceedings.

4.

Although this motion is filed more than 30 days after the association served its answer in this suit, no party will suffer prejudice if it is granted.

WHEREFORE, PREMISES CONSIDERED, Defendant/Third-Party Plaintiff The Episcopal Diocese of Fort Worth respectfully requests leave of the Court to file the third-party petition attached as Exhibit "A" against Edwin F. Gulick, Jr., Margaret Mieuli, Walt Cabe, Anne T. Bass, J. Frederick Barber, Christopher Jambor, David Madison and Kathleen Wells.

Respectfully submitted,



G. SHELBY SHARPE

State Bar No. 18123000

SHARPE TILLMAN & MELTON

6100 Western Place, Suite 1000

Fort Worth, Texas 76107

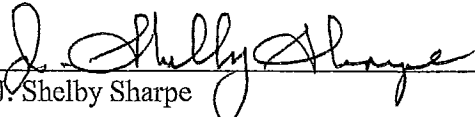
Telephone: (817) 338-4900

Facsimile: (817) 332-6818

**ATTORNEYS FOR DEFENDANT AND
THIRD-PARTY PLAINTIFF THE
EPISCOPAL DIOCESE OF FORT
WORTH**

CERTIFICATE OF CONFERENCE

This is to certify that on August 19th, 2009, counsel for movant conferred with counsel for plaintiffs on this motion and counsel for plaintiffs advised that they ~~would~~ would not oppose the motion.


J. Shelby Sharpe

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing MOTION FOR LEAVE TO FILE THIRD-PARTY PETITION OF DEFENDANT THE EPISCOPAL DIOCESE OF FORT WORTH has been served as required by Texas Rules of Civil Procedure, by certified mail, return receipt requested, on all attorneys of record on this 19th day of August, 2009 as follows:

Jonathan D.F. Nelson
JONATHAN D.F. NELSON, P.C.
1400 W. Abrams Street
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Sandra Liser
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901 New York Avenue, N.W.
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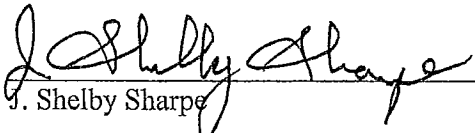

J. Shelby Sharpe

EXHIBIT “A”

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FORT WORTH, THE CORPORATION OF
THE EPISCOPAL DIOCESE OF FORT
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Plaintiffs

v.

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MIEULI, WALT CABE, ANNE T. BASS,
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JAMBOR, DAVID MADISON and KATHLEEN
WELLS

Third-Party Defendants

IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

141ST JUDICIAL DISTRICT

**THIRD-PARTY PETITION OF DEFENDANT
THE EPISCOPAL DIOCESE OF FORT WORTH**

TO THIS HONORABLE COURT:

Defendant/Third-Party Plaintiff The Episcopal Diocese of Fort Worth, who is wrongly named in Plaintiffs’ Original Petition as The Anglican Province of The Southern Cone’s “Diocese of Fort Worth”, hereafter “the association,” files this third-party petition against Edwin F. Gulick, Jr., Margaret Mieuli, Walt Cabe, Anne T. Bass, J. Frederick Barber, Christopher Jambor, David Madison and Kathleen Wells, Third-Party Defendants.

1.

There is only one Texas unincorporated association named The Episcopal Diocese of Fort Worth. Its principle office is at 2900 Alameda Street, Fort Worth, Tarrant County, Texas 76108 where all of the records of the association are kept. This unincorporated association has been in continuous operation since its inception in 1983 operating under the Texas Unincorporated Association Act and the association's constitution and canons.

Third-Party Defendants are individuals claiming to hold offices in this association. Edwin F. Gulick, Jr., claims to be its Bishop, and Margaret Mieuli, Walt Cabe, Anne T. Bass, J. Frederick Barber, Christopher Jambor and David Madison are represented to be the members of its Standing Committee. Kathleen Wells represents she is the association's Chancellor. They all list their address for service of citation in this suit to be 3550 S.W. Loop 820, Fort Worth, Texas 76133.

2.

This Court has jurisdiction and venue over the claims alleged in this third-party petition because the claims seek declaratory relief based on an interpretation of Article 4 of the association's constitution and injunctive relief pertaining to the lack of authority of Third-Party Defendants to instigate proceedings in this Court in the association's name and their unauthorized conduct that is adversely affecting activities within the association.

3.

Third-Party Defendant Edwin F. Gulick, Jr. has sent communications on letterhead with the name and seal of the association to clergy in the parishes of the association threatening and allegedly taking action against these clergy. Additionally, Third-Party Defendant, Kathleen Wells, representing she is Chancellor of the association has sent communications adversely

affecting assets of certain parishes within the association, claiming that the assets of these parishes no longer belong to them.

4.

All Third-Party Defendants claim that they have obtained their positions within the association as a result, according to Plaintiffs' Original Petition, of a "special meeting of its Convention on February 7, 2009." Plaintiffs' Original Petition, ¶ IV 53.

5.

Also, according to Plaintiffs' Original Petition, the last Annual Convention of the association was in November of 2008. Petition, ¶ IV 46.

6.

Article 4 of the association's constitution unequivocally states, in part, that a special meeting of its association's convention may be called only by "[t]he Bishop, or a majority of all members of the Standing Committee."

7.

According to Charles A. Hough, III, Canon of the association, who has custody of its records, those records reveal its Bishop is defendant Jack Leo Iker, the members of its Standing Committee are The Rev. Thomas E. Hightower, Mr. Walter Virden, III, The Very Rev. Christopher T. Cantrell, Mrs. Judy Mayo, The Rev. Timothy Perkins and Dr. Franklin Salazar, and its Chancellor is William T. McGee. Also, according to those records, neither Bishop Iker nor these members of the Standing Committee called a "special meeting of its Convention on February 7, 2009."

8.

The association asks the Court to interpret Article 4 of its constitution, the minutes of prior conventions, any call for a special convention after its last annual convention in November of 2008, and minutes of the February 7, 2009, meeting to declare the identity of those individuals who are the association's Bishop, Chancellor and members of its Standing Committee since there is a bona-fide dispute who holds these offices.

9.

The association avers that it is entitled to recover reasonable and necessary attorneys' fees from these Third-Party Defendants pursuant to Section 37.007 of the Texas Civil Practice & Remedies Code in the event the Court grants the declaratory relief sought by it.

10.

Since the February 7, 2009, meeting, the letters Third-Party Defendant Gulick has sent in the name of the association have had its shield on them. Additionally, a letter sent by Third-Party Defendant Kathleen Wells representing she is Chancellor of the association to a representative of a trust who had previously made distributions from the trust to St. Andrews Episcopal Church, a parish within the association, apparently caused the trustee of the trust to stop making distributions from the trust to this parish and file a declaratory judgment suit in Hood County, Texas in Cause No. C2009233, *Ronald D. Wenner, Trustee of The Cynthia Brants Charitable Remainder Unitrust v. The Episcopal Church; The Episcopal Diocese of Fort Worth; The Corporation of the Episcopal Diocese of Fort Worth; The Amon Carter Museum of Western Art; The Old Jail Art Center; An Unincorporated Association Holding Itself Out As St. Andrews Episcopal Church; and A Second Unincorporated Association Holding Itself Out As St. Andrews Episcopal Church.*

11.

The conduct of Third-Party Defendants acting as the association's Bishop, Chancellor and members of the Standing Committee has caused and will continue to cause irreparable injury to the association, if not stopped, for which there is no adequate remedy at law.

12.

Temporary injunctive relief is proper to stop Third-Party Defendants from continuing to represent they hold offices in the association, from sending communication with the name and seal of the association on them representing they are officers in it, and taking action in its name during the pendency of this suit and upon a conclusion of this suit the injunctive relief should be made permanent.

WHEREFORE, PREMISES CONSIDERED, Third-Party Plaintiff The Episcopal Diocese of Fort Worth prays that Third-Party Defendants Edwin F. Gulick, Jr., Margaret Mieuli, Walt Cabe, Anne T. Bass, J. Frederick Barber, Christopher Jambor, David Madison and Kathleen Wells be cited to appear and answer herein; that the Court schedule a hearing for a temporary injunction; that proper notice of the hearing be served on these Third-Party Defendants and other interested parties; that following said hearing a temporary injunction be signed preventing these Third-Party Defendants from continuing to represent they hold offices within the association, sending communications with the name and seal of the association on them representing they are officers of the association and taking action in the name of the association during the pendency of this suit; that upon a final hearing hereof the Court make the injunctive relief permanent and declare the identity of the lawfully elected Bishop, Chancellor and members of the Standing Committee of the association based on the Court's interpretation of Article 4 of the association's constitution; declare that the meeting held February 7, 2009, was

not a duly called meeting in accordance with Article 4, and declare that the election of these Third-Party Defendants and all other actions taken at the February meeting to be invalid.

Respectfully submitted,



J. SHELBY SHARPE
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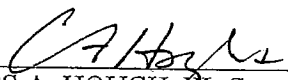
ATTORNEYS FOR DEFENDANT AND
THIRD-PARTY PLAINTIFF THE
CORPORATION OF THE EPISCOPAL
DIOCESE OF FORT WORTH

VERIFICATION

STATE OF TEXAS §
 §
COUNTY OF TARRANT §

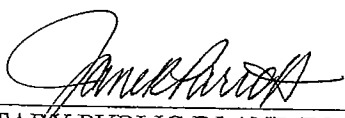
On this day personally appeared before me CHARLES A. HOUGH, III Canon of The Episcopal Diocese of Fort Worth, who, after being duly sworn, states the following:

I am Canon of The Episcopal Diocese of Fort Worth, which is a Texas unincorporated association, and have been in this position since January 1, 1994. I am the custodian of its records. I have reviewed these records and I have read paragraphs 10 and 11 of the Third-Party Petition of Defendant the Episcopal Diocese of Fort Worth to which this verification is attached and know that the factual statements in paragraphs 10 and 11 are correct based on those records and my personal knowledge.



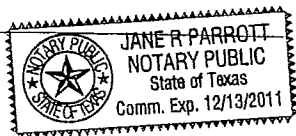
CHARLES A. HOUGH, III, Canon
The Episcopal Diocese of Fort Worth

SWORN TO AND SUBSCRIBED BEFORE ME, on this 19th day of August, 2009, to certify which witness my hand and seal of office.



NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

MY COMMISSION EXPIRES:



CERTIFICATE OF SERVICE

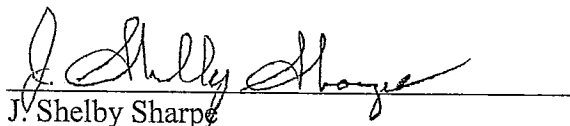
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J. Shelby Sharp