

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

IN THE DISTRICT COURT

Plaintiffs §

VS. §

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 Plaintiffs §

VS. §

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

Third-Party Defendants §

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

Intervener/Third-Party Plaintiff §

VS. §

EDWIN F. GULICK, JR., ROBERT M. BASS, §
JAMES HAZEL, CHERIE SHIPP, JOHN §
STANLEY and TRACE WORRELL §

Third-Party Defendants §

ST. ANTHONY OF PADUA CHURCH §
(Alvarado), ST. ALBAN’S CHURCH (Arlington), §

ST. MARK'S CHURCH (Arlington), CHURCH §
 OF ST. PETER & ST. PAUL (Arlington), §
 CHURCH OF ST. PHILIP THE APOSTLE §
 (Arlington), ST. VINCENT'S CATHEDRAL §
 (Bedford), ST. PATRICK'S CHURCH (Bowie), §
 ST. ANDREW'S CHURCH (Breckenridge), §
 GOOD SHEPHERD CHURCH (Brownwood), §
 ST. JOHN'S CHURCH (Brownwood), CHURCH §
 OF ST. JOHN THE DIVINE (Burkburnett), HOLY §
 COMFORTER CHURCH, (Cleburne), ST. §
 MATTHEW'S CHURCH (Comanche), TRINITY §
 CHURCH (Dublin), HOLY TRINITY CHURCH §
 (Eastland), CHRIST THE KING CHURCH §
 (Ft. Worth), HOLY APOSTLES CHURCH §
 (Ft. Worth), IGLESIA SAN JUAN APOSTOL §
 (Ft. Worth), IGLESIA SAN MIGUEL (Ft. Worth), §
 ST. ANDREW'S CHURCH (Ft. Worth), §
 ST. ANNE'S CHURCH (Ft. Worth), CHURCH §
 OF ST. BARNABAS THE APOSTLE (Ft. Worth), §
 ST. JOHN'S CHURCH (Ft. Worth), §
 ST. MICHAEL'S CHURCH (Richland Hills), §
 CHURCH OF ST. SIMON OF CYRENE (Ft. §
 Worth), ST. TIMOTHY'S CHURCH (Ft. Worth), §
 ST. PAUL'S CHURCH (Gainesville), GOOD §
 SHEPHERD CHURCH (Granbury), CHURCH OF §
 THE HOLY SPIRIT (Graham), ST. ANDREW'S §
 CHURCH (Grand Prairie), ST. JOSEPH'S §
 CHURCH (Grand Prairie), ST. LAURENCE'S §
 CHURCH (Southlake), ST. MARY'S CHURCH §
 (Hamilton), TRINITY CHURCH (Henrietta), §
 ST. MARY'S CHURCH (Hillsboro), §
 ST. ALBAN'S CHURCH (Hubbard), §
 ST. STEPHEN'S CHURCH (Hurst), CHURCH §
 OF ST. THOMAS THE APOSTLE (Jacksboro), §
 CHURCH OF OUR LADY OF THE LAKE §
 (Laguna Park), ST. GREGORY'S CHURCH §
 (Mansfield), ST. LUKE'S CHURCH (Mineral §
 Wells), CHURCH OF ST. PETER BY THE LAKE §
 (Graford), ALL SAINT'S CHURCH §
 (Weatherford), ALL SAINT'S CHURCH (Wichita §
 Falls), CHURCH OF THE GOOD SHEPHERD §
 (Wichita Falls), CHURCH OF ST. FRANCIS OF §
 ASSISI (Willow Park), and CHURCH OF THE §
 ASCENSION & ST. MARK (Bridgeport) §
 §
 Interveners §

TARRANT COUNTY, TEXAS

I.

Intervening Congregations move that this cause be governed by a Level 3 Discovery Control Plan, pursuant to Rule 190.4 of the Texas Rules of Civil Procedure.

II.

The Intervening Congregations are parishes and missions duly formed and existing pursuant to the Constitution and Canons of the Episcopal Diocese of Fort Worth, and the Intervening Congregations currently are in union with the Convention of the Episcopal Diocese of Fort Worth and are under the episcopal oversight of The Rt. Rev. Jack Leo Iker, a Defendant in this cause. All such parishes and missions are unincorporated religious associations.

All parties to this cause of action may be served with this Plea in Intervention by and through their respective attorneys of record.

III.

This cause of action is brought for Declaratory Judgment pursuant to the provisions of Chapter 37 of the Texas Civil Practice & Remedies Code, because Intervening Congregations are persons within the meaning of §37.001, CPRC and whose rights, status and legal relations are affected by those writings comprising the governing documents of the Episcopal Diocese of Fort Worth and the Corporation of the Episcopal Diocese of Fort Worth. As a consequence of the allegations and claims by some of the parties to this cause of action, the rights, status and legal relations of the Intervening Congregations under those documents are uncertain and disputed, and Intervening Congregations sue for Declaratory Judgment pursuant to §37.003, CPRC, as more specifically set forth below.

IV.

The Intervening Congregations are religious bodies comprised of approximately 13,000 communicants who regularly meet under the guidance of ordained clergy for religious observances and ceremonies. Meetings of the members of these Intervening Congregations are conducted upon real property to which the Corporation of the Episcopal Diocese of Fort Worth holds record title. Intervening Congregations would show that, in accordance with the Constitution and Canons of the Episcopal Diocese of Fort Worth, the title to the real property being occupied and subject to the control of Intervening Congregations is held by the Corporation of the Episcopal Diocese of Fort Worth in trust for the use and benefit of each Intervening Congregation.

Specifically, Article 14 of the Constitution of the Episcopal Diocese of Fort Worth provides that “Corporation of the Episcopal Diocese of Fort Worth shall hold real property acquired for the use of a particular Parish or Mission in trust for the use and benefit of such Parish or Mission. The income from such property shall belong to such Parish or Mission, which shall be responsible for expenses attributable thereto.”

Further, Canon 18 of the Canons of the Episcopal Diocese of Fort Worth provides, in relevant part:

Sec. 18.2 Real property acquired by the Corporation for the use of a particular Parish, Mission or Diocesan School shall be held by the Corporation in trust for the use and benefit of such Parish, Mission or Diocesan School. It is immaterial whether said acquisition is by conveyance to the Corporation by a Parish,

Mission or Diocesan School now holding title, by the Bishop now holding title as a corporate sole, by a declaratory judgment upon the division from the Diocese of Dallas, or by subsequent conveyance to the Corporation, so long as such property was initially acquired by a Parish, Mission or Diocesan School by purchase, gift or devise to it, as a Parish, Mission or Diocesan School. Such Parish, Mission or Diocesan School shall be entitled to all income from property held for it in trust by the Corporation and will be responsible for the direct expenses attributed to such property, but not for any administrative expenses of the Corporation. Property held in trust by the Corporation for a particular Parish, Mission or Diocesan School may not be conveyed, leased or encumbered in any way by the Corporation without the written consent of the Rector, Wardens and Vestry of the Parish, of the Standing Committee in the case of a Mission, or of the Board of Trustees of the Diocesan School for which such property is held in trust. Upon dissolution of a Parish, Mission or Diocesan School, such property held in trust for it shall revert to the Corporation for the use and benefit of the Diocese.

Sec. 18.4 Property held by the Corporation for the use of a Parish, Mission or Diocesan School *belongs beneficially* to such Parish, Mission or Diocesan School only. *No adverse claim to such*

beneficial interest by the Corporation, by the Diocese, or by The Episcopal Church of the United States of America is acknowledged, but rather is expressly denied. [emphasis added]

V.

Intervening Congregations would show that Third-Party Defendants EDWIN F. GULICK, JR., MARGARET MIEULI, WALT CABE, ANNE T. BASS, J. FREDERICK BARBER, CHRISTOPHER JAMBOR, DAVID MADISON, KATHLEEN WELLS, ROBERT M. BASS, JAMES HAZEL, CHERIE SHIPP, JOHN STANLEY, GRACE WORRELL and THE EPISCOPAL CHURCH have asserted and/or are asserting claims to the title of real property that are inconsistent with the express provisions of the Constitution and Canons of the Episcopal Diocese of Fort Worth and adverse to the beneficial ownership interests of the Intervening Congregations in and to such real property. Accordingly, Intervening Congregations are entitled to a Declaratory Judgment establishing their rights as beneficiaries of the trust relationship established by the Constitution and Canons of the Episcopal Diocese of Fort Worth with respect to the real property in question.

VI.

Intervening Congregations have been compelled to engage the undersigned attorneys to present, prepare, try and appeal, if necessary, this cause of action in order to protect and preserve their legal and equitable rights. Intervening Congregations would show that equity and justice require that they be awarded all costs of this cause of action and all reasonable and necessary attorney's fees incurred in the prosecution of this action in accordance with §37.009, CPRC, for which costs and attorney's fees Intervening Congregations hereby sue.

WHEREFORE, PREMISES CONSIDERED, Intervening Congregations pray that the parties to this action take notice of this Plea in Intervention, and that upon final hearing hereof, Intervening Congregations have and recover Declaratory Judgment that their beneficial ownership of the real property set aside for their use and benefit is superior to any claims asserted by Third-Party Defendants, and Intervening Congregations further pray for judgment of and against Third-Party Defendants for all reasonable and necessary attorney's fees incurred by Intervening Congregations in the prosecution of this action, all costs of suit, post-judgment interest as provided by law, and such other and further relief, general or special, at law or in equity, to which Intervening Congregations may show themselves justly entitled to receive.

Respectfully submitted,

THE WEAVER LAW FIRM, P.C.

By: _____
R. David Weaver
1521 N. Cooper St., Suite 710
Arlington, Texas 76011
(817) 460-5900
Fax (817) 460-5908
SBN 21010875

ATTORNEYS FOR INTERVENING
CONGREGATIONS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Original Plea in Intervention has been delivered to all counsel of record in this cause, listed below, via facsimile and First Class Mail, this ____ day of November, 2009.

J. Shelby Sharpe, Esq.
Sharpe Tillman & Melton
6100 Western Place, Suite 1000
Fort Worth, TX 76107
Facsimile 817-332-6818

Sandra Liser, Esq.
Naman Howell Smith & Lee, LLP
100 E. 15th St., Suite 320
Fort Worth, TX 76102
Facsimile 817-878-2573

David Booth Beers, Esq.
Heather H. Anderson, Esq.
Goodwin Proctor, LLP
901 New York Avenue, N.W.
Washington, D.C. 20001
Facsimile 202-346-4444

Kathleen Wells, Esq.
P.O. Box 101174
Fort Worth, TX 76185-0174
Facsimile 817-332-4740

Jonathan D.F. Nelson, Esq.
Jonathan D.F. Nelson, P.C.
1400 W. Abram Street
Arlington, TX 76013-0174
Facsimile 817-861-4685

R. David Weaver

NOTICE PURSUANT TO TEXAS PROPERTY CODE §123.003

I certify that a true and correct copy of the foregoing Plea in Intervention has been forwarded to The Hon. Gregg Abbott, Attorney General of the State of Texas, P.O. Box 12548, Austin, Texas 78711-2548, pursuant to §123.003 of the Texas Property Code, via certified mail, return receipt requested, this ____ day of November, 2009.

R. David Weaver