

DISTRICT COURT, EL PASO COUNTY, COLORADO
Court Address: 270 S. Tejon (80903), P.O. Box 2980
Colorado Springs, CO 80901
Phone Number: (719) 448-7577

Plaintiff and Counterclaim Defendant:

GRACE CHURCH & ST. STEPHEN'S, a Colorado nonprofit corporation,

v.

Defendants and Counterclaimants:

THE BISHOP AND DIOCESE OF COLORADO, a Colorado nonprofit corporation; and THE EPISCOPAL CHURCH,

and

Third Party Counterclaimants:

THE DIOCESE OF COLORADO IN THE EPISCOPAL CHURCH; GRACE AND ST. STEPHEN'S EPISCOPAL CHURCH; and GRACE CHURCH AND ST. STEPHEN'S, a Colorado religious society and corporation,

v.

Counterclaim Defendants:

REV. DONALD ARMSTRONG III; CHARLES C. BROWN; DARELEEN SCHAFFER; JON WROBLEWSKI; MARGE GOSS; CRAIG WHITNEY; ROBERT C. BALINK; CHAD FRIESE; MICHAEL BARBER; KEITH STAMPER; JASON HUNTLEY; EMILY KLINE; RIP HOLLISTER; JACK GLORIOD; EDWIN J. MONTGOMERY, JR.; KEVIN DIBBLE; SUSAN SPENCER; ALAN CRIPPEN II; ST. STEPHEN'S CLASSICAL ACADEMY, a Colorado nonprofit corporation; and GRACE CHURCH & ST. STEPHEN'S, a Colorado unincorporated nonprofit association.

Additional Counterclaim Defendant:

RT. REV. ROBERT J. O'NEILL.

• COURT USE ONLY •

Case No. 2007CV1971

Div.: COM5

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| Attorneys for Episcopal Church Entities: L. Martin Nussbaum, Atty. Reg. #15370 ROTHGERBER JOHNSON & LYONS LLP 90 South Cascade Avenue, Suite 1100 Colorado Springs, CO 80903 Phone No.: (719) 386-3000 Fax No.: (719) 386-3070 E-mail: mnussbaum@rothgerber.com | |
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| EPISCOPAL CHURCH ENTITIES' ANSWER TO PLAINTIFF'S AMENDED COMPLAINT (Commercial Docket) |
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The Episcopal Church Entities, through Rothgerber Johnson & Lyons LLP, answer plaintiff's Amended Complaint as follows:

1. The Episcopal Church Entities admit that third party counterclaimant, Grace Church and St. Stephen's, is a Colorado religious society and corporation that holds legal title to most of the disputed Property and deny the remaining allegations of paragraph 1.
2. The Episcopal Church Entities admit that the Bishop and Diocese of Colorado is a corporation organized under Colorado law and deny the remaining allegations of paragraph 2.
3. The Episcopal Church Entities admit that the Episcopal Church is an unincorporated association with its principal place of business in New York City and deny the remaining allegations of paragraph 3.
4. The Episcopal Church Entities admit that the third party counterclaimants are represented by Rothgerber Johnson & Lyons LLP and deny the remaining allegations of paragraph 4.
5. The Episcopal Church Entities deny the allegations of paragraph 5.
6. The Episcopal Church Entities admit that El Paso County venue is proper and deny the remaining allegations of paragraph 6.
7. The Episcopal Church Entities deny the allegations of paragraphs 7-12, 14-16, 18-20, 22, and 26.
8. The allegations of paragraphs 23, 27, and 28 describe plaintiff's requested relief to which no response is required. To the extent a response is necessary, the allegations are denied.

9. There is no paragraph 24 in plaintiff's Amended Complaint.

10. As regards the allegations of paragraphs 13, 17, 21, and 25, the Episcopal Church Entities incorporate their previous answers.

Affirmative Defenses

1. Plaintiff's allegations fail to state a claim upon which relief may be granted.

2. In determining the identity of ecclesiastical office holders and members of any canonical entity of the Episcopal Church, its dioceses, parishes, or missions, or the corporations affiliated with such canonical entities, the Court's subject matter jurisdiction is limited to deferring to the ecclesiastical hierarchy as articulated in Levitt v. Calvary Temple of Denver, 33 P.3d 1227, 1230 (Colo. App. 2001); Serbian Eastern Orthodox Diocese for the United States of America and Canada v. Milivojevich, 426 U.S. 696 (1976).

3. The scope of the Court's subject matter jurisdiction and methodologies for adjudicating the Property ownership issues in this case are defined and limited by The Bishop and Diocese of Colorado v. Mote, 716 P.2d 85 (Colo. 1986) and Jones v. Wolf, 443 U.S. 595 (1979).

4. Plaintiff has neither authority, capacity, nor standing to sue and is not a real party in interest.

5. Plaintiff has failed to organize itself as required under the 1973 Colorado Nonprofit Corporation Code and, as a result, has neither a rector, a clerk, wardens, directors, officers, or members and cannot act or otherwise manage its affairs.

6. Plaintiff has no interest whatsoever in the disputed Property.

7. Plaintiff or its co-conspirators have made admissions or judicial admissions estopping it from taking the positions it now takes.

8. Plaintiff's claims as regards the Property are barred by the Statute of Frauds.

WHEREFORE the Episcopal Church Entities respectfully request that the Court deny plaintiff's requested relief, dismiss plaintiff's amended complaint, and provide the relief requested in the Episcopal Church Entities First Amended Complaint in Intervention.

Respectfully Submitted,

ROTHGERBER JOHNSON & LYONS LLP

/s/

L. Martin Nussbaum Atty. Reg. # 15370
Attorneys for Episcopal Church Entities

CERTIFICATE OF SERVICE AND MAILING

On April 1, 2008, I served, via LexisNexis File & Serve, a copy of the foregoing to:

J. Gregory Walta
J. Gregory Walta, P.C.
105 E. Moreno Avenue, Suite 101
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Bruce M. Wright
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Law Office of Dennis W. Hartley, P.C.
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Colorado Springs, CO 80906

Brent E. Rychener
Holme Roberts & Owen LLP
90 South Cascade Avenue, Suite 1300
Colorado Springs, CO 80903

On April 1, 2008, I mailed a copy of the foregoing to:

Chad Friese, Junior Warden
Grace Church & St. Stephen's,
a Colorado unincorporated nonprofit association
c/o Argent Company
511 N. Tejon, Suite 100
Colorado Springs, CO 80903

Adam Chud
Goodwin Proctor
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/s/

Karen Lutterschmidt