

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 STAMPHER; 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.

Attorneys for Episcopal Church Entities:

• COURT USE ONLY •

Case No. 2007CV1971

Div.: COM5

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: <a href="mailto:mnussbaum@rothgerber.com">mnussbaum@rothgerber.com</a>	
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<b>EPISCOPAL CHURCH ENTITIES' ANSWER TO ST. STEPHEN'S CLASSICAL ACADEMY'S COUNTERCLAIMS (Commercial Docket)</b>
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The Episcopal Church Entities, through Rothgerber Johnson & Lyons LLP, answer St. Stephen's Classical Academy's Counterclaims as follows:

Answer

1. The Episcopal Church Entities admit that St. Stephen's Classical Academy was incorporated on August 22, 2007. The Secessionist Congregation is the sole member of the corporation. They deny all other allegations of paragraph 1.

2. The Episcopal Church Entities admit that they have sued St. Stephen's Classical Academy, in part, because it has taken unlawful possession of some of the real Property in dispute and has done so with permission of the Secessionist Congregation. They deny all other allegations of paragraph 2.

3. The Episcopal Church Entities deny paragraphs 3 and 4.

Affirmative Defenses

1. St. Stephen's Classical Academy has failed to state a claim upon which relief may be granted.

2. St. Stephen's Classical Academy's abuse of process counterclaim is barred by the First Amendment right to petition government for redress of grievances as provided in Protect Our Mountain Environment, Inc. v. District Court, 677 P.2d 1361 (Colo. 1984).

3. St. Stephen's Classical Academy's counterclaim contravenes First Amendment doctrine requiring the Court to determine 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 by 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).

4. St. Stephen's Classical Academy's counterclaim contravenes First Amendment doctrine regarding the scope of the Court's subject matter jurisdiction and the acceptable methodology for adjudicating the Property ownership issues in this case as articulated in The Bishop and Diocese of Colorado v. Mote, 716 P.2d 85 (Colo. 1986) and Jones v. Wolf, 443 U.S. 595 (1979).

5. St. Stephen's Classical Academy's and their co-conspirators have made admissions or judicial admissions estopping it from taking the positions it now takes.

6.. St. Stephen's Classical Academy's counterclaim as regards the Property is barred by the Statute of Frauds.

Respectfully Submitted,

ROTHGERBER JOHNSON & LYONS LLP

/s

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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  
Colorado Springs, CO 80903

Bruce M. Wright  
Flynn, Wright & Fredman LLC  
111 South Tejon Street, Suite 202  
Colorado Springs, CO 80903-2246

Dennis W. Hartley  
Law Office of Dennis W. Hartley, P.C.  
1749 S. Eighth Street, Suite 5  
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  
901 New York Avenue NW  
Washington, D.C. 20001

/s/

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Karen Lutterschmidt