

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 Most Rev. Robert J. O'Neill and

• COURT USE ONLY •

Case No. 2007CV1971

Div.: COM5

The Diocese of Colorado in the Episcopal Church: 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>ANSWER TO INDIVIDUAL COUNTERCLAIM DEFENDANTS' COUNTERCLAIM (Commercial Docket)</b>
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The Most Rev. Robert J. O'Neill ("Bishop O'Neill") and The Diocese of Colorado in the Episcopal Church ("Diocese"), through Rothgerber Johnson & Lyons LLP, answer the Individual Counterclaim Defendants' counterclaims as follows:

Answer

1. Bishop O'Neill and the Diocese deny the allegations of paragraph 1.
2. Bishop O'Neill and the Diocese admit that there is a document entitled "articles of incorporation" stating a purpose of being a church for the service and worship of God and denies the other allegations of paragraph 2.
3. Bishop O'Neill and the Diocese deny the allegations of paragraph 4.
4. Bishop O'Neill and the Diocese admit that Bishop O'Neill sent the November 19, 2007 letter referenced in paragraph 5 to some of the individual counterclaim defendants and deny the other allegations in paragraph 5.
5. Bishop O'Neill and the Diocese deny the allegations of paragraphs 6-10.

Affirmative Defenses

1. The Individual Counterclaim Defendants' allegations fail to state a claim upon which relief may be granted.
2. The Individual Counterclaim Defendants' 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. The Individual Counterclaim Defendants' 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. The Individual Counterclaim Defendants' 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. The Individual Counterclaim Defendants and their co-conspirators have made admissions or judicial admissions estopping it from taking the positions they now take.

6.. The Individual Counterclaim Defendants' counterclaim as regards the Property is barred by the Statute of Frauds.

Respectfully Submitted,

ROTHGERBER JOHNSON & LYONS LLP

/s L. Martin Nussbaum

L. Martin Nussbaum Atty. Reg. # 15370

Attorneys for The Most Rev. Robert J. O'Neill and  
The Diocese of Colorado in the Episcopal Church

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.  
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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,  
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Adam Chud  
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/s/  
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Karen Lutterschmidt