

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 The Episcopal Church
Brent E. Rychener, Atty. Reg. # 15372

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Case No. 2007CV1971

Div.: COM5

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**THE EPISCOPAL CHURCH'S MOTION FOR LEAVE TO FILE
SUR-REPLY BRIEF IN OPPOSITION TO PLAINTIFF'S
CROSS-MOTION FOR SUMMARY JUDGMENT**

Defendant the Episcopal Church hereby moves for leave to file a sur-reply brief in opposition to plaintiff's cross-motion for summary judgment. The grounds in support of this motion are as follows:

1. On February 22, 2008, the Episcopal Church moved for summary judgment herein. Plaintiff filed a cross-motion for summary judgment on March 11, 2008. That cross-motion merely incorporated by reference plaintiff's voluminous summary judgment briefs and supporting papers that it has filed previously in this action.
2. On March 24, 2008, the Episcopal Church filed a combined reply in support of its motion for summary judgment and opposition to plaintiff's cross-motion for summary judgment.
3. On April 15, 2008, plaintiff filed a reply brief in support of its cross-motion for summary judgment. That brief makes several arguments, virtually none of which plaintiff raised in its earlier summary judgment submissions. Those arguments include seeking to invoke two

Colorado statutes as a basis for avoiding the Church and the Diocese's property rules; claiming that a letter from a Vice-Chancellor of the Diocese bears on this dispute; attempting to distinguish the recent decision in *St. James Church v. Episcopal Diocese of Long Island*, No. 22564/05 (Mar. 12, 2008), by quoting it out of context; and arguing for the application of *In re Multidistrict Episcopal Church Litigation*, No CL-2007-024874 (Cir. Ct. Fairfax County, Virginia Apr. 3, 2008), which was decided after the Episcopal Church filed its summary judgment opposition brief.

4. Because plaintiff's reply brief raises several new issues that the Episcopal Church has not yet had an opportunity to address, the Court should permit the Episcopal Church to file a short sur-reply in opposition to plaintiff's cross-motion for summary judgment.

5. The Episcopal Church's proposed sur-reply, which spans less than 5 pages of text, is attached as Exhibit A hereto.

6. The Diocese of Colorado has consented to this request. Plaintiff and the counterclaim defendants have refused to provide their consent.

Respectfully submitted this 30th day of April, 2008.


s/ Signature on file

Brent E. Rychener, Atty. Reg. # 15372

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Counsel for the Episcopal Church

CERTIFICATE OF SERVICE

I certify that on this 30th day of April, 2008, a true and correct copy of the foregoing **THE EPISCOPAL CHURCH'S MOTION FOR LEAVE TO FILE SUR-REPLY BRIEF IN OPPOSITION TO PLAINTIFF'S CROSS-MOTION FOR SUMMARY JUDGMENT** was served, via LexisNexis file and serve as follows:

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