



August 31, 2015

A Report to the Congregation on the Status of the Declaratory Judgment Action with Mission Presbytery

The Litigation Committee, consisting of Dr. Clayton Hudnall, Boxy Hornberger, Dr. Dirk DeKoch and Dr. Tripp Stuart has authorized the following report to the congregation on the status of the recent hearing on the temporary injunction. The report was prepared by Kent Krause, Lloyd Lunceford and David West, Counsel First Presbyterian Church.

As you know, the trustees of First Presbyterian Church authorized the filing of a declaratory judgment action asking a court of law to determine who has the ultimate right to determine the use and control of the church's property and in particular to determine whether the PC(USA) claim of some beneficial interest in FPC's property is valid under Texas law.

As you may also know, in order to give the court an opportunity to rule on this issue, FPC has asked a state district court judge to extend legal protection of FPC's property pending the outcome of a lawsuit between FPC and Mission Presbytery by preventing Mission Presbytery, the district representative of the PC(USA), from interfering with FPC's ownership, use, control or disposition of its property, including real estate, personal property or financial assets, and appointing an administrative commission or committee to assume jurisdiction over FPC's governance or control of its property.

FPC initially obtained a temporary restraining order in May to safeguard the congregation's ownership and use rights to church property during litigation.

More recently, Mission Presbytery and six members of FPC (Ed and Paula Bondurant; Bob and Anna Wise; Miriam Ellison and Don Drummond or "Intervenors") filed a counter-claim against FPC asking the Court to create a "constructive charitable purpose trust" declaring that FPC's property is somehow forever restricted for use as only a Presbyterian Church (USA) church.

While Mission Presbytery and the Intervenors agreed, for purposes of the hearing, that FPC had a probable right of success on its declaratory judgment claim, they argued instead that the judge should impose a "constructive charitable trust" on the property of FPC and declare that FPC's property is restricted to only PC(USA) authorized use. FPC vigorously denied such a "trust" claim existed or applied to FPC.

The hearing on these requests was held on August 26-27 before The Honorable Judge John Gabriel. The Judge took the matter "under advisement" to review the evidence and law and indicated he expects to issue a decision in approximately two weeks.