

imminent harm to Intervenors, the Intervenors are taking the Court up on its wise invitation, and file this Emergency Motion for reconsideration.

On the evening of October 12, 2015, the FPC session approved action that will move the entire congregation to a vote to disaffiliate from PC(USA) and to join another denomination. Exh. A (Affidavit of Bob Wise) ¶ 2-4; Exh. A-1 (FPC Letter to Members). This is the exact harm that Intervenors are seeking to prevent in this lawsuit, *and* the exact action that FPC represented to this Court that FPC would not take. Imminent harm to Intervenors is now conclusively established, and this Court should reconsider its finding of no imminent harm in regard to the denial of Intervenors' Application for Temporary Injunction.

To prevent FPC from following through with action that FPC previously represented to this Court that it had no intention to take, Intervenors hereby request that this Court take the following action:

1. Reconsider its denial of Intervenors' Application for Temporary Injunction in light of the new evidence discussed below;
2. Grant Intervenors' Temporary Injunction; and
3. Take these actions **by 1:00 p.m. on October 22, 2015** to (i) allow FPC time to respond to this Emergency Motion in writing, and (ii) prevent imminent harm to Intervenors.

At the Temporary Injunction hearings in late August, FPC consistently represented to the Court that it had no intention to disaffiliate with PC(USA) so that it could use its property for the purpose of another denomination. After the hearing, FPC filed briefing with this Court that included the following language:

“there is no evidence that FPC has even considered using its property for the benefit of another denomination.”

Plaintiff's Reply Brief to Court-Ruling Roadmap at 6 (emphasis in original).

In a complete about-face from the above-quoted representation to this Court, on October 12, 2015, FPC affirmatively stated and established its intent to disaffiliate from PC(USA) and join another denomination. Exh. A ¶ 2-4; Exh. A-1 (“on October 12, 2015, the Session of FPC voted to recommend to the congregation that we leave the PC(USA) and join the Covenant Order of Evangelical Presbyterians (ECO”). Specifically, FPC intends to hold an informational meeting regarding leaving PC(USA) for another congregation on October 25, 2015, and then to have a congregational vote on the matter on November 1, 2015. Exh. A ¶ 2-4; Exh. A-1. Intervenor Bob Wise became personally aware of this through (1) materials published on FPC’s website and (2) by reading an article in the San Antonio Express News about FPC’s impending action.¹ Exh. A ¶ 4.

FPC voting² to use its property for the purpose of any denomination other than PC(USA) (1) is the *exact* harm that Intervenors are seeking to prevent through their application for Temporary Injunction and (2) shows the *exact* intent that FPC represented to this Court as not existing. Not only does FPC’s impending action destroy the status quo in this case, it effectively works as an end-around of the entire injunctive process and would completely abrogate the necessity of a trial on the merits. FPC’s upcoming vote is a prime example of why temporary injunctions must be imposed in some lawsuits, and FPC should not be allowed to avoid a trial in open court through back-door procedures specifically designed to harm Intervenors and deprive this Court of jurisdiction over the subject matter in dispute.

¹ Intervenors also note for the Court that the FPC Session is attempting to take this action even though it has no power to do so under PC(USA) rules and regulations. FPC is simply ignoring the procedures that it agreed to follow when it joined PC(USA). This Court should not allow FPC to continue to write its own rules while ignoring the ecclesiastical procedures to which it has agreed. FPC simultaneously asks this court to grant it ecclesiastical protections, yet fails to follow fundamental ecclesiastical rules by which it is bound.

² The Court should note that, due to a low quorum requirement of 10% of the membership, as little as 5% plus one vote (i.e. approximately 106 votes of a 2,100 member church), could decide the fate of the entire congregation. For this reason, the risk of imminent harm due to the vote being scheduled is even more important. *See* Defendant’s and Intervenors’ Ex. 23 at FPC 001223 from the August 26-27, 2015 Temporary Injunction Hearing.

This Court should not allow FPC to represent one thing to the Court, wait for the Court to act in reliance on that representation, and then do the exact thing that FPC represented it would not do. If there was any doubt that FPC intended to imminently harm Intervenors by using its property for the purpose of another denomination, such imminent harm is affirmatively established by FPC's actions *hours* after this Court ruled on the parties' applications for Temporary Injunction. This Court should ensure that the status quo as to the property at issue will remain in place for the duration of this lawsuit (that is, that it will not be used for the purposes or benefit of a denomination other than PC(USA), which is the purpose that existed when a material portion of donations were made), and FPC has demonstrated that it will not maintain such status quo absent a Court ruling.

As time is of the essence, Intervenors request that this Court rule in this Motion and grant Intervenors' Application for Temporary Injunction by 1:00 p.m. on Thursday, October 22, 2015. A ruling later than that time would permit FPC to move forward with the imminent and irreparable harm it intends to inflict upon Intervenors and all other similarly-situated donors. In the interest of time and expense, Intervenors further request that the Court take this action without holding an additional oral hearing on this matter, but rather by considering only the submission(s) of the parties. To facilitate that, Intervenors have filed this Emergency Motion as soon as possible to give FPC sufficient time to address and respond to the new evidence presented herein.

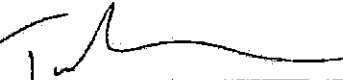
II. PRAYER

Intervenors hereby request that this Court grant this Emergency Motion, grant Intervenors' Application for Temporary Injunction, and pray for any and all other relief to which they may be justly entitled.

Respectfully submitted,

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**ATTORNEYS FOR MISSION
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forwarded to the following attorneys via e-service and electronic mail on this 16th day of October, 2015:

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EXHIBIT A

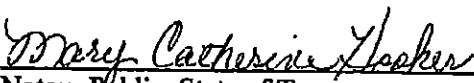
3. Also on October 13, 2015, I read a news article regarding FPC's intent to leave PC(USA) on the San Antonio Express News website (<http://www.mysanantonio.com>). A true and correct copy of that article is attached to this affidavit as Exhibit A-2.

4. Through Exhibits A-1 and A-2, I have become personally aware that FPC intends to leave PC(USA) and affiliate with a different denomination, the Covenant Order of Evangelical Presbyterians ("ECO"). As discussed at length during the hearing on Intervenors' Application for Temporary Injunction, such an action will fundamentally alter the purpose for which I have personally made donations to FPC."



Bobbie Joe Wise, Jr.

Sworn to and subscribed before me the undersigned authority on this the 15th day of October, 2015.



Notary Public, State of Texas



EXHIBIT A-1



October 13, 2015

Dear Brothers and Sisters in Christ,

The members of your Session have been in prayerful discussion about the issues facing First Presbyterian Church San Antonio (FPC) in relationship to our denomination, the Presbyterian Church (USA) or PC(USA).

FPC has been a witness to the Lord Jesus Christ in San Antonio, the State of Texas, and indeed, throughout the world since 1846—claiming the saving grace of Jesus Christ and proclaiming the Scriptures as God's reliable and authoritative Word. The vitality of our ministries, indeed our worship, witness, fellowship and work start and end with these core commitments.

In prayerfully seeking wisdom, we have considered these core questions:

- What would Christ have us do as we seek to fulfill His purpose at 4th and Alamo?
- How can we best live out our Reformed faith and continue to be Presbyterian?
- What next step will best ensure the future mission and ministry of FPC?

Reaching answers to these questions included prayer, your input in the church survey, complex analysis of ecclesiastical procedures and denominational alternatives, and difficult questions of civil and property law that vary by state, by presbytery and by church. Ultimately, after years of prayer, discussion, and input from our members, on October 12, 2015, the Session of FPC voted to recommend to the congregation that we leave the PC(USA) and join the Covenant Order of Evangelical Presbyterians (ECO)—a rapidly growing Reformed Presbyterian denomination.

We believe our denomination is not what it once was, and it has wandered from its biblical and confessional moorings. We are not alone in this belief. Hundreds of churches have left the PC(USA) in recent years and many others, like FPC, currently are in the process of determining how to respond to denominational changes. Even the Moderator of the PC(USA), Heath Rada, recently acknowledged that conservative churches are considering leaving the denomination because of the theological drift of the past 10 years; concerns over how the PC(USA) will find pastoral candidates who support the orthodox interpretation of Scripture; the denomination's expenditure of funds; and the decline of membership.

These issues have reached 4th and Alamo. We have been losing members over the past three years over denominational issues. If we do nothing, we are concerned this trend will accelerate.

Many churches in Texas and in the country with whom we have had historical ties have joined ECO. In contrast to the theological concerns and membership declines within the PC(USA), we find ECO to be a vibrant, growing Presbyterian denomination which shares this church's historical vision for teaching, evangelism and mission. We feel called to make this move, but this decision ultimately rests with you, the members of our congregation.

(please see reverse)

We encourage you to read carefully the materials we have provided based on our lengthy study. Seek and pray for wisdom regarding your decision in fellowship with others in open and honest dialogue.

As we proceed in these conversations, we also urge you to consider what is best for this church and future generations of members as we look out over the next 50 or even 100 years. We assure you that this decision has not come easily nor has it come quickly, but is the result of considerable prayer, study and deliberation. We recognize that leaving the PC(USA) may appear to be a major milestone. While the issues have become familiar to those of us on the Session, we understand that they may not be as familiar to many of you. For this reason, we have included additional information, denominational comparisons and frequently asked questions (FAQ's) that we identified during our study.

Please note these important upcoming dates:

- **A time for corporate prayer on October 20, 2015 at 5:30 p.m. in the Sanctuary.**
- **An informational meeting with time for questions/discussion: October 25, 12:15 p.m. in the Sanctuary.**
- **A Congregational Meeting to vote on this matter will be: November 1, 12:15 p.m. in the Sanctuary.**

“Therefore if you have any encouragement from being united with Christ, if any comfort from his love, if any common sharing in the Spirit, if any tenderness and compassion, then make my joy complete by being like-minded, having the same love, being one in spirit and of one mind.”

~Philippians 1:1, 2

Yours in Christ,



N. A. Stuart, III, MD, Clerk of Session
On behalf of the Session of First Presbyterian Church of San Antonio

If you have questions, please contact any one of the elders listed below to have a personal conversation about the matters at hand. This is an important time of change in the life of our church.

Class of 2016
Baker, Ron
Crider, Roger
DeKoch, Dirk
Johnson, Buddy
Maynard, Martha
Ray, Tom
Terry, Kelley
Walthall IV, Walter

Class of 2017
Biggs, Brian
Bunn, Chuck
Figueroa, Sheila
Lyons, Bill
Meadows, Ellen
Shelton, Rob
Stephens, Barbara Anne
Tichy, Elizabeth

Class of 2018
Buchek, Tres
Carter, Dana
McCaleb, Ben
Park, John
Patton, Frank
Romano, Lady
Spencer, George
West, David

EXHIBIT A-2

First Presbyterian making move to leave its denomination

By Elaine Ayala | October 13, 2015 | Updated: October 13, 2015 8:04pm

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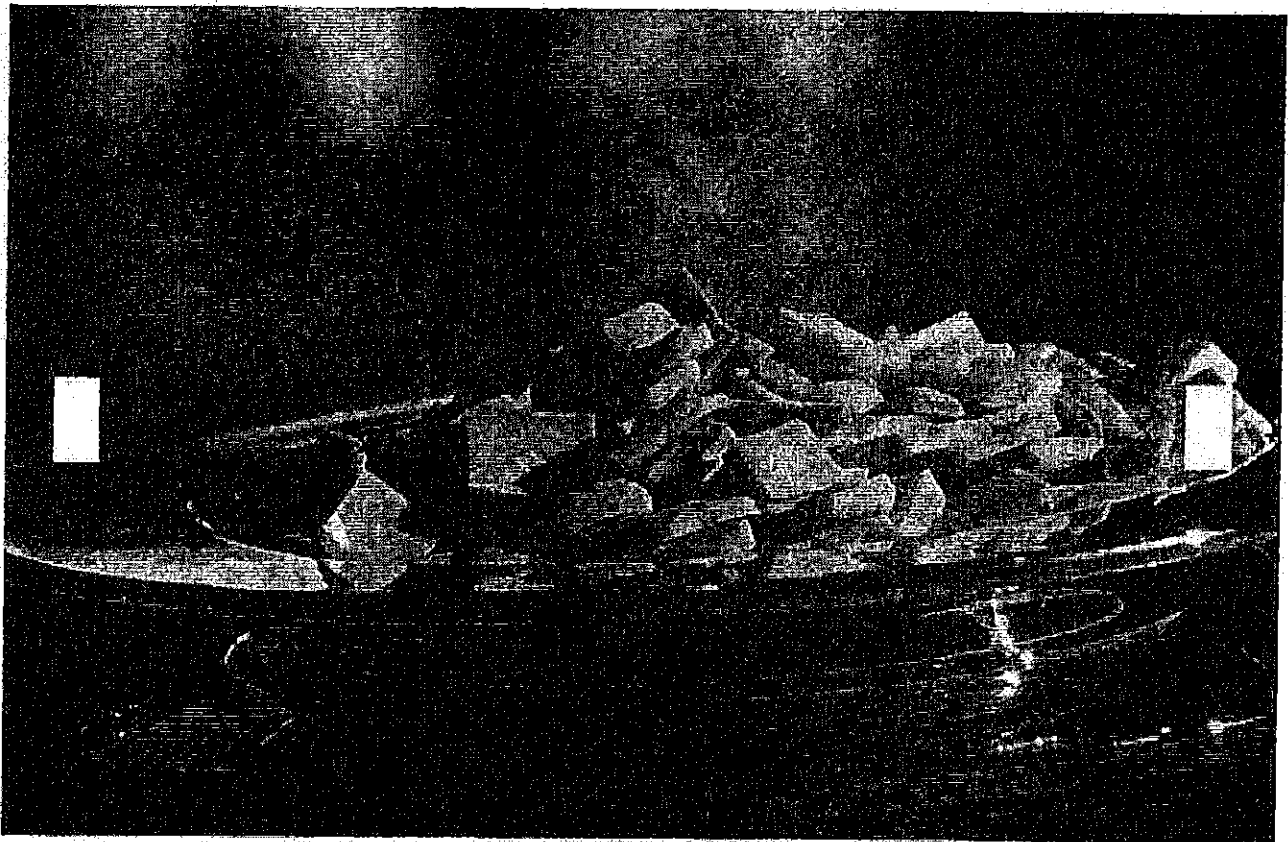


Photo: BILLY CALZADA, STAFF / SAN ANTONIO EXPRESS-NEWS

IMAGE 1 OF 2

Communion bread at First Presbyterian Church in San Antonio on Thursday, March 29, 2012. Billy Calzada / San Antonio Express-News

Leaders of First Presbyterian Church, the oldest Protestant church in San Antonio and one embroiled in a legal battle over its property with its regional council, Mission Presbytery, voted Monday night to recommend that it leave the Presbyterian Church (USA).

The church's "session," or elders, voted 21-2 for "disaffiliation," pointing to its denomination's progressive social agenda and its drift from "the authority of Scripture," officials said. The decision must be voted on by at least 10 percent of the congregation's 2,100 members. A vote was set for Nov. 1 and an informational meeting on Oct. 25.

Church leaders also recommended that the downtown church join a relatively new denomination, the Covenant Order of Evangelical Presbyterians, established in 2012 following the Presbyterian Church (USA)'s decision to allow gay clergy.

Also Monday, state District Judge John Gabriel denied a request for a temporary injunction by First Presbyterian, which had sought an order to prevent Mission Presbytery from asserting control of any of its property while it decides whether to leave. But the judge also denied the Presbytery's request, joined by a group of intervenors, for an order preventing the church from claiming all its property if it does leave.

Church leaders acknowledged their recommendations were based, in part, on their denomination's decision to change the definition of marriage but said that was not the only concern.

"We believe our denomination is not what it once was, and it has wandered from its biblical and confessional mooring," session members wrote in a letter to the congregation.

Church leaders expressed “grave concerns” about First Presbyterian’s declining membership, which it pegged to the denomination’s “progressive Christianity,” specifically its political activism and views on immigration, gun control, abortion rights and support of boycotts against companies that do business with Israel.



Elaine Ayala

Minority Affairs
Reporter, Latino Life

Blogger, Metro Columnist | San
Antonio Express-News

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