

2. Counter-Defendant, First Presbyterian Church of San Antonio ("FPC") is a non-profit corporation organized under the laws of the state of Texas and located in San Antonio, Texas. FPC has previously appeared in this lawsuit.

3. Intervenors Ed Bondurant, Paula Bondurant, Bob Wise, Anna Wise, Miriam Oglesbee Ellison, and Don Drummond are residents of San Antonio, Texas, and members of and/or contributors to FPC.

II. JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction of this action because the amount in controversy exceeds the minimal jurisdiction limits of this Court, and the subject matter is authorized by Chapter 37 of the Texas Civil Practice & Remedies Code.

5. Venue is proper in Bexar County under Section 15.002 of the Civil Practice and Remedies Code because the FPC's principal place of business is located in Bexar County and all or a substantial part of the occurrence giving rise to this litigation occurred in Bexar County.

III. STATEMENT OF FACTS

6. Counter-Defendant FPC initiated this lawsuit against Mission on May 12, 2015 by filing Plaintiff's Verified Original Petition for Declaratory Judgment and Application for Temporary Restraining Order and Temporary and Permanent Injunction (hereinafter "FPC's Original Petition").

7. Counter-Defendant FPC is a local congregation of the Presbyterian Church (U.S.A.) ("PC(USA)"). **Exh. B. (W. Poe Affidavit)** ¶ 2. FPC formally joined PC(USA), the national denomination, in 1983. *FPC's Original Petition* ¶ 10. However, for the 100 years prior

to 1983, FPC was a member of Presbyterian Church in the United States ("PCUS"), a legal predecessor to the national denomination. *Id.* ¶¶ 8-9.

8. All members of the national denomination agree to be subject to PC(USA) rules and regulations. **Exh. B ¶ 2.** PC(USA)'s rules and regulations are based on the PC(USA) Constitution, which is divided into two parts: (1) the Book of Confessions and (2) the Book of Order. *Id.* For any given church to be subject to the PC(USA) Constitution, the individual church must be a member of the national denomination. *Id.* That is, all member churches of PC(USA) are subject to the Constitution, and no non-member churches are subject to the Constitution. *Id.*

9. FPC holds title to approximately eighteen parcels of real property, identified in Exhibit 1 to FPC's Original Petition (collectively referred to hereinafter as "FPC's Real Estate"). *FPC's Original Petition* ¶ 80. Further, FPC also owns personal property associated with the management and operation of the church, including but not limited to furniture, electronic equipment, vehicles, maintenance supplies, fixtures, telephone equipment, and appliances (collectively hereinafter referred to as "FPC's Other Property"). By its Original Petition, FPC has indicated a clear intent to leave PC(USA) imminently without sufficient regard to PC(USA)'s interest in FPC's Real Estate and Other Property. **Exh. B ¶ 6; also see, e.g., FPC's Original Petition** ¶¶ 36 (claiming FPC holds its property unencumbered by any trust for the use and benefit of PC(USA)), 81 (seeking to quiet title to FPC's Real Estate), 85 (request for permanent injunction from PC(USA) interfering with FPC property).

10. Mission is a district administrative unit of PC(USA). **Exh. B ¶ 2.** Mission is responsible for ensuring that local congregations adhere to the PC(USA) Constitution. *FPC Original Petition* ¶ 11. Mission is also charged with representing the interests of its member

congregations and individual church members, which includes the members of FPC as a PC(USA) church. **Exh. B ¶ 3.**

11. Intervenors are all members and/or regular attendees of FPC who have contributed financially to the church over the past several years. *See Exh. C (E. Bondurant Affidavit); Exh. D (P. Bondurant Affidavit); Exh. E (B. Wise Affidavit); Exh. F (A. Wise Affidavit); Exh. G (M. Ellison Affidavit); Exh. H (D. Drummond Affidavit).*

12. FPC's Articles of Incorporation dated November 18, 1988 state that FPC is a non-profit corporation and include the following language under the section entitled "PURPOSES":

The purposes for which the corporation is formed is in the support of public worship and the worship of the Almighty God; **instruction and education according to the Holy Bible, the Book of Confessions and the Book of Order of the Presbyterian Church (U.S.A.),** or any successor; service to others; and such other religious, benevolent, charitable, and educational activities as may be appropriate. Incidental thereto, **such corporation shall have authority to do any and all things necessary or proper to the operation of a church, as may be permitted by the Constitution of the Presbyterian Church (U.S.A.),** or any successors, and permitted under the laws of the United States and the State of Texas.

Exh. A (FPC Articles of Incorporation) at 1 (emphasis added). Under the section entitled "CONDUCT OF BUSINESS," FPC's articles of incorporation state:

All business of the corporation shall be conducted and transacted commensurate with the laws of the United States and the State of Texas **and according to the rules and regulations of the Presbyterian Church (U.S.A.),** or its successor, as prescribed by the General Assembly, by the Synod, and by the Presbytery to which the corporation belongs, **according to the principles and doctrines of such demonination [sic] as enunciated in its Book of Confessions and Book of Order.**

Id. at 4 (emphasis added).

13. In early 2015, FPC amended their articles of incorporation to remove a substantial portion of the language above. *FPC's Original Petition ¶¶ 30-31.* However, at all times between 1988 and the amendment, FPC's corporate purpose was expressly stated to be that as

listed in the above paragraph. **Exh. A** at 1. Further, at all prior times, as admitted in FPC's Petition, FPC was a member church of either PC(USA) or denominations that were legal predecessors of PC(USA) (i.e. PCUS that reunited and merged into PC(USA) in 1983), and held itself out to the public as such. *FPC's Original Petition* ¶¶ 8-9.

14. While FPC has been a member congregation of PC(USA), PC(USA) and Mission have provided substantial financial benefits to FPC. These financial benefits include, but are not limited to:

- (a) FPC using PC(USA)'s name, affiliation, and registered mark to recruit members, donors and staff, including, for example: FPC's newsletters and website have regularly used the PC(USA) seal, and all of FPC's pastors since 1983 have been hired through Mission via the Presbyterian system overseen by Mission's Committee on Ministry, including the time, effort, and periodic reimbursement of various members of that committee; and
- (b) FPC and its pastors participating in the Board of Pensions (the retirement and medical plan of the PC(USA), overseen and administered by PC(USA) personnel who are paid by the PC(USA)) and using those benefits to attract employees.

Exh. B ¶ 4 (collectively hereinafter referred to as "Mission's Donations to FPC"). All of Mission's Donations to FPC were made for the purpose of PC(USA). *Id.* ¶ 5.

15. While FPC has been a member congregation of PC(USA), Intervenors have each contributed to FPC as follows:

- (a) Intervenor Ed Bondurant (with his spouse, Paula Bondurant) donated approximately \$94,247.48 to FPC. **Exh. C** ¶ 2.
- (b) Intervenor Paula Bondurant (with her spouse, Ed Bondurant) donated approximately \$94,247.48 to FPC. **Exh. D** ¶ 2.
- (c) Intervenor Bob Wise (with his spouse Anna Wise) donated approximately \$20,200.00 to FPC. **Exh. E** ¶ 3.
- (d) Intervenor Anna Wise (with her spouse Bob Wise) donated approximately \$20,200.00 to FPC. **Exh. F** ¶ 3.

- (e) Intervenor Miriam Oglesbee Ellison donated approximately \$29,000.00 to FPC. **Exh. G ¶ 3.**
- (f) Intervenor Don Drummond donated approximately \$137,000.00 to FPC. **Exh. H ¶ 3.**

(collectively hereinafter referred to as "Intervenors' Donations to FPC"). All of Intervenors' Donations to FPC were made for the purpose of benefitting PC(USA). **Exh. C ¶ 2; Exh. D ¶ 2; Exh. E ¶ 3; Exh. F ¶ 3; Exh. G ¶ 3; Exh. H ¶ 3.**

16. Upon information and belief, FPC also solicited and received donations from a substantial portion of its congregation members while FPC has been a member of PC(USA). Further, upon information and belief, most, if not all, of the donations did not specify any limitation on the purpose of their charitable donation other than the fact that was it intended to be donated to FPC. At all times relevant to the donations referenced in this paragraph, FPC was a member of PC(USA) and/or FPC's corporate purpose was for "instruction and education according to the Holy Bible, the Book of Confessions and the Book of Order of the Presbyterian Church (U.S.A.)," and that incidental to such purpose, FPC only had authority to act as permitted by law and "by the Constitution of the Presbyterian Church (U.S.A.)." **Exh. A at 1.**

17. Upon information and belief, the donations identified in Paragraphs 14 through 16 above have become intermingled and a part of FPC's Real Estate and Other Property. This has happened because the donations have been made over such a long period of time and, upon information and belief, constitute a substantial majority of FPC's annual income (i.e. every donation made between at least 1983 and present). Funds collected by FPC have, upon information and belief, been used by FPC to acquire, operate, maintain, and improve FPC's Real Estate and Other Property. Indeed, this intermingling of donated funds is exactly why FPC seeks a suit to quiet title with this Court. *FPC's Original Petition ¶¶ 80-81.* Thus, a significant

amount of donations have been used to either (1) improve, (2) develop, or (3) maintain FPC's Real Estate and/or purchase and maintain FPC's Other Property.

IV. CAUSES OF ACTION

A. *DECLARATORY JUDGMENT*

18. Paragraphs 1 through 17 are incorporated herein by reference.

19. Mission's and Intervenor's Donations to FPC are subject to a constructive charitable trust that restricts use of such funds for any purpose other than for PC(USA).

20. A constructive trust is an equitable remedy created by the courts to prevent unjust enrichment. *Troxel v. Bishop*, 201 S.W.3d 290, 297 (Tex. App.—Dallas 2006, no pet.). Constructive trusts are a very broad means of redressing wrong in keeping with the basic principles of equity and justice. *Meadows v. Bierschwale*, 516 S.W.2d 125, 131 (Tex. 1974). “[T]here is no unyielding formula to which a court of equity is bound in decreeing a constructive trust, since the equity of the transaction will shape the measure of relief granted.” *Id.*

21. To obtain a constructive trust, the proponent must prove: (1) breach of a special trust, fiduciary relationship, or actual fraud; (2) unjust enrichment of the wrongdoer; and (3) tracing to an identifiable res. *Id.*

22. Under Texas law, “property transferred unconditionally to a non-profit corporation, whose purpose is established or determined to be a public charity or educational facility, is nevertheless **subject to implicit charitable or educational limitations defined by the donee's organizational purpose.**” *Blocker v. State*, 718 S.W.2d 409, 415 (Tex. App.—Houston [1st Dist.] 1986), writ refused n.r.e. (Jan. 21, 1987) (emphasis added). **Where a donor does not expressly limit a donation at the time of transfer, the transferred property is deemed a gift to the charitable purposes and objects of the corporation.** *Id.* “Because a charitable

corporation is organized for the benefit of the public, and not for private profit or its own benefit, the public has a beneficial interest in all the property of a public benefit, non-profit corporation.”

Id. “**Such a corporation has legal title to the property but may use it only in furtherance of its charitable purposes.**” *Id.* (emphasis added).

23. FPC expressly stated in its Articles of Incorporation that its non-profit corporate purpose was “instruction and education according to the Holy Bible, the Book of Confessions and the Book of Order of the Presbyterian Church (U.S.A.),” and that incidental to such purpose, FPC only had authority to act as permitted by law and “by the Constitution of the Presbyterian Church (U.S.A.)” **Exh. A** at 1. Further, even when FPC’s Articles of Incorporation did not expressly state the above purpose, FPC was nonetheless subject to the PC(USA) Book of Order because FPC was a member congregation of PC(USA). *See FPC’s Original Petition* ¶ 10. All member congregations of PC(USA) are subject to the Book of Order and a congregation is not permitted to be a member of PC(USA) unless the congregation agrees to be governed by the PC(USA) Constitution. **Exh. B** ¶ 2. Therefore, under the *Blocker* standard, every donation that FPC received while it was a member of PC(USA) is subject to a constructive charitable trust for the purpose of PC(USA) unless the donation at issue expressly stated that it was for another purpose or denomination **at the time the donation was made**. Thus, Mission’s and Intervenors’ Donations to FPC are subject to a constructive charitable trust that limits the use of said funds to use for the purpose of PC(USA).

24. Further, all other donations made to FPC while FPC was a member of PC(USA) are subject to the same constructive charitable trust limitation. This limitation automatically applies to all other donations unless a specific donation, **at the time it was made**, expressly stated that it was for a denomination or purpose other than PC(USA). Absent evidence that a given

donation expressly stated that it was for a denomination or purpose other than PC(USA), the use of the donation must be subject to a constructive charitable trust for the purpose of PC(USA). *See Blocker*, 718 S.W.2d at 415.

25. As indicated by filing this lawsuit, FPC has expressed an intention to alter the already-established charitable purpose of the donated funds. Specifically, FPC intends to use the donated funds at issue for a denomination other than PC(USA). **Exh. B ¶ 6**. To allow FPC to retrospectively alter the purpose of the donations discussed above would constitute unjust enrichment in favor of whatever denomination FPC is attempting to join. The funds that FPC collected while a PC(USA) member congregation are all irrevocably subject to a limitation for that particular charitable purpose.

26. Because FPC's expressly stated corporate purpose is to further the instruction and education according to the Book of Order of the PC(USA), subject to the Constitution of the PC(USA), Mission and Intervenors request that this Court issue a declaratory judgment that a constructive charitable trust limits the use of Mission's and Intervenors' Donations to FPC to uses for the purpose of PC(USA), and not for the purpose of any other denomination.

27. Further, for the reasons stated above, Mission and Intervenors request that this Court issue a declaratory judgment that the same constructive charitable trust limits the use of all other donations to FPC made while FPC was a member of PC(USA) to uses for the purpose of PC(USA), and not for the purpose of any other denomination.

28. Finally, Mission and Intervenors request that this Court issue a declaratory judgment that all FPC Real Estate and Other Property are also subject to a constructive charitable trust for the purpose of PC(USA), and not for the purpose of any other denomination, because

such a substantial amount of donations taken in by FPC has been invested and intermingled with FPC's Real Estate and Other Property.

B. TEMPORARY INJUNCTION

29. Paragraphs 1 through 28 are incorporated herein by reference.

30. Mission and Intervenors request that this Court issue a temporary injunction that prohibits FPC from using any funds received via the donations identified in Paragraphs 14 through 16 for a purpose of a denomination that is not PC(USA).

31. Under Texas law, a party is entitled to a temporary injunction to preserve the status quo of the subject matter of this suit pending a judicial resolution of the merits. *Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002). A temporary injunction is an extraordinary remedy and does not issue as a matter of right. *Id.* "To obtain a temporary injunction, the applicant must plead and prove three specific elements: (1) a cause of action against the defendant; (2) a probable right to the relief sought; and (3) a probable, imminent, and irreparable injury in the interim." *Id.* "An injury is irreparable if the injured party cannot be adequately compensated in damages or if the damages cannot be measured by any certain pecuniary standard." *Id.*

32. First, Mission and Intervenors have a cause of action against FPC for the equitable creation of a constructive charitable trust for the benefit of PC(USA). Mission and Intervenors have shown that they each, along with other unnamed congregation supporters, made Donations to FPC over the past several decades. *See* Exh. B ¶ 4; Exh. C ¶ 2; Exh. D ¶ 2; Exh. E ¶ 3; Exh. F ¶ 3; Exh. G ¶ 3; Exh. H ¶ 3. Further, most, if not all, of the donations were *not* made under an express limitation that they were for the purpose of any denomination other than PC(USA). *Id.* As a default rule, because those donations were to a charitable organization (FPC,

a non-profit religious corporation), the donated funds are subject to a constructive charitable trust that limits their use to FPC's stated corporate purpose (for the purpose of PC(USA)). *See Blocker*, 718 S.W.2d at 415. To allow FPC to retrospectively alter the purpose of Mission's, Intervenor's, and other congregation members' donations (the "identifiable res" element) would constitute unjust enrichment.

33. The same constructive charitable trust must also be applied to FPC's Real Estate and Other Property because such a substantial amount of FPC's revenue (i.e. all donations FPC received for decades) are subject to the trust. That revenue has been reinvested in FPC's Real Estate and Other Property over the past several decades, and to allow FPC to use that funding for any denomination other than PC(USA) would constitute unjust enrichment.

34. By the filing of this lawsuit, FPC has affirmatively demonstrated that it has an imminent intention to begin using all of its funds and property in a manner that is not for the benefit of PC(USA). *See, e.g., FPC's Original Petition* ¶¶ 36, 81, and 85. FPC's intentions are also demonstrated by the fact that it scrubbed its Articles of Incorporation earlier this year in an attempt to mask its corporate purpose for the past three decades. *See Id.* ¶¶ 30-31. Further, statements made by and on behalf of FPC officers to representatives of Mission have stated a clear intent on the part of FPC leadership to leave the denomination – taking property with them – as soon as practicable. **Exh. B** ¶ 6. Absent this Court's intervention, FPC will attempt to use funds subject to a constructive charitable trust for a purpose other than that originally determined at the time of donation. Mission and Intervenor's are thus forced to seek injunctive relief with this Court to protect their interests in the funds subject to the constructive charitable trust discussed above.

35. Mission and Intervenors are also entitled to a temporary injunction because they have no adequate remedy on appeal if FPC does spend or abscond with funds and/or property subject to the constructive charitable trust. Absent investigation in this lawsuit, Mission and Intervenors have no ability to determine the total scope of all donations that may be subject to the constructive charitable trust. Further, it may be close to impossible to trace the end use of donations dating back several decades, so any sale of FPC's Real Estate could result in an unidentifiable amount of limited-use funds being subject to an unauthorized purpose. Finally, Mission and Intervenors should not be forced to calculate an exact amount of the identifiable res at issue because it is not their burden to do so. *See Blocker*, 718 S.W.2d at 415 (as a default rule, donations are subject to the nonprofit's corporate purpose). Allowing FPC to use its funds, Real Estate, and Other Property for a denomination other than PC(USA) would force Mission and Intervenors to sue for damages that Mission and Intervenors have no burden to prove. Thus Mission and Intervenors have no adequate remedy on appeal if FPC violates the constructive charitable trust.

36. Because (i) FPC has shown an imminent intent to use funds collected for the purpose of PC(USA) for denomination other than PC(USA) and (ii) Mission and Intervenors may have no ability to seek an accurate amount of damages as a result of the breached constructive charitable trust, Mission and Intervenors request that this Court grant a temporary injunction restricting FPC's use of (i) donated funds, (ii) FPC's Real Estate, and (iii) FPC's Other Property for the purpose of PC(USA), and not for the purpose of any other denomination.

C. PERMANENT INJUNCTION

37. Paragraphs 1 through 36 are incorporated herein by reference.

38. For the reasons stated above, Mission and Intervenors ask that this Court, after a trial on the merits, grant a permanent injunction that prohibits FPC from using any funds received via the donations identified in Paragraphs 14 through 16 for a purpose that is not for the benefit of PC(USA), including the purpose of a different denomination.

**V.
ATTORNEY'S FEES**

39. Mission and Intervenors are represented by an attorney in this matter, and are entitled to recover reasonable and necessary attorney fees under Texas Civil Practice & Remedies Code Section 37.009.

**VI.
NOTICE TO THE TEXAS ATTORNEY GENERAL**

40. Pursuant to Texas Property Code Section 123.003, Mission and Intervenors are providing a copy of this Counterclaim and Petition in Intervention to the Texas Attorney General because it is a proceeding involving a charitable trust.

**VII.
PRAYER FOR RELIEF**

WHEREFORE, PREMISES CONSIDERED, Mission and Intervenors ask this Court grant the following relief their favor:

- a. A declaration that Mission's and Intervenors' Donations to FPC are subject to a constructive charitable trust and that all such funds may only be used for the charitable purpose of PC(USA);
- b. A declaration that all donations or gifts to FPC while FPC has been a member of PC(USA) are subject to a constructive charitable trust and that all such funds may only be used for the purpose of PC(USA);
- c. A declaration that FPC's Real Estate and Other Property are encumbered by a constructive charitable trust for the purpose of PC(USA);

- d. A Temporary Injunction enjoining FPC from using any donation subject to the constructive charitable trust described above for any denomination other than PC(USA);
- e. A Permanent Injunction enjoining FPC from using any donation subject to the constructive charitable trust described above for any denomination other than PC(USA)
- f. A Temporary Injunction ordering that FPC is enjoined from using FPC's Real Estate and Other Property for any denomination other than PC(USA);
- g. A Permanent Injunction ordering that FPC is enjoined from using FPC's Real Estate and Other Property for any denomination other than PC(USA);
- h. Court costs;
- i. Attorney fees as are reasonable and necessary; and
- j. All other relief to which Mission and/or Intervenors are entitled.

Respectfully submitted,

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INTERVENORS**

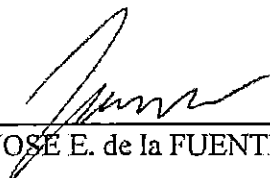
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forwarded to the following attorneys via the method indicated below on this 30th day of July, 2015:

David B. West
dwest@dykema.com
Larissa Sanchez Fields
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Charitable Trusts Section
Financial and Tax Litigation Division
P.O. Box 12548
Austin, Texas 78711-2548
Via CMRRR



JOSE E. de la FUENTE

EXHIBIT A

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FILED
in the Office of the
Secretary of State of Texas

NOV 18 1988

Clerk I-B
Corporations Section

**ARTICLES OF INCORPORATION
OF
FIRST PRESBYTERIAN CHURCH OF SAN ANTONIO**

We, the undersigned natural persons, who are of the age of eighteen (18) years or more, acting as incorporators of a corporation under the Texas Non-Profit Corporation Act, do hereby adopt the following Articles of Incorporation for such corporation:

ARTICLE ONE

NAME

The name of the corporation is the First Presbyterian Church of San Antonio.

ARTICLE TWO

NON-PROFIT CORPORATION

The corporation is a non-profit corporation.

ARTICLE THREE

DURATION

The period of its duration is perpetual.

ARTICLE FOUR

PURPOSES

The purposes for which the corporation is formed is the support of public worship and the worship of Almighty God; instruction and education according to the Holy Bible, the Book of Confessions and the Book of Order of the Presbyterian Church (U.S.A.), or any successor; service to others; and such other religious, benevolent, charitable, and educational activities as may be appropriate. Incidental thereto, such corporation shall have authority to do any and all things necessary or proper to the operation of a church, as may be permitted by the Constitution of the Presbyterian Church (U.S.A.), or any successors, and permitted under the laws of the United States and of the State of Texas.

ARTICLE FIVE

INITIAL REGISTERED OFFICE AND AGENT

The street office of the initial registered office of the corporation is 404 North Alamo St., San Antonio, Texas 78205, and the name of its original registered agent at such address is Louis H. Zbinden, Jr.

ARTICLE SIX

MEMBERS OF THE CORPORATION

The members of the corporation shall be all of the active members (as that term is defined in the Book of Order) of the First Presbyterian Church of San Antonio at the time of incorporation and such other persons as may thereafter from time to time become and remain active members of such church.

ARTICLE SEVEN

GOVERNANCE

The corporation shall be governed by the Session. The Church is governed prior to incorporation by a session, elected by the congregation pursuant to provisions of the Book of Order of the Presbyterian Church (U.S.A.). The current Session consists of forty-five (45) elders, and they shall constitute the initial corporate Session. The number of elders may from time to time be fixed and elected by the congregation pursuant to the provisions of the aforesaid Book of Order. The Session shall also function as the Board of Trustees. The following is a listing of the names and addresses of the current Session:

James D. Baskin
260 Country Lane
San Antonio, TX 78209

Donald A. Beeler
145 Camellia Way
San Antonio, TX 78209

Robert Browning
175 Primrose
San Antonio, TX 78209

Ben Chilcutt
405 Elizabeth
San Antonio, TX 78209

Curtis N. Cox
238 E. Edgewood
San Antonio, TX 78209

Edward W. Crane
107 Briarcliff
San Antonio, TX 78213

Mrs. Walter C. Dunlap
24 Santa Clara Rd.
Seguin, TX 78155

Donald R. Drummond
301 East Kings Highway
San Antonio, TX 78212

Donald E. Everett
142 Laurel Heights Pl.
San Antonio, TX 78212

Mrs. C.W. Ferguson
13795 Bluff Villa Ct.
San Antonio, TX 78216

J. Joe Harris
321 Geneseo
San Antonio, TX 78209

James H. Hopper
107 Wickford Way
San Antonio, TX 78213

T Weir Labatt, III.
135 W. Elsmere Place
San Antonio, TX 78212

Charles D. Lutz, III
147 Oakhurst
San Antonio, TX 78209

Marion W. McCurdy
601 Mandalay Drive East
San Antonio, TX 78212

Will A. Morriss
215 Royal Oaks
San Antonio, TX 78298

David Peeples
335 Rockhill
San Antonio, TX 78209

Mrs. Jean T. Rushing
302 Rilla Vista Dr.
San Antonio, TX 78216

Mrs. Gary F. Simone
435 Wood Shadow
San Antonio, TX 78216

Ronald G. Tefteller
228 Luther Dr.
San Antonio, TX 78212

Mrs. Kaye E. Wilkins
560 Grandview
San Antonio, TX 78209

Fred W. Gould
7207 Payaya Drive
San Antonio, TX 78223

Houston H. Harte
2207 Camelback
San Antonio, TX 78209

Ike S. Kampmann
131 E. Kings Highway
San Antonio, TX 78212

George J. Laughead
336 Tuxedo
San Antonio, TX 78209

William J. Lyons
720 Castano
San Antonio, TX 78209

Orvis E. Meador, Jr.
151 Cave Lane
San Antonio, TX 78209

Mrs. Julia Norton
218 Stanford
San Antonio, TX 78212

Jack W. Pool
334 Woodway Forest
San Antonio, TX 78209

Robert R. Scott
301 Kennedy
San Antonio, TX 78209

George H. Spencer, Jr.
202 W. Summitt
San Antonio, TX 78209

Joseph E. Warrick
3427 Hopecrest
San Antonio, TX 78230

Margaret Wyatt
135 W. French Pl., #211
San Antonio, TX 78212

Mrs. Peter Hains
7610 Vinewood Court
San Antonio, TX 78209

Thomas Hawkes
P.O. Drawer 121
San Antonio, TX 78291

Mrs. Blair P. Labatt
212 W. Summitt
San Antonio, TX 78212

Mrs. Robert H. LePere
2211 Camelback
San Antonio, TX 78209

John W. McLeod
504 W. Magnolia
San Antonio, TX 78212

Daniel C. Morales
6130 Ingram, #1703
San Antonio, TX 78238

Charles G. Orsinger
2206 Camelback
San Antonio, TX 78209

William L. Ruhmann
127 W. Elmview
San Antonio, TX 78209

John R. Shaw
2611 Eisenhower, #602
San Antonio, TX 78208

Louis H. Stumberg
R.R. 2, Box 303A
San Antonio, TX 78249

J. Michael Wilkes
403 Lazy Bluff
San Antonio, TX 78216

Elizabeth Zogheib
135 W. French Pl., #102
San Antonio, TX 78209

ARTICLE EIGHT
CONDUCT OF BUSINESS

All business of the corporation shall be conducted and transacted commensurate with the laws of the United States and the State of Texas and according to the rules and regulations of the Presbyterian Church (U.S.A.), or its successor, as prescribed by the General Assembly, by the Synod, and by the Presbytery to which the corporation belongs, according to the principles and doctrines of such demonination as enunciated in its Book of Confessions and Book of Order.

ARTICLE EIGHT
INCORPORATORS

The name and street address of each incorporator is :

Name	Address
Myrl M. Hart	321 Sunset Road San Antonio, TX 78209
Ike S. Kampmann, Jr.	131 E. Kings Hwy. San Antonio, TX 78212
James D. Baskin	260 Country Lane San Antonio, TX 78209

IN WITNESS WHEREOF, we have hereunto set our hands this 16th day of November, 1988.

Myrl M. Hart
Incorporator

Ike S. Kampmann
Incorporator

James D. Baskin
Incorporator

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STATE OF TEXAS §
COUNTY OF BEXAR §

I, Patricia Agisotelis, a notary public, do hereby certify that on the 16th day of November, 1988, personally appeared before me Myrl M. Hart, Ike S. Kampmann, Jr. and James D. Baskin, who, each being by me first duly sworn, severally declared that they are the persons who signed the foregoing document as incorporators, and that the statements therein contained are true.

IN WITNESS THEREOF, I have hereunto set my hand and seal on the day and year above written.

Patricia Agisotelis
Notary Public for the State of Texas
Printed Name: PATRICIA AGISOTELIS
My Commission Expires: 4/91

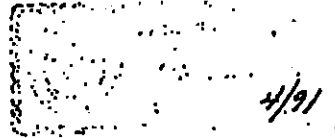


EXHIBIT B

CAUSE NO. 2015-CI-07858

**FIRST PRESBYTERIAN CHURCH OF
SAN ANTONIO**

Plaintiff,

v.

MISSION PRESBYTERY,

Defendant,

v.

ED BONDURANT, et. al.,

Intervenors.

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IN THE DISTRICT COURT

BEXAR COUNTY, TEXAS

73RD JUDICIAL DISTRICT

AFFIDAVIT OF WILLIAM C. POE

STATE OF TEXAS §
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COUNTY OF TRAVIS §

BEFORE ME, the undersigned authority, came on this day the Reverend Dr. William Christopher Poe who, being personally known to me, was placed under oath and testified as follows:

1. "My name is William C. Poe. I am over the age of eighteen (18) years and am competent in all respects to make the following Affidavit. I am the Interim Stated Clerk of Mission Presbytery (hereinafter "Mission"), and the following facts are true and correct and within my personal knowledge as Interim Stated Clerk of Mission.

2. A presbytery, like Mission, is a corporate expression of the church within a certain district, composed of all the congregations and all the teaching elders (ministers) within that district. As a presbytery, Mission is a district administrative unit of the Presbyterian Church

(U.S.A.) (hereinafter "PC(USA)"). Mission is responsible for ensuring that local congregations like First Presbyterian Church of San Antonio (hereinafter "FPC") adhere to the PC(USA) Constitution. The PC(USA)'s Constitution is divided into two parts: (1) the Book of Confessions and (2) the Book of Order. By the terms of the PC(USA) Constitution, every PC(USA) congregation is subject to the terms of the PC(USA) Constitution. For any given congregation to be subject to the PC(USA) Constitution, the individual congregation must be a member of the national denomination. In other words, all member congregations of PC(USA) are subject to the PC(USA) Constitution, and no non-member congregations are subject to the Constitution.

3. Mission is also charged with representing the interests of its member congregations and individual church members of those congregations, which includes the members of FPC as a PC(USA) congregation.

4. From the date of FPC's organization as a congregation to present, including the period from 1983 (the date of reunion and merger between the PCUS and UPCUSA, creating PC(USA)) to present, Mission and PC(USA) have provided FPC with substantial financial support. This financial support includes, but is not limited to:

- a. FPC using the PC(USA)'s name, affiliation, and registered mark to recruit members, donors and staff, including, for example: FPC's newsletters and website have regularly used the PC(USA) seal, and all of FPC's pastors since 1983 have been hired through Mission via the presbyterian system overseen by Mission's Committee on Ministry, including the time, effort, and periodic reimbursement of various members of that committee;

b. FPC and its pastors participating in the Board of Pensions (the retirement and medical plan of the PC(USA), overseen and administered by PC(USA) personnel who are paid by the PC(USA)) and using those benefits to attract employees.

5. Mission provided the above support to FPC so that FPC could use it for the specific purpose of benefiting the PC(USA), and the members of PC(USA), Mission Presbytery, and FPC as a PC(USA) congregation.

6. On June 9, 2015, Mission received a letter from FPC's counsel on behalf of FPC specifically asking to negotiate promptly (1) the relinquishment of any claim by Mission and the PC(USA) of any interest in FPC property and (2) the terms of FPC's dismissal from the PC(USA) denomination to another reformed body.



William C. Poe

Sworn to and subscribed before me the undersigned authority on this the 7th day of July, 2015.



Notary Public, State of Texas

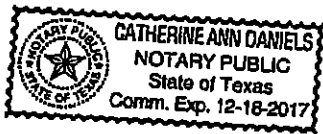


EXHIBIT C

CAUSE NO. 2015-CI-07858

FIRST PRESBYTERIAN CHURCH OF
SAN ANTONIO

Plaintiff,

v.

MISSION PRESBYTERY,

Defendant,

v.

ED BONDURANT, *et. al.*,

Intervenors.

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IN THE DISTRICT COURT

BEXAR COUNTY, TEXAS

73RD JUDICIAL DISTRICT

AFFIDAVIT OF ED BONDURANT

STATE OF TEXAS §
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COUNTY OF BEXAR §

BEFORE ME, the undersigned authority, came on this day Ed Bondurant, who, being personally known to me, was placed under oath and testified as follows:

1. "My name is Ed Bondurant. I am over the age of eighteen (18) years and am competent in all respects to make the following Affidavit. I am a member of the First Presbyterian Church of San Antonio (hereinafter "FPC"), and the following facts are true and correct and within my personal knowledge.

2. I have been a member of FPC since 1973. Since the merger of the PCUS with the Presbyterian Church (U.S.A.) (hereinafter "PCUSA") in 1983, FPC has always represented itself as a local congregation of the PCUSA, and I have always understood that FPC is a PCUSA congregation and is subject to the Constitution, rules, and regulations promulgated by PCUSA.

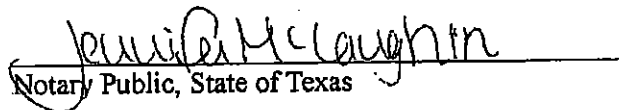
PCUS, which was then succeeded by the PCUSA pursuant to the merger.

Between 1973 and present, including the period from 1988 to present, I have donated (with my spouse Paula Bondurant) approximately \$94,247.48 to FPC. Each donation that I made to FPC was made to FPC as a congregation of the PCUSA so that FPC could use the funds in furtherance of its corporate purpose for the benefit of FPC as a PCUSA congregation. It was my understanding and intent that the donations would only be used for the purpose of benefitting PCUSA by virtue of FPC being a member church and that FPC would operate pursuant to the Constitution, rules, and regulations of the PCUSA. I did not have any intent at the time of my donations for any of my donations to be used for the benefit of any other denomination."



Ed Bondurant

Sworn to and subscribed before me the undersigned authority on this the 29th day of July, 2015.



Notary Public, State of Texas

EXHIBIT D

CAUSE NO. 2015-CI-07858

FIRST PRESBYTERIAN CHURCH OF
SAN ANTONIO

Plaintiff,

v.

MISSION PRESBYTERY,

Defendant,

v.

ED BONDURANT, *et. al.*,

Intervenors.

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IN THE DISTRICT COURT

BEXAR COUNTY, TEXAS

73RD JUDICIAL DISTRICT

AFFIDAVIT OF PAULA BONDURANT

STATE OF TEXAS §
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COUNTY OF BEXAR §

BEFORE ME, the undersigned authority, came on this day Paula Bondurant, who, being personally known to me, was placed under oath and testified as follows:

1. “My name is Paula Bondurant. I am over the age of eighteen (18) years and am competent in all respects to make the following Affidavit. I am a member of the First Presbyterian Church of San Antonio (hereinafter “FPC”), and the following facts are true and correct and within my personal knowledge.

I have been a member of FPC since 1976. Since the merger of the PCUS with the Presbyterian Church (U.S.A.) (hereinafter “PCUSA”) in 1983, FPC has always represented itself as a local congregation of the PCUSA, and I have always understood that FPC is a PCUSA congregation and is subject to the Constitution, rules, and regulations promulgated by PCUSA. At all times prior to the merger, FPC always represented itself as a local congregation of the

PCUS, which was then succeeded by the PCUSA pursuant to the merger.

Between 1973 and present, including the period from 1988 to present, I have donated (with my spouse Ed Bondurant) approximately \$94,247.48 to FPC. Each donation that I made to FPC was made to FPC as a congregation of the PCUSA so that FPC could use the funds in furtherance of its corporate purpose for the benefit of FPC as a PCUSA congregation. It was my understanding and intent that the donations would only be used for the purpose of benefitting PCUSA by virtue of FPC being a member church and that FPC would operate pursuant to the Constitution, rules, and regulations of the PCUSA. I did not have any intent at the time of my donations for any of my donations to be used for the benefit of any other denomination.”

Paula Bondurant
Paula Bondurant

Sworn to and subscribed before me the undersigned authority on this the 29th day of July, 2015.

Jennifer McLaughlin
Notary Public, State of Texas

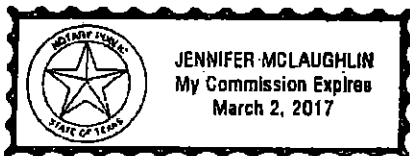
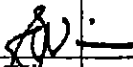



EXHIBIT E

all times prior to the merger, FPC always represented itself as a local congregation of the PCUS, which was then succeeded by the PCUSA pursuant to the merger.

3. Between 1997 and present, I have donated (with my spouse Anna Wise) approximately \$20,200 to FPC. Each donation that I made to FPC was made to FPC as a congregation of the PCUSA so that FPC could use the funds in furtherance of its corporate purpose for the benefit of FPC as a PCUSA congregation. It was my understanding and intent that the donations would only be used for the purpose of benefitting PCUSA by virtue of FPC being a member church and that FPC would operate pursuant to the Constitution, rules, and regulations of the PCUSA. I did not have any intent at the time of my donations for any of my donations to be used for the benefit of any other denomination."


Bob Wise

Sworn to and subscribed before me the undersigned authority on this the 30th day of July, 2015.


Notary Public, State of Texas

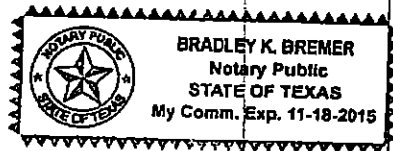


EXHIBIT F

all times prior to the merger, FPC always represented itself as a local congregation of the PCUS, which was then succeeded by the PCUSA pursuant to the merger.

3. Between 1997 and present, I have donated (with my spouse Bob Wise) approximately \$20,200 to FPC. Each donation that I made to FPC was made to FPC as a congregation of the PCUSA so that FPC could use the funds in furtherance of its corporate purpose for the benefit of FPC as a PCUSA congregation. It was my understanding and intent that the donations would only be used for the purpose of benefitting PCUSA by virtue of FPC being a member church and that FPC would operate pursuant to the Constitution, rules, and regulations of the PCUSA. I did not have any intent at the time of my donations for any of my donations to be used for the benefit of any other denomination.”

Anna Wise

Anna Wise

Sworn to and subscribed before me the undersigned authority on this the 30th day of July, 2015.

Bradley K. Bremer

Notary Public, State of Texas

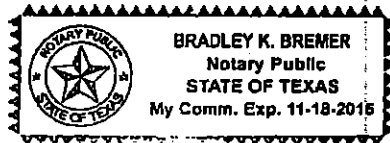


EXHIBIT G

CAUSE NO. 2015-CI-07858

FIRST PRESBYTERIAN CHURCH OF
SAN ANTONIO

Plaintiff,

v.

MISSION PRESBYTERY,

Defendant,

v.

ED BONDURANT, *et. al.*,

Intervenors.

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IN THE DISTRICT COURT

BEXAR COUNTY, TEXAS

73RD JUDICIAL DISTRICT

AFFIDAVIT OF MIRIAM OGLESBEE ELLISON

STATE OF TEXAS

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COUNTY OF BEXAR

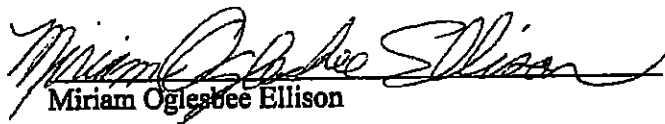
BEFORE ME, the undersigned authority, came on this day Miriam Oglesbee Ellison, who, being personally known to me, was placed under oath and testified as follows:

1. "My name is Miriam Oglesbee Ellison. I am over the age of eighteen (18) years and am competent in all respects to make the following Affidavit. I am a member of the First Presbyterian Church of San Antonio (hereinafter "FPC"), and the following facts are true and correct and within my personal knowledge.

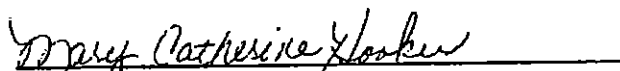
2. I have been a member of FPC since 1979. Since the merger of the PCUS with the Presbyterian Church (U.S.A.) (hereinafter "PCUSA") in 1983, FPC has always represented itself as a local congregation of the PCUSA, and I have always understood that FPC is a PCUSA congregation and is subject to the Constitution, rules, and regulations promulgated by PCUSA.

At all times prior to the merger, FPC always represented itself as a local congregation of the PCUS, which was then succeeded by the PCUSA pursuant to the merger.

3. Between 1979 and present, including the period from 1988 to present, I have donated approximately \$29,000 to FPC. Each donation that I made to FPC was made to FPC as a congregation of the PCUSA so that FPC could use the funds in furtherance of its corporate purpose for the benefit of FPC as a PCUSA congregation. It was my understanding and intent that the donations would only be used for the purpose of benefitting PCUSA by virtue of FPC being a member church and that FPC would operate pursuant to the Constitution, rules, and regulations of the PCUSA. I did not have any intent at the time of my donations for any of my donations to be used for the benefit of any other denomination."


Miriam Oglesbee Ellison

Sworn to and subscribed before me the undersigned authority on this the 29th day of July, 2015.


Notary Public, State of Texas

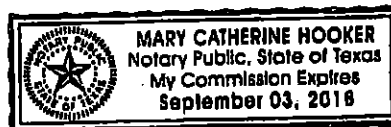


EXHIBIT H

CAUSE NO. 2015-CI-07858

FIRST PRESBYTERIAN CHURCH OF
SAN ANTONIO

Plaintiff,

v.

MISSION PRESBYTERY,

Defendant,

v.

ED BONDURANT, *et. al.*,

Intervenors.

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IN THE DISTRICT COURT

BEXAR COUNTY, TEXAS

73RD JUDICIAL DISTRICT

AFFIDAVIT OF DON DRUMMOND

STATE OF TEXAS

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COUNTY OF BEXAR

BEFORE ME, the undersigned authority, came on this day Don Drummond, who, being personally known to me, was placed under oath and testified as follows:

1. "My name is Don Drummond. I am over the age of eighteen (18) years and am competent in all respects to make the following Affidavit. I am a member of the First Presbyterian Church of San Antonio (hereinafter "FPC"), and the following facts are true and correct and within my personal knowledge.

2. I have been a member of FPC since 1967. Since the merger of the PCUS with the Presbyterian Church (U.S.A.) (hereinafter "PCUSA") in 1983, FPC has always represented itself as a local congregation of the PCUSA, and I have always understood that FPC is a PCUSA congregation and is subject to the Constitution, rules, and regulations promulgated by PCUSA.

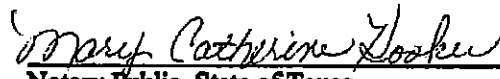
At all times prior to the merger, FPC always represented itself as a local congregation of the PCUS, which was then succeeded by the PCUSA pursuant to the merger.

3. Between 1967 and present, including the period from 1988 to present, I have donated approximately \$137,000.00 to FPC. Each donation that I made to FPC was made to FPC as a congregation of the PCUSA so that FPC could use the funds in furtherance of its corporate purpose for the benefit of FPC as a PCUSA congregation. It was my understanding and intent that the donations would only be used for the purpose of benefitting PCUSA by virtue of FPC being a member church and that FPC would operate pursuant to the Constitution, rules, and regulations of the PCUSA. I did not have any intent at the time of my donations for any of my donations to be used for the benefit of any other denomination."



Don Drummond

Sworn to and subscribed before me the undersigned authority on this the 30th day of July, 2015.



Notary Public, State of Texas

