

**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

DAVID MERCER SCHOFIELD, aka JOHN-DAVID SCHOFIELD, an individual; THE EPISCOPAL FOUNDATION OF SAN JOAQUIN, INC., an unknown entity; (continued on attachment)

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

DIOCESE OF SAN JOAQUIN; THE RT. REV. JERRY A. LAMB, in his capacity as the Episcopal Bishop of San Joaquin; and THE EPISCOPAL CHURCH

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):

Superior Court of California County of Fresno - Civil Courthouse
2317 Tuolumne Street
Fresno, CA 93721-1220

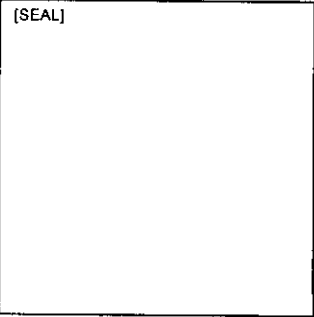
CASE NUMBER:
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Michael O. Glass, Esq., Law Offices of Michael O. Glass
900 Fifth Avenue, Suite 100, San Rafael, CA 94901 (415) 454-8485

DATE: _____ Clerk, by _____, Deputy
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):
3. on behalf of (specify):

under: <input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
4. by personal delivery on (date):

SHORT TITLE: Diocese of San Joaquin v. David Mercer Schofield, et al	CASE NUMBER:
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INSTRUCTIONS FOR USE

- ➔ This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- ➔ If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party.):

Plaintiff
 Defendant
 Cross-Complainant
 Cross-Defendant

THE DIOCESAN INVESTMENT TRUST OF THE DIOCESE OF SAN JOAQUIN, a California corporation; and DOES 1-300, inclusive.

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9 *and the Rt. Rev. Jerry A. Lamb*

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11 Adam M. Chud
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18 *Attorneys for the Episcopal Church*

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DIOCESE OF SAN JOAQUIN; THE RT. REV.
JERRY A. LAMB, in his capacity as the
Episcopal Bishop of San Joaquin; and THE
EPISCOPAL CHURCH,

Plaintiffs,

v.

DAVID MERCER SCHOFIELD, also known
as JOHN-DAVID SCHOFIELD, an individual;
THE EPISCOPAL FOUNDATION OF SAN
JOAQUIN, INC., an unknown entity; THE
DIOCESAN INVESTMENT TRUST OF THE
DIOCESE OF SAN JOAQUIN, a California
corporation; and DOES 1-300, inclusive.

Defendants.

Case No.

COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF, TO RECLAIM
POSSESSION OF REAL AND PERSONAL
PROPERTY, AND TO REMEDY BREACH
OF FIDUCIARY DUTY

1 Plaintiffs allege:

2 FIRST CAUSE OF ACTION
3 (Declaratory Relief – As Against All Defendants)

4 Parties

5 1. Plaintiff Episcopal Church, also known as The Protestant Episcopal Church in the United
6 States of America (the “Episcopal Church” or “Church”), is an unincorporated association
7 headquartered in New York, New York. It is a religious denomination, comprising 111
8 geographically-defined, subordinate entities known as “dioceses” and more than 7,600
9 worshipping congregations, usually “parishes” and “missions,” in the United States and other
10 countries.

11 2. Plaintiff Diocese of San Joaquin (“Diocese”) is an unincorporated association
12 headquartered in Stockton, California. It is one of the Church’s 111 dioceses, and encompasses
13 the territory of 14 California counties, including Fresno County.

14 3. The Diocese has formed a corporation sole under California law named “The Protestant
15 Episcopal Bishop of San Joaquin, a corporation sole,” which corporation sole administers
16 property owned by or under the control of the Diocese in accordance with the Constitution and
17 Canons of the Episcopal Church and the Diocese.

18 4. Plaintiff Bishop Jerry A. Lamb, an ordained bishop of the Episcopal Church, (“Bishop
19 Lamb”) is the Provisional Bishop of the Diocese of San Joaquin, and as such is the incumbent of
20 “The Protestant Episcopal Bishop of San Joaquin, a corporation sole,” and the president of The
21 Episcopal Foundation of San Joaquin, Inc. and the Diocesan Investment Trust of the Diocese of
22 San Joaquin.

23 5. Defendant David Mercer Schofield, also known as John-David Schofield, an individual is
24 the former Bishop of the Diocese of San Joaquin, and in that capacity the former incumbent of
25

1 “The Protestant Episcopal Bishop of San Joaquin, a corporation sole” and the former president of
2 The Episcopal Foundation of San Joaquin, Inc. and the Diocesan Investment Trust of the Diocese
3 of San Joaquin. Defendant Schofield is a resident of Fresno County.

4 6. Defendant Episcopal Foundation of San Joaquin, Inc. (the “Episcopal Foundation”) is an
5 entity of unknown form, located at 4159 East Dakota Avenue, Fresno, California 93726. The
6 Episcopal Foundation is established by the Canons of the Diocese of San Joaquin to accumulate
7 and invest funds of the Diocese, and upon information and belief, holds assets of the Diocese of
8 San Joaquin and/or some of its component parishes or missions. The Bishop of the Diocese of
9 San Joaquin is the President and Chair of the Board of the Episcopal Foundation. Defendant
10 Schofield is purporting to act as President of the Episcopal Foundation, even though he is no
11 longer Bishop of the Diocese of San Joaquin.

12 7. Defendant Diocesan Investment Trust of the Diocese of San Joaquin (the “Investment
13 Trust”) is a California corporation, located at 4159 East Dakota Avenue, Fresno, California
14 93726. The Investment Trust was established by the Diocese of San Joaquin to receive, acquire,
15 hold, manage, administer, and expend property and funds of the Diocese, and upon information
16 and belief, holds assets of the Diocese of San Joaquin and/or some of its component parishes or
17 missions. The Bishop of the Diocese of San Joaquin is the President of the Board of Trustees of
18 the Investment Trust. Defendant Schofield is purporting to act as President of the Investment
19 Trust, even though he is no longer Bishop of the Diocese of San Joaquin.

20 8. Plaintiffs are unaware of the true names of the defendants sued herein as DOES 1 through
21 300, inclusive (the “Doe Defendants”), and therefore sue these Doe Defendants by fictitious
22 names. DOES 1 through 15 are the officers of the Episcopal Foundation. DOES 16 through 30
23 are the members of the board of the Episcopal Foundation. DOES 31 through 45 are the officers
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1 of the Investment Trust. DOES 46 through 60 are the members of the board of the Investment
2 Trust. The names and capacities of DOES 61-300 are presently unknown, but some or all of
3 them may be persons or entities in possession or control of the property in dispute.

4 Structure of the Episcopal Church

5 9. The Episcopal Church is a hierarchical religious denomination. The Church has a three-
6 tiered structure and representative form of government that is prescribed by its Constitution and
7 Canons.

8 10. At the highest level, the Episcopal Church is governed by a legislative body called its
9 “General Convention,” which generally meets once every three years. The General Convention
10 is comprised of a House of Bishops, consisting of most of the Church’s active and retired
11 Bishops, and a House of Deputies, consisting of lay and clergy representatives elected by each of
12 the Church’s subordinate dioceses. The General Convention has adopted and from time to time
13 amends the Episcopal Church’s Constitution and Canons, which are binding upon all units and
14 members of the Church.
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16 11. The “Presiding Bishop” is the “Chief Pastor and Primate” of the Church. The Presiding
17 Bishop is elected by the General Convention and is charged with responsibility for leadership in
18 initiating and developing policy and strategy in the Church and speaking for the Church as to the
19 policies, strategies, and programs authorized by the General Convention.

20 12. The Church’s Executive Council is a body of elected lay and clergy representatives,
21 which is accountable to the General Convention and is charged with coordinating, developing,
22 and implementing the program of the Church. The Presiding Bishop serves as the Chair and
23 President of the Executive Council.

24 13. The next level of the Church’s organization and governance is the diocese.
25

1 14. The governing body of each diocese, generally called its “Convention,” is a
2 representative body that meets annually and is principally comprised of clergy and laity within
3 the diocese who are elected as delegates. Each diocesan convention adopts and from time to
4 time amends its own diocesan Constitution and Canons that supplement and may not conflict
5 with the national Church’s Constitution or Canons, and which govern the diocese itself and the
6 Church’s congregations within that diocese.

7 15. Each diocese is under the authority of a diocesan bishop who is elected by the diocesan
8 convention and takes office with the consent of the leadership of a majority of the other dioceses.
9 The bishop serves as the “ecclesiastical authority” and chief executive officer of a diocese, and is
10 in charge of both ecclesiastical and temporal affairs within that diocese. The diocesan bishop is
11 advised by and as to certain matters shares authority with a “Standing Committee,” which is a
12 body of ordained and lay persons elected by the diocesan convention.

13 16. The Church’s third level of organization and governance comprises its over 7,600
14 worshipping congregations. Most of these congregations are called “parishes.” Congregations
15 that do not meet all of the qualifications for acceptance as parishes, or that have not been
16 accepted as parishes, are known as “missions.” Each parish and mission is a constituent,
17 subordinate part of the diocese in which it is located.

18 17. The governing body, or “vestry,” of each parish is comprised of the parish’s rector and
19 lay members elected by the voting membership of the parish.

20 18. The Episcopal Church’s hierarchical structure provides for representative participation in
21 each level of governance. Each parish and mission, either by its membership or governing body,
22 elects representatives to the annual meeting of the convention of the diocese in which the parish
23 or mission is located. Each diocese, in turn, sends bishops, other ordained clergy, and lay
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1 representatives as voting members to the triennial meeting of the Episcopal Church’s General
2 Convention.

3 19. Under the Episcopal Church’s polity, discipline, and rules, all property held by or for any
4 of the Church’s constituent parts is held and must be used for the Church’s mission and may not
5 be diverted to other purposes.

6 20. Under the Episcopal Church’s polity, discipline, and rules, no diocese, parish, or other
7 subordinate constituent part may unilaterally divide, separate, or otherwise disaffiliate from the
8 Church.

9 The Creation of Dioceses and Ordination of Bishops by the Episcopal Church

10 21. Article V.1 of the Church’s Constitution provides in relevant part that “[a] new Diocese
11 may be formed, with the consent of the General Convention and under such conditions as the
12 General Convention shall prescribe by General Canon or Canons”

13 22. To be accepted into union with the General Convention, Article V.1 of the Church’s
14 Constitution requires that a group of congregations seeking to become a diocese must adopt a
15 Constitution that includes an “unqualified accession to the Constitution and Canons” of the
16 Episcopal Church.

17 23. Canon I.10(1) of the Episcopal Church requires that the creation of a diocese be approved
18 and accomplished by the General Convention, and Canon I.10(4) of the Episcopal Church
19 affirms that dioceses may not be “admitted into union with the General Convention” unless they
20 have “acceded to the Constitution of the General Convention in accordance with Article V,
21 Section 1 of the Constitution.”

22 24. Article VIII of the Church’s Constitution and the Ordination service of the Church’s
23 *Book of Common Prayer* provide that an individual may not be ordained as a bishop, priest, or
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1 deacon in the Church unless he or she subscribes to a written declaration as follows before the
2 ordaining Bishop or Bishops and attending congregation:

3 I do believe the Holy Scriptures of the Old and New Testaments to be the
4 Word of God, and to contain all things necessary to salvation; and I do
5 solemnly engage to conform to the Doctrine, Discipline, and Worship of the
6 Episcopal Church.

7 This oath is generally referred to as the “Declaration of Conformity.”

8 25. Canon I.17(8) of the Episcopal Church further requires that “[a]ny person accepting any
9 office of this Church shall well and faithfully perform the duties of that office in accordance with
10 the Constitution and Canons of this Church and of the Diocese in which the office is being
11 exercised.”

12 26. Under Article II.2 of the Church’s Constitution, a diocesan bishop may be consecrated
13 and take office only after obtaining the consent of the larger Church as prescribed in the
14 Constitution and Canons.

15 27. Article II.6 of the Church’s Constitution and Canon III.12(8) of the Episcopal Church
16 provide that a diocesan bishop may not resign his or her office without the action and acceptance
17 of the larger Church as specified in the Canons of the Episcopal Church.

18 28. Pursuant to Canon IV.1(1) of the Episcopal Church, any Bishop may be disciplined for,
19 among other things, violation of the Constitution or Canons of the Episcopal Church or of his or
20 her Diocese; for “[a]ny act which involves a violation of Ordination vows”; or for “Conduct
21 Unbecoming a Member of the Clergy.”

22 29. Canon IV.9 of the Episcopal Church provides that if the Title IV “Review Committee” of
23 the Church certifies that a bishop has “abandoned the Communion” of the Church, the Presiding
24 Bishop shall present the matter to the House of Bishops for its consent to the bishop’s
25 “deposition,” which means removal from the ordained ministry of the Church.

History of the Diocese of San Joaquin

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2 30. From 1849 until 1910, the Diocese of California included the geographic area of the
3 current Diocese of San Joaquin, and organized and governed the parishes and missions therein in
4 accordance with Doctrine, Discipline, and Worship of the Episcopal Church.

5 31. In 1910, the Diocese of California determined that the mission and welfare of that
6 Diocese and of the Church as a whole would be best served by ceding a portion of its territory
7 back to the Church's General Convention for the creation of a new "Missionary District."
8 Acting pursuant to Article VI.2 of the Church's Constitution, the Diocese of California
9 petitioned the General Convention to accept cession of the fourteen California counties that now
10 form the geographic boundaries of the Diocese of San Joaquin. That petition also requested,
11 pursuant to Article VI.1 of the Church's Constitution and Canon 10 of the Episcopal Church
12 (now I.11(2)), that the House of Bishops create the Missionary District of San Joaquin within the
13 ceded territory, and choose a Missionary Bishop for the new Missionary District, subject to
14 confirmation by the House of Deputies.
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16 32. The Episcopal Church's General Convention accepted the Diocese of California's
17 cession, and the House of Bishops created and elected a Bishop for the new Missionary District.

18 33. At the time of the petition, there were five parishes and thirteen missions in the ceded
19 territory. The Diocese of California relinquished for the Missionary District all real and personal
20 property held by or for each of those parishes and missions, as well as those portions of the
21 Diocese of California's Disabled Clergy Fund, Widows and Orphans Fund, and Endowment
22 Fund previously contributed by those parishes and missions.
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1 34. In 1911, the then-Bishop of the foregoing Missionary District incorporated as “The
2 Protestant Episcopal Bishop of San Joaquin, a corporation sole,” under what was then Part Four,
3 Division One, Title Twelve of the California Civil Code.

4 35. The original articles of incorporation of “The Protestant Episcopal Bishop of San
5 Joaquin, a corporation sole,” stated:

6 The Protestant Episcopal Church in the Missionary District of San Joaquin
7 accedes to the Constitution of that branch of the holy Catholic Church now
8 known as the Protestant Episcopal Church of the United States of America
and recognizes the authority of the General Convention of the same

9 36. The original articles of incorporation of “The Protestant Episcopal Bishop of San
10 Joaquin, a corporation sole” also described the process by which a vacancy in the office of
11 Bishop of a Missionary District would be filled, consistent with the process required by the
12 Constitution and Canons of the Episcopal Church.

13 37. In 1913, the General Convention’s House of Bishops granted the Missionary District of
14 San Joaquin’s petition for approval of its proposed Constitution and Canons.

15 38. Article II of the Constitution of the Missionary District provided that “[t]he Church in the
16 Missionary District of San Joaquin accedes to the Constitution of that branch of the Holy
17 Catholic Church known as the Protestant Episcopal Church in the United States of America, and
18 recognizes the authority of the General Convention of the same.”

19 39. Article XVII of the Constitution of the Missionary District provided that in order to
20 become a parish of the Missionary District, a congregation must have a Constitution “in which
21 such Parish expressly accedes to the Constitution, Canons, Doctrine, Discipline and Worship of
22 the Protestant Episcopal Church in the United States of America, and to the Constitution and
23 Canons of the Church in the Missionary District of San Joaquin.”
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1 40. Canon XXXII, Sec. 321, of the Missionary District’s Canons required every group
2 desiring to be a parish forming within the Missionary District’s borders to promise in writing as
3 follows:

4 We whose names are hereunto affixed, being attached to the doctrine,
5 discipline and worship of the Church now known as the Protestant Episcopal
6 Church in the United States of America, do hereby respectfully ask your
7 consent to associate and organize ourselves and others in a Parish of the said
8 Church [W]e hereby solemnly promise and declare that the said Parish
9 shall be forever held under the ecclesiastical authority of the Bishop of San
10 Joaquin, and of his successors in office, and in conformity with the
11 Constitution and Canons of the Church now known as the Protestant
12 Episcopal Church in the United States of America and the Constitution and
13 Canons of the Missionary District of San Joaquin, the authority of which we
14 do hereby recognize and bind ourselves to make part of the Constitution of the
15 said Parish and to whose Liturgy, Doctrine, Discipline, rites and Usages, we
16 promise at all times, for ourselves and our successors, corporate obedience
17 and conformity.

18 41. Canon XXXII, Sec. 327, of the Missionary District’s Canons stated that the governing
19 documents of parishes within the Missionary District were required to provide:

20 [T]hat the Constitution, Canons, Rules, Regulations and Discipline of the
21 Church now known as the Protestant Episcopal Church in the United States of
22 America, and the Constitution and Canons of the same Church in the
23 Missionary District of San Joaquin shall, unless they be contrary to the laws of
24 this State, always form part of its by-laws, ordinances, constitution or articles
25 of incorporation, and prevail against anything elsewhere therein contained that
may appear to be repugnant to such Canons, Rules, Regulations or Discipline.

42. Canon XLI, Sec. 411, of the Missionary District’s Canons required the bishop of the
Missionary District to “become a Corporation Sole” that would hold title to “such estate and
property as may be granted or in any manner committed to him for the uses, purposes or behoof
of this Church; that is to say, the Church now known as the Protestant Episcopal Church in the
United States of America”

1 43. In 1944, the office of the Bishop of San Joaquin became vacant, and, pursuant to Article
2 II.1 of the Church's Constitution and Canon I.11 of the Episcopal Church, the Episcopal
3 Church's House of Bishops chose a successor to the office.

4 44. During the period 1910-1961, the Missionary District of San Joaquin received substantial
5 financial and other support from the Episcopal Church and grew to include 19 parishes, 23
6 organized missions, and 6 unorganized missions.

7 45. In 1961, pursuant to Article V.1 of the Episcopal Church's Constitution, the Missionary
8 District of San Joaquin petitioned the Episcopal Church's General Convention for admission and
9 acceptance as a diocese of the Episcopal Church. The petition affirmed that "the Church in the
10 Missionary District of San Joaquin has acceded to the Constitution and Canons for the
11 Government of the Protestant Episcopal Church in the United States of America."

12 46. The 1961 petition attached a certified copy of the "Resolutions of the Special
13 Convocation of the Missionary District of San Joaquin Pertaining to the Petition for Diocesan
14 Status," which affirmed that "it is the desire and expression of the Clergy and Laity of the
15 Missionary District of San Joaquin to accede to the Constitution and Canons for the Government
16 of the Protestant Episcopal Church in the United States of America."

17 47. The 1961 petition was further supported by a proposed diocesan Constitution and
18 proposed diocesan Canons.

19 48. Article II of the Constitution of the new Diocese provided: "The Church in the Diocese
20 of San Joaquin accedes to the Constitution of that branch of the Holy Catholic Church known as
21 the Protestant Episcopal Church in the United States of America and recognizes the authority of
22 the General Convention of the same."
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1 49. Article XII of the Constitution of the new Diocese provided that any parish or mission of
2 the Diocese seeking to be “admitted into union” with the Diocese’s Annual Convention must in
3 its Constitution “expressly accede[] to the Constitution and Canons of the Protestant Episcopal
4 Church in the United States of America and to the Constitution and Canons of the Diocese of
5 San Joaquin.”

6 50. Canon XIII, Sec. 334(a), of the new Diocese required that any congregation seeking
7 admission to the Diocese as an organized mission affirm in writing that:

8 We the undersigned, ... desiring to establish in our midst the regular and
9 permanent Ministrations of the Protestant Episcopal Church and to be
10 numbered with those who share in the fellowship and work of the Convention
11 of the said Diocese and of the General Convention, do respectfully petition to
... be organized as a Mission Church in union with the Convention of the
Episcopal Diocese of San Joaquin

12 We promise conformity to the Doctrine, Discipline, and Worship of the
13 Protestant Episcopal Church and to the Constitution and Canons of the
14 General Convention and of the Convention of the Episcopal Diocese of San
Joaquin.

15 51. Canon XIII, Section 335(d), of the new Diocese required that a mission or other
16 congregation seeking recognition as a parish of the Episcopal Church in the Diocese of San
17 Joaquin affirm in writing that it “agrees to abide by and conform to the Constitutions and Canons
18 incurred within this Diocese and to all the canonical and legal enactments thereof.”

19 52. Canon XVII, Secs. 411 and 412, of the new Diocese required the Bishop of the Diocese
20 to be a corporation sole under California law that would hold title to “Trust Funds and real estate
21 acquired by gift or purchase for the use of the Diocese of San Joaquin, or for any unincorporated
22 Parish therein, or for the use of the Protestant Episcopal Church in any place within this Diocese
23 where there is no organized congregation.”

24 53. In September 1961, upon consideration of the foregoing documents and in reliance upon
25 the foregoing promises and affirmations, the General Convention accepted the petition and

1 admitted the newly-formed Diocese of San Joaquin into union with the General Convention of
2 the Episcopal Church, and the Church's Executive Counsel approved and accepted the proposed
3 Diocesan Constitution and Canons.

4 54. In 1968, the office of Bishop of San Joaquin became vacant. Pursuant to the Church's
5 and the Diocese's rules for the qualification and election of a diocesan Bishop, the Rev. Victor
6 M. Rivera was elected Bishop by the Diocesan Convention. After the Diocese had received the
7 necessary canonical consents from the majority of the leadership of the rest of the Church as
8 prescribed by the Canons and Constitution of the Church and the Diocese, and Rev. Victor M.
9 Rivera executed the Declaration of Conformity described in paragraph 24 above, Rev. Victor M.
10 Rivera was ordained Bishop of the Diocese of San Joaquin by three Bishops of the Episcopal
11 Church, as required by Canon III.11(6) and (8) of the Episcopal Church.

12 55. In 1968, the articles of incorporation of "The Protestant Episcopal Bishop of San Joaquin,
13 a corporation sole," were amended to remove the prior reference to San Joaquin's status as a
14 Missionary District and the description of the Episcopal Church's process for filling a vacancy in
15 the office of bishop of a missionary district. The amended articles incorporated the requirements
16 of the Episcopal Church's Constitution and Canons for the election and ordination of a new
17 diocesan bishop, as stated in Articles II.1, II.2, and VIII of the Church's Constitution.

18 56. In 1988, at his request, a majority of the House of Bishops of the Episcopal Church
19 permitted Bishop Rivera to resign as the Bishop of San Joaquin.

20 57. Following the procedures set forth in the Constitutions and Canons of the Episcopal
21 Church and the Diocese of San Joaquin, as set out in the articles of "The Protestant Episcopal
22 Bishop of San Joaquin, a corporation sole," defendant Schofield was elected Bishop by the
23 Diocesan Convention. After the Diocese had receive the necessary canonical consents and
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1 defendant Schofield had executed the Declaration of Conformity described in paragraph 24
2 above, defendant Schofield was ordained Bishop of the Diocese of San Joaquin by three Bishops
3 of the Episcopal Church in January 1989.

4 Benefits Conferred by the Episcopal Church on
5 Defendant Schofield and the Diocese of San Joaquin

6 58. The Diocese of San Joaquin has benefited in numerous economic and non-economic
7 ways from its status as a diocese of the Episcopal Church and from its repeated commitments to
8 accede to the Church's Doctrine, Discipline, and Worship.

9 59. As stated in paragraph 33 above, at its inception, the Missionary District of San Joaquin
10 acquired 18 local parishes and missions and their associated property as well as portions of
11 several Diocesan trust funds that had been ceded for this purpose by the Diocese of California.

12 60. The Episcopal Church Building Fund has made numerous low-interest loans to the
13 Diocese of San Joaquin for parishes and missions in the Diocese. The Episcopal Church
14 Building Fund does not lend money to entities that are not subordinate parts of the Church. For
15 each loan, the Diocese of San Joaquin made a joint application with the respective borrowing
16 parish or mission, and the Bishop of the Diocese was a signatory to the respective promissory
17 notes.

18 61. At all relevant times, all congregations and ordained clergy of the Diocese of San Joaquin
19 participated in the Church Pension Fund, an agency of the Episcopal Church. Participation in the
20 Pension Fund by all congregations in the Diocese and their clergy is mandated by Episcopal
21 Church Canon I.8, and such funds are available only to dioceses that are subordinate entities and
22 representatives of the Church.

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24 62. In January 1989, defendant Schofield became Bishop of the Diocese of San Joaquin, and
25 as a result the incumbent of "The Protestant Episcopal Bishop of San Joaquin, a corporation

1 sole” and president of the Investment Trust and the Episcopal Foundation, in reliance on his
2 commitment “to conform to the Doctrine, Discipline, and Worship of the Episcopal Church.”

3 63. “The Protestant Episcopal Bishop of San Joaquin, a corporation sole” holds fee simple
4 title to most property of the Church in the Diocese of San Joaquin, including title to specific
5 properties held by or for many of the Episcopal parishes and missions within its jurisdiction.

6 The Current Dispute

7 64. On October 29, 2005, the Convention of the Diocese of San Joaquin at its annual meeting
8 purported to amend the Diocesan Constitution to limit the Diocese’s accession to the
9 Constitution of the Episcopal Church. The purported amendment provides as follows:

10 The Diocese of San Joaquin accedes to and/or incorporates the terms and
11 provisions of the Constitution of the Episcopal Church in the United States of
12 America to the terms and provisions of the Constitution of the Diocese of San
13 Joaquin to the extent that such terms and provisions, and any amendments
14 thereto, adopted by the authority of the General Convention, are not
15 inconsistent with the terms and provisions of the Constitution and Canons of
16 the Diocese of San Joaquin, as amended from time to time, and ratified by any
17 Diocesan Convention duly called and held.

18 This purported amendment violated the Constitution and Canons of the Episcopal Church and
19 was thus invalid.

20 65. On or before October 29, 2005, the Convention of the Diocese of San Joaquin may have
21 also purported to amend the Diocesan Canons to add a provision stating:

22 No ownership or proprietary interest in any real or personal property in which
23 title and/or ownership is held by the Diocese of San Joaquin, its churches,
24 congregations, or institutions, shall be imputed to any party other than the
25 Bishop as Corporation Sole (including a trust, express or implied) without the
express written consent of the Bishop and the Standing Committee of the
Diocese.

This purported amendment violated the Constitution and Canons of the Episcopal Church, and
was thus invalid.

1 66. On March 21, 2006, defendant Schofield purported to amend the articles of incorporation
2 of “The Protestant Episcopal Bishop of San Joaquin, a corporation sole.” In the purported
3 amended articles, defendant Schofield correctly stated that he had been elected Bishop of the
4 Diocese of San Joaquin at a meeting of the “Diocese of San Joaquin, duly called and held in
5 accordance with the Constitution and Canons of the Episcopal Church,” and correctly identified
6 himself as “Bishop of the Diocese of San Joaquin in that branch of the holy catholic church now
7 known as the Episcopal Church.”

8 67. The March 21, 2006, purported amendment to the articles of incorporation of “The
9 Protestant Episcopal Bishop of San Joaquin, a corporation sole” attempted to remove references
10 to the requirements of Article II of the Episcopal Church Constitution that, before a new bishop
11 may be ordained, consent must be obtained from a majority of the Diocesan Bishops and
12 Standing Committees of the Episcopal Church’s other dioceses and the new bishop must sign the
13 Declaration of Conformity, and that the new bishop must be consecrated by three Episcopal
14 Bishops. This purported amendment did not set forth the required description of how a vacancy
15 in the office of the Bishop of the Diocese of San Joaquin is required to be filled, and was
16 therefore invalid, as set forth in paragraphs 68-69 below.

17 68. Cal. Corp. Code § 10003(d) requires that a corporation sole’s articles of
18 incorporation set forth “[t]he manner in which any vacancy occurring in the office of the
19 bishop, chief priest, presiding elder, or other presiding officer is required to be filled by
20 the rules, regulations, or constitution of the denomination, society, or church.”

21 69. The 2006 purported amendment to the articles of “The Protestant Episcopal Bishop of
22 San Joaquin, a corporation sole” was *ultra vires* and is of no effect, because it violates §
23 10003(d). The purported amendment sought to delete from the articles the required description
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1 of how a vacancy in the office of the Bishop of the Diocese of San Joaquin is required to be
2 filled.

3 70. On June 14, 2007, the Episcopal Church’s Executive Council passed a resolution stating
4 that “any amendment to a diocesan Constitution that purports in any way to limit or lessen an
5 unqualified accession to the Constitution and Canons of The Episcopal Church is null and void,”
6 that the amendment purportedly enacted by the Diocese of San Joaquin limiting its accession was
7 “null and void,” and that the Diocese of San Joaquin’s Constitution was “as if such amendment[]
8 had not been passed.”

9 71. After purporting to make the changes to the Diocesan Constitution and Canons and the
10 articles of the corporation sole identified in paragraphs 64-67 above, defendant Schofield sought
11 to disaffiliate the Diocese from the Episcopal Church and affiliate it with another religious
12 denomination.

13 72. A pastoral letter from defendant Schofield to the Diocese, which was read in all or nearly
14 all congregations of the Diocese on November 18 and November 25, 2007, stated that the
15 Province of the Southern Cone, a separate church located in South America, had adopted a
16 resolution in November 2007 “welcom[ing] into membership of our Province on an emergency
17 and pastoral basis, those dioceses of the Episcopal Church taking appropriate action to separate
18 from the Episcopal Church.”

19 73. Defendant Schofield’s pastoral letter also set forth and supported proposed amendments
20 to the Diocese’s Constitution, whose passage defendant Schofield stated would “mean that the
21 Diocese is free to accept the invitation of the province of the Southern Cone.” Those proposed
22 amendments included, among others, those that sought to:
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1 (a) insert new language into Article I of the Diocese’s Constitution to expand the
2 geographical scope of the Diocese (the new language is italicized):

3 This Diocese shall be known as the Diocese of San Joaquin. Its territory
4 shall embrace *but not be limited to* all that portion of the State of
5 California included in the counties of San Joaquin, Alpine, Stanislaus,
6 Calaveras, Mono, Merced, Mariposa, Tuolumne, Madera, Fresno, Kings,
7 Tulare, Kern, and Inyo.;

8 (b) change the title of Article II, "Accession and/or Incorporation of the Constitution
9 of the Protestant Episcopal Church in the United States to the Constitution of the Diocese
10 of San Joaquin," to "Anglican Identity,;" and

11 (c) replace the text of Article II in its entirety to read:

12 The Diocese of San Joaquin is constituted by the Faith, Order, and
13 Practice of the One, Holy, Catholic, and Apostolic Church as received by
14 the Anglican Communion. The Diocese shall be a constituent member of
15 the Anglican Communion and in full communion with the See of
16 Canterbury.

17 74. On December 3, 2007, the Presiding Bishop sent defendant Schofield a letter urging him
18 to refrain from attempting to disaffiliate the Diocese from the Episcopal Church and advising
19 him that doing so would raise the question whether he had abandoned the Communion of the
20 Episcopal Church and violated his vow to uphold the Doctrine, Discipline, and Worship of the
21 Episcopal Church.

22 75. On December 5, 2007, defendant Schofield responded to the Presiding Bishop’s
23 December 3, 2007, letter, and affirmed his intention to attempt to disaffiliate the Diocese of San
24 Joaquin from the Episcopal Church.

25 76. In his December 7, 2007, address to the Convention of the Diocese, defendant Schofield
urged the Convention to pass the proposed constitutional amendments identified in paragraph 73
above, and the Convention voted at that meeting to approve those proposed amendments.

1 77. At the urging of defendant Schofield, the 2007 meeting of the Convention of the Diocese
2 also purported to add a new Diocesan Canon XXXVIII to state: “The Diocese of San Joaquin is
3 a full member of the Anglican Province of the Southern Cone of South America.”

4 78. The purported amendments described in paragraphs 73 and 77 above violated the
5 Church’s Constitution and Canons, and are invalid.

6 79. Even as purportedly amended, the Diocesan Constitution and Canons continue to contain
7 numerous ties to the Episcopal Church and its Constitution and Canons, including requiring that
8 the Bishop of the Diocese be a corporation sole by the title of “The Protestant Episcopal Bishop
9 of San Joaquin, a Corporation Sole” and that “[t]he title to trust funds and real estate acquired by
10 gift or purchase for the use of the Diocese of San Joaquin, or for any unincorporated Parish
11 therein, or for the use of the Episcopal Church in any place within this Diocese where there is no
12 organized congregation, shall be vested in the Protestant Episcopal Bishop of San Joaquin, a
13 Corporation Sole”

14 80. Upon information and belief, the 2007 meeting of the Convention neither considered nor
15 passed any resolution authorizing any amendment of the articles of “The Protestant Episcopal
16 Bishop of the Diocese of San Joaquin, a corporation sole.”

17 81. On January 9, 2008, pursuant to Canon IV.9(1) of the Episcopal Church, a “Review
18 Committee” comprised of bishops, priests, and lay people charged with reviewing disciplinary
19 allegations involving bishops of the Church, having considered, among other things, the actions
20 of defendant Schofield in connection with the purported amendments to the Diocesan
21 Constitution and Canons and the articles of “The Protestant Episcopal Bishop of the Diocese of
22 San Joaquin, a corporation sole” alleged in paragraphs 64-66, 73, and 77 above, found that
23 defendant Schofield had “abandoned the Communion of this Church by an open renunciation of
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1 the Doctrine, Discipline or Worship of this Church.” The Review Committee issued a certificate
2 of abandonment to the Presiding Bishop of the Church.

3 82. On January 11, 2008, after receiving the certificate of defendant Schofield’s
4 abandonment, in accordance with Canon IV.9(1) of the Episcopal Church, the Episcopal
5 Church’s Presiding Bishop, the Most Rev. Katharine Jefferts Schori, with the consent of the
6 three senior diocesan Bishops of the Church, “inhibited” defendant Schofield, and ordered that
7 he “cease all ‘episcopal, ministerial, and canonical acts, except as relate to the administration of
8 the temporal affairs of the Diocese of San Joaquin,’” until the inhibition may be terminated or
9 superseded.

10 83. On January 22, 2008, defendant Schofield purported to amend the articles of
11 incorporation of “The Protestant Episcopal Bishop of San Joaquin, a corporation sole,” to change
12 its name to “The Anglican Bishop of San Joaquin, a corporation sole.” This purported
13 amendment was not authorized by any resolution of the diocesan Convention at its 2007 meeting
14 or otherwise, and was otherwise invalid, as set forth in paragraphs 84-90 below.

15 84. Cal. Corp. Code §§ 10000, *et seq.* provides a mechanism under which the titular head of
16 an ecclesiastical organization, such as a diocese or missionary district of the Episcopal Church,
17 may incorporate “for the purpose of administering and managing the affairs, property, and
18 temporalities thereof.” *Id.* § 10002. A California corporation sole may not divert the assets that
19 it holds to any mission other than that of its underlying religious organization – here, the
20 Episcopal Church in the Diocese of San Joaquin – except as the applicable rules of that
21 underlying religious organization may permit.

22 85. The Diocese of San Joaquin is a charitable religious organization formed by the
23 Episcopal Church, which exists to carry out the Episcopal Church’s ministry and mission within
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1 its geographic territory. All property held by or for the Diocese of San Joaquin is held and must
2 be used for the mission of the Episcopal Church.

3 86. Cal. Corp. Code § 10010 permits the officer of a corporation sole to amend the
4 corporation sole's articles, but the officer must first "sign and verify a statement ... stating that
5 [the amendment] has been duly authorized by the religious organization governed by the
6 corporation."

7 87. The January 2008 purported amendments to the articles of "The Protestant Episcopal
8 Bishop of San Joaquin, a corporation sole" by defendant Schofield violated Cal. Corp. Code §
9 10010, and were *ultra vires* and are of no effect because, upon information and belief, there was
10 no resolution of the Convention of the Diocese authorizing any amendment to the articles of the
11 corporation sole.

12 88. The January 2008 purported amendments to the articles of the foregoing corporation sole
13 by defendant Schofield were *ultra vires* and are of no effect because they violate Diocese of San
14 Joaquin Canon 25.01, which requires that the name of the corporation sole be "The Protestant
15 Episcopal Bishop of San Joaquin, a Corporation Sole."

16 89. The January 2008 purported amendments to the articles of the foregoing corporation sole
17 by defendant Schofield were *ultra vires* and are of no effect because they conflict with the
18 Constitution and Canons of the Episcopal Church and the Diocese and violate defendant
19 Schofield's fiduciary duties and canonical authority, as provided in Articles V.1 and VIII of the
20 Episcopal Church's Constitution and Episcopal Church Canons I.17.8 and IV.1.1(e), (f), and (h).

21 90. The January 2008 purported amendments to the articles of the foregoing corporation sole
22 by defendant Schofield were *ultra vires* and are of no effect because the January 11, 2008,
23 inhibition of defendant Schofield by the Presiding Bishop barred him from all "episcopal,
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1 ministerial, and canonical acts, except as relate to the administration of the temporal affairs of
2 the Diocese of San Joaquin.” Defendant Schofield had no authority to attempt thereafter to alter
3 the ministry of the Diocese or the fundamental obligations of the corporation sole.

4 91. On March 12, 2008, the Episcopal Church’s House of Bishops met, and pursuant to
5 Canon IV.9.2 of the Episcopal Church, authorized the Presiding Bishop to depose defendant
6 Schofield from the ordained ministry of the Episcopal Church. On March 12, 2008, the
7 Presiding Bishop deposed defendant Schofield from the ordained ministry of the Episcopal
8 Church.

9 92. Upon his deposition and removal as the Bishop of the Diocese of San Joaquin, defendant
10 Schofield’s positions as the incumbent of “The Protestant Episcopal Bishop of the Diocese of
11 San Joaquin, a corporation sole,” and President of the Investment Trust and the Episcopal
12 Foundation, terminated.

13 93. On or about March 28, 2008, and after defendant Schofield ceased to be the incumbent of
14 the “The Protestant Episcopal Bishop of San Joaquin, a corporation sole,” defendant Schofield
15 caused to be recorded in the office of the Madera County Recorder a grant deed purporting to
16 transfer title to the real property commonly known as 43140 Highway 41, Oakhurst, California,
17 from “The Anglican Bishop of San Joaquin, a Corporation Sole, which acquired title under the
18 name “The Protestant Episcopal Bishop of San Joaquin, a Corporation Sole” to “The Anglican
19 Bishop of San Joaquin, Corporation Sole.”

20
21 94. Canon III.13(1) of the Episcopal Church provides that “[a] Diocese without a Bishop
22 may, by an act of its Convention, and in consultation with the Presiding Bishop, be placed under
23 the provisional charge and authority of a Bishop of another Diocese or of a resigned Bishop, who
24 shall by that act be authorized to exercise all the duties and offices of the Bishop of the Diocese
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1 until a Bishop is elected and ordained for that Diocese or until the act of the Convention is
2 revoked.”

3 95. On March 29, 2008, at a special meeting of the Convention of the Diocese of San
4 Joaquin, pursuant to Canon III.13(1), Bishop Lamb was selected as the Provisional Bishop of the
5 Diocese of San Joaquin with full episcopal jurisdiction and ecclesiastical authority to serve until
6 the Diocese elects a new bishop or the Convention of the Diocese acts to terminate his position.

7 96. As the Provisional Bishop of the Diocese, Bishop Lamb is the incumbent of “The
8 Protestant Episcopal Bishop of the Diocese of San Joaquin, a corporation sole,” and President of
9 the Episcopal Foundation and the Investment Trust.

10 97. At the March 29, 2008, special meeting of the Convention of the Diocese of San Joaquin,
11 the Diocese passed several resolutions confirming that the 2005 and 2007 purported amendments
12 to the Diocesan Constitution and Canons set forth in paragraphs 64-65, 73, and 77 above were
13 *ultra vires*, null and void, and are not in effect.

14 98. At the March 29, 2008, special meeting of the Convention of the Diocese of San Joaquin,
15 the Diocese authorized Bishop Lamb to file corrected, amended articles of “The Protestant
16 Episcopal Bishop of the Diocese of San Joaquin, a corporation sole.”

17 99. On April 3, 2008, Bishop Lamb sent defendant Schofield a letter requesting that he
18 vacate the offices of the Diocese and relinquish all real and personal property held by the
19 Diocese, the Episcopal Foundation, and the Investment Trust, and requested that defendant
20 Schofield confirm in writing by April 9, 2008, that he had done so.

21 100. In an April 9, 2008, response to the April 3, 2008, letter, defendant Schofield did not
22 agree to vacate the offices of the Diocese and relinquish all real and personal property held by
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1 the Diocese, the Episcopal Foundation, and the Investment Trust, and he remains in possession
2 of the offices of the Diocese of San Joaquin and in control of all of its real and personal property.

3 101. On April 9, 2008, Bishop Lamb, as the incumbent of “The Protestant Episcopal Bishop of
4 the Diocese of San Joaquin, a corporation sole,” and with the express authorization of the
5 Diocesan Convention in compliance with Cal. Corp. Code § 10010, filed with the Secretary of
6 State corrected articles of incorporation of the corporation sole, making clear that the name of the
7 corporation sole is “The Protestant Episcopal Bishop of San Joaquin, a corporation sole” and that
8 the Bishop of the Diocese of San Joaquin is to be consecrated and installed according to the rules
9 and procedures of the Episcopal Church. That filing also amended the articles of incorporation
10 of the corporation sole to state that Bishop Lamb is the incumbent of the corporation sole.

11 102. The substantial assets of the “The Protestant Episcopal Bishop of San Joaquin, a
12 corporation sole” – including real and personal property of the Diocese, real and personal
13 property of Episcopal missions or parishes within the Diocese, and property held by the
14 Episcopal Foundation and the Investment Trust – are now under the control of defendant
15 Schofield, an individual who is not affiliated with the Episcopal Church and who is using those
16 assets to advance the ministry and mission of a different church.

17 103. Defendants take the position that defendant Schofield was authorized to revise the articles
18 of “The Protestant Episcopal Bishop of San Joaquin, a corporation sole” in 2006 and 2008; that
19 defendant Schofield may continue as the incumbent of the “The Protestant Episcopal Bishop of
20 San Joaquin, a corporation sole” and as President of the Episcopal Foundation and the
21 Investment Trust after leaving the Episcopal Church and being deposed; and that the assets held
22 by “The Protestant Episcopal Bishop of San Joaquin, a corporation sole,” the Episcopal
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1 Foundation, and the Investment Trust may be diverted for use by a church other than the
2 Episcopal Church.

3 104. Plaintiffs contend to the contrary, that the purported amendments to the articles of the
4 corporation sole were *ultra vires*, invalid, and void; that defendant Schofield may not continue as
5 the incumbent of the “The Protestant Episcopal Bishop of San Joaquin, a corporation sole,” or as
6 President of the Episcopal Foundation or the Investment Trust, after leaving the Episcopal
7 Church and being deposed; that the assets held by “The Protestant Episcopal Bishop of San
8 Joaquin, a corporation sole,” the Episcopal Foundation, and the Investment Trust may not be
9 diverted for use by a religious denomination other than the Episcopal Church; and that the
10 misappropriation of those assets has caused and continues to cause them irreparable harm.

11 105. An actual controversy therefore exists between the parties on the legal issues identified in
12 paragraphs 103-104 above. A declaratory judgment is therefore necessary and proper to set forth
13 and determine the parties’ rights and duties with respect to those issues.
14

15 **SECOND CAUSE OF ACTION**
16 **(Breach of Fiduciary Duty – As Against Defendant Schofield)**

17 106. Plaintiffs adopt and incorporate by reference paragraphs 1 through 105 above, as though
18 fully set forth herein.

19 107. Because of the position to which defendant Schofield was elected as Bishop of the
20 Diocese of San Joaquin, which entailed leadership and pastoral authority over the Diocese, and
21 possession and control of property held by the Diocese, and because of his own explicit
22 commitment to conform to the “doctrine, discipline and worship of [the Episcopal] Church,”
23 defendant Schofield had a fiduciary duty at all times to ensure that the Diocesan property was not
24 diverted for some other purpose.
25

1 108. Defendant Schofield's attempt to divert the Diocese of San Joaquin itself and its property
2 for the use and benefit of another church in violation of the Episcopal Church's Constitution and
3 Canons breached his fiduciary duties as the Bishop and ecclesiastical authority of the Diocese of
4 San Joaquin.

5 109. As a result of defendant Schofield's breach of his fiduciary duties, plaintiffs have
6 suffered and will suffer substantial damages and have been and continue to be irreparably
7 harmed.

8 **THIRD CAUSE OF ACTION**
9 **(Conversion – As Against All Defendants)**

10 110. Plaintiffs adopt and incorporate by reference paragraphs 1 through 109 above, as though
11 fully set forth herein.

12 111. Plaintiff Diocese of San Joaquin owns valuable property, including but not limited to
13 personal property, bank and brokerage accounts, monies, valuable chattels, personnel records,
14 financial records, real property records and deeds, and historical records of the Diocese held in
15 the name of the "The Protestant Episcopal Bishop of San Joaquin, a corporation sole," the
16 Episcopal Foundation, and the Investment Trust.

17 112. Each defendant has converted the property of the Diocese of San Joaquin by wrongfully
18 claiming it, wrongfully asserting control over it, and wrongfully applying it for its own uses and
19 purposes.
20

21 113. Plaintiffs have demanded that defendants return the property, but the demand has been
22 refused.

23 114. As a result of defendants' wrongful conversion and refusal to turn over the possession of
24 the foregoing property, plaintiffs have suffered and will suffer substantial damages, and have
25 been and continue to be irreparably harmed.

FOURTH CAUSE OF ACTION
(Ejectment – As Against All Defendants)

1
2 115. Plaintiffs adopt and incorporate by reference paragraphs 1 through 114 above, as though
3 fully set forth herein.

4 116. Plaintiffs Bishop Lamb and the Diocese of San Joaquin are, and have been, entitled to the
5 use and possession of all real property owned or held by the Diocese.

6 117. Defendant Schofield is now wrongfully in possession of the real property held by “The
7 Protestant Episcopal Bishop of San Joaquin, a corporation sole,” the Episcopal Foundation, and
8 the Investment Trust, and has ousted the Diocese of San Joaquin from peaceful possession of the
9 property. Bishop Lamb and the Diocese of San Joaquin have demanded that defendant Schofield
10 vacate these premises, but defendant Schofield has unlawfully withheld possession of the
11 premises from plaintiffs.
12

13 118. As a result of defendant Schofield’s refusal to turn over the possession of this property,
14 plaintiffs have suffered and will suffer substantial damages, and have been and continue to be
15 irreparably harmed.

PRAYER FOR RELIEF

16
17 Wherefore, plaintiffs pray for:

- 18 1. an order declaring that defendant Schofield ceased to be the incumbent of, and
19 may not represent or otherwise act on behalf of, “The Protestant Episcopal Bishop
20 of the Diocese of San Joaquin, a corporation sole,” after his deposition as the
21 Episcopal Bishop of San Joaquin;
22
23 2. an order declaring that Bishop Lamb is the incumbent of the “The Protestant
24 Episcopal Bishop of the Diocese of San Joaquin, a corporation sole” pursuant to
25 California Corporations Code §§ 10000, *et seq.*;

- 1 3. an order declaring that the corrected articles filed by Bishop Lamb on April 9,
2 2008, are the current and correct articles of “The Protestant Episcopal Bishop of
3 the Diocese of San Joaquin, a corporation sole”;
- 4 4. an order declaring that all property held by or for the Diocese of San Joaquin,
5 including all property held by “The Protestant Episcopal Bishop of the Diocese of
6 San Joaquin, a corporation sole,” the Episcopal Foundation, or the Investment
7 Trust, is held and may be used only subject to the Constitutions and Canons of the
8 Episcopal Church and the Diocese of San Joaquin;
- 9 5. an order requiring defendant Schofield to vacate the offices of the Diocese of San
10 Joaquin and relinquish to Bishop Lamb and the Diocese of San Joaquin
11 possession and control of all real and personal property of the Diocese, including
12 all property held by the Diocese for the benefit of parishes within the Diocese as
13 well as property of mission congregations of the Diocese;
- 14 6. an order requiring each defendant to relinquish to Bishop Lamb and the Diocese
15 of San Joaquin possession and control of all real and personal property that each
16 may hold for the Diocese of San Joaquin or for the benefit of parishes within the
17 Diocese as well as property of mission congregations of the Diocese;
- 18 7. an order requiring each defendant to provide an accounting of all real and
19 personal property of the Diocese of San Joaquin that it holds, including all
20 property held by the Diocese for the benefit of parishes within the Diocese as well
21 as property of mission congregations of the Diocese;
- 22 8. a judgment declaring that defendant Schofield has violated his fiduciary
23 obligations to the membership of the Diocese of San Joaquin and the Episcopal
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1 Church in seeking to disaffiliate the Diocese from the Episcopal Church and
2 affiliate the Diocese with another church, while taking all of the real and personal
3 property of the Diocese with him;

4 9. an injunction prohibiting each defendant from diverting, alienating, or using the
5 assets of the Diocese of San Joaquin except as provided by and in accordance
6 with the Constitution and Canons of the Episcopal Church;

7 10. an order enjoining defendant Schofield from using the symbols and other trademarks
8 of the Episcopal Diocese of San Joaquin, including, but not limited to, the Bishop's
9 seal;

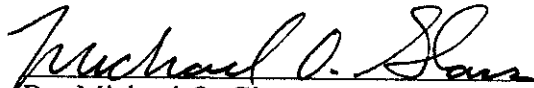
10 11. a decree awarding plaintiffs their costs of suit; and

11 12. such other and further relief as the Court deems just and proper.
12

13 Respectfully submitted,

14 DATED: April 23, 2008

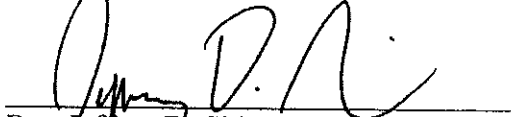
LAW OFFICES OF MICHAEL O. GLASS

15 

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