| 1 | Michael O. Glass (Bar No. 191275) | |
|-----|---|---|
| | Johanna T. Gomez (Bar No. 228761) | |
| 2 | LAW OFFICES OF MICHAEL O. GLASS | |
| 3 | 900 Fifth Avenue, Suite 100 | |
| | San Rafael, CA 94901 | |
| 4 | Tel: (415) 454-8485 | |
| | Fax: (415) 454-8423 | |
| 5 | | |
| | Attorneys for the Diocese of San Joaquin | |
| 6 | and the Rt. Rev. Jerry A. Lamb | |
| 7 | Desid M. Occasion of IV (Deside No. 102020) | |
| | David M. Overstreet IV (Bar No. 103039) | |
| 8 | Overstreet & Associates 1530 E. Shaw Avenue, Suite 102 | |
| | Fresno, CA 93710 | |
| 9 | Tel: (559) 221-2771 | |
| | Fax: (559) 221-2775 | |
| 10 | 1 ux. (337) 221 2773 | |
| 11 | Heather H. Anderson | |
| | Adam M. Chud | |
| 12 | Jeffrey D. Skinner (Bar No. 239214) | |
| | GOODWIN PROCTER LLP | |
| 13 | 901 New York Avenue, N.W. | |
| . | Washington, D.C. 20001 | |
| 14 | Tel: (202) 346-4000 | |
| 15 | Fax: (202) 346-4444 | |
| | | |
| 16 | Attorneys for the Episcopal Church | |
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| 1.0 | SUPERIOR COURT | Γ OF CALIFORNIA |
| 18 | | NLIMITED JURISDICTION |
| 19 | COUNTY OF TRESTOR OF | VERVITTED JURISDICTION |
| | DIOCESE OF SAN JOAQUIN; THE RT. REV. | |
| 20 | JERRY A. LAMB, in his capacity as the | Case No. 08 CE CG 01425 AMC |
| | Episcopal Bishop of San Joaquin; and THE | |
| 21 | EPISCOPAL CHURCH, | VERIFIED FIRST AMENDED COMPLAINT |
| _ | | FOR DECLARATORY AND INJUNCTIVE |
| 22 | Plaintiffs, | RELIEF, TO RECLAIM POSSESSION OF REAL AND PERSONAL PROPERTY, AND |
| 23 | | TO REMEDY BREACH OF FIDUCIARY |
| دے | v. | DUTY |
| 24 | DAVID MERCER SCHOFIELD, also known | |
| | as JOHN-DAVID SCHOFIELD, an individual; | |
| 25 | THE EPISCOPAL FOUNDATION OF SAN | |

JOAQUIN, INC., an unknown entity; THE DIOCESAN INVESTMENT TRUST OF THE DIOCESE OF SAN JOAQUIN, a California corporation; THE ANGLICAN DIOCESE HOLDING CORPORATION; MERRILL LYNCH, PIERCE, FENNER & SMITH, INC., a Delaware corporation (d/b/a Merrill Lynch); and DOES 1-300, inclusive.

Defendants.

Plaintiffs allege:

FIRST CAUSE OF ACTION

(Declaratory Relief As to the Actions and Status of the Corporation Sole

- As Against all Defendants Other Than Merrill Lynch)

Parties Other Than Merrill Lynch

- 1. Plaintiff Episcopal Church, also known as The Protestant Episcopal Church in the United States of America (the "Episcopal Church" or "Church"), is an unincorporated association headquartered in New York, New York. It is a religious denomination, comprising 111 geographically-defined, subordinate entities known as "dioceses" and more than 7,600 worshipping congregations, usually "parishes" and "missions," in the United States and other countries.
- 2. Plaintiff Diocese of San Joaquin ("Diocese") is an unincorporated association headquartered in Stockton, California. It is one of the Church's 111 dioceses, and encompasses the territory of 14 California counties, including Fresno County.
- 3. The Diocese has formed a corporation sole under California law named "The Protestant Episcopal Bishop of San Joaquin, a corporation sole," which corporation sole administers property owned by or under the control of the Diocese in accordance with the Constitution and Canons of the Episcopal Church and the Diocese.
- 4. Plaintiff Bishop Jerry A. Lamb, an ordained bishop of the Episcopal Church ("Bishop Lamb"), is the Provisional Bishop of the Diocese of San Joaquin, and as such is the incumbent of

"The Protestant Episcopal Bishop of San Joaquin, a corporation sole," and the president of The Episcopal Foundation of San Joaquin, Inc. and the Diocesan Investment Trust of the Diocese of San Joaquin.

- 5. Defendant David Mercer Schofield, also known as John-David Schofield, an individual, is the former Bishop of the Diocese of San Joaquin, and in that capacity the former incumbent of "The Protestant Episcopal Bishop of San Joaquin, a corporation sole" and the former president of The Episcopal Foundation of San Joaquin, Inc. and the Diocesan Investment Trust of the Diocese of San Joaquin. Defendant Schofield is a resident of Fresno County. On information and belief, he is currently an officer or director of defendant Anglican Diocese Holding Corporation.
- 6. Defendant Episcopal Foundation of San Joaquin, Inc. (the "Episcopal Foundation") is an entity of unknown form, located at 4159 East Dakota Avenue, Fresno, California 93726. The Episcopal Foundation is established by the Canons of the Diocese of San Joaquin to accumulate and invest funds of the Diocese, and upon information and belief, holds assets of the Diocese of San Joaquin and/or some of its component parishes or missions. The Bishop of the Diocese of San Joaquin is the President and Chair of the Board of the Episcopal Foundation. Defendant Schofield is purporting to act as President of the Episcopal Foundation, even though he is no longer Bishop of the Diocese of San Joaquin.
- 7. Defendant Diocesan Investment Trust of the Diocese of San Joaquin (the "Investment Trust") is a California corporation, located at 4159 East Dakota Avenue, Fresno, California 93726. The Investment Trust was established by the Diocese of San Joaquin to receive, acquire, hold, manage, administer, and expend property and funds of the Diocese, and upon information and belief, holds assets of the Diocese of San Joaquin and/or some of its component parishes or missions. The Bishop of the Diocese of San Joaquin is the President of the Board of Trustees of

the Investment Trust. Defendant Schofield is purporting to act as President of the Investment Trust, even though he is no longer Bishop of the Diocese of San Joaquin.

- 8. Defendant The Anglican Diocese Holding Corporation (the "Holding Corporation") is a California corporation, located at 246 W. Shaw Avenue, Fresno, California 93704. Upon information and belief, the Holding Corporation was established by defendant Schofield in order to hold the real and personal property that is the subject of this action. Upon information and belief, defendants Schofield, the Episcopal Foundation, and the Investment Trust have been transferring to the Holding Corporation assets that are the property of the Diocese of San Joaquin and "The Protestant Episcopal Bishop of San Joaquin, a corporation sole."
- 9. Plaintiffs are unaware of the true names of the defendants sued herein as DOES 1 through 300, inclusive (the "Doe Defendants"), and therefore sue these Doe Defendants by fictitious names. DOES 1 through 15 are the officers of the Episcopal Foundation. DOES 16 through 30 are the members of the board of the Episcopal Foundation. DOES 31 through 45 are the officers of the Investment Trust. DOES 46 through 60 are the members of the board of the Investment Trust. The names and capacities of DOES 61-300 are presently unknown, but some or all of them may be persons or entities in possession or control of the property in dispute.

Structure of the Episcopal Church

- 10. The Episcopal Church is a hierarchical religious denomination. The Church has a three-tiered structure and representative form of government that is prescribed by its Constitution and Canons.
- 11. At the highest level, the Episcopal Church is governed by a legislative body called its "General Convention," which generally meets once every three years. The General Convention is comprised of a House of Bishops, consisting of most of the Church's active and retired

Bishops, and a House of Deputies, consisting of lay and clergy representatives elected by each of the Church's subordinate dioceses. The General Convention has adopted and from time to time amends the Episcopal Church's Constitution and Canons, which are binding upon all units and members of the Church.

- 12. The "Presiding Bishop" is the "Chief Pastor and Primate" of the Church. The Presiding Bishop is elected by the General Convention and is charged with responsibility for leadership in initiating and developing policy and strategy in the Church and speaking for the Church as to the policies, strategies, and programs authorized by the General Convention.
- 13. The Church's Executive Council is a body of elected lay and clergy representatives, which is accountable to the General Convention and is charged with coordinating, developing, and implementing the program of the Church. The Presiding Bishop serves as the Chair and President of the Executive Council.
- 14. The next level of the Church's organization and governance is the diocese.
- 15. The governing body of each diocese, generally called its "Convention," is a representative body that meets at least annually and is principally comprised of clergy and laity within the diocese who are elected as delegates. Each diocesan convention adopts and from time to time amends its own diocesan Constitution and Canons that supplement and may not conflict with the national Church's Constitution or Canons, and which govern the diocese itself and the Church's congregations within that diocese.
- 16. Each diocese is under the authority of a bishop who is elected by the diocesan convention and takes office with the consent of the leadership of a majority of the other dioceses. The bishop serves as the "ecclesiastical authority" and chief executive officer of a diocese, and is in charge of both ecclesiastical and temporal affairs within that diocese. The diocesan bishop is

advised by and as to certain matters shares authority with a "Standing Committee," which is a body of ordained and lay persons elected by the diocesan convention.

- 17. The Church's third level of organization and governance comprises its over 7,600 worshipping congregations. Most of these congregations are called "parishes." Congregations that do not meet all of the qualifications for acceptance as parishes, or that have not been accepted as parishes, are known as "missions." Each parish and mission is a constituent, subordinate part of the diocese in which it is located.
- 18. The governing body, or "vestry," of each parish is comprised of the parish's rector and lay members elected by the voting membership of the parish.
- 19. The Episcopal Church's hierarchical structure provides for representative participation in each level of governance. Each parish and mission, either by its membership or governing body, elects representatives to the convention of the diocese in which the parish or mission is located. Each diocese, in turn, sends bishops, other ordained clergy, and lay representatives as voting members to the triennial meeting of the Episcopal Church's General Convention.
- 20. Under the Episcopal Church's polity, discipline, and rules, no diocese, parish, or other subordinate constituent part may unilaterally divide, separate, or otherwise disaffiliate from the Church.

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

- 21. Article V.1 of the Church's Constitution provides in relevant part that "[a] new Diocese may be formed, with the consent of the General Convention and under such conditions as the General Convention shall prescribe by General Canon or Canons"
- 22. To be accepted into union with the General Convention, Article V.1 of the Church's Constitution requires that a group of congregations seeking to become a diocese must adopt a

Constitution that includes an "unqualified accession to the Constitution and Canons" of the Episcopal Church.

- 23. Canon I.10(1) of the Episcopal Church requires that the creation of a diocese be approved and accomplished by the General Convention, and Canon I.10(4) of the Episcopal Church affirms that dioceses may not be "admitted into union with the General Convention" unless they have "acceded to the Constitution of the General Convention in accordance with Article V, Section 1 of the Constitution."
- 24. Article VIII of the Church's Constitution and the Ordination service of the Church's *Book of Common Prayer* provide that an individual may not be ordained as a bishop, priest, or deacon in the Church unless he or she subscribes to a written declaration as follows before the ordaining Bishop or Bishops and attending congregation:

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

This oath is generally referred to as the "Declaration of Conformity."

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

- 26. Under Article II.2 of the Church's Constitution, a bishop may be consecrated and take office only after obtaining the consent of the larger Church as prescribed in the Constitution and Canons.
- 27. Article II.6 of the Church's Constitution and Canon III.12(8) of the Episcopal Church provide that a diocesan bishop may not resign his or her office without the action and acceptance of the larger Church as specified in the Canons of the Episcopal Church.
- 28. Pursuant to Canon IV.1(1) of the Episcopal Church, any bishop may be disciplined for, among other things, violation of the Constitution or Canons of the Episcopal Church or of his or her diocese; for "[a]ny act which involves a violation of Ordination vows"; or for "Conduct Unbecoming a Member of the Clergy."
- 29. Canon IV.9 of the Episcopal Church provides that if the Title IV "Review Committee" of the Church certifies that a bishop has "abandoned the Communion" of the Church, the Presiding Bishop shall present the matter to the House of Bishops for its consent to the bishop's "deposition," which means removal from the ordained ministry of the Church.

History of the Diocese of San Joaquin

- 30. From 1849 until 1910, the Diocese of California included the geographic area of the current Diocese of San Joaquin, and organized and governed the parishes and missions therein in accordance with Doctrine, Discipline, and Worship of the Episcopal Church.
- 31. In 1910, the Diocese of California determined that the mission and welfare of that Diocese and of the Church as a whole would be best served by ceding a portion of its territory back to the Church's General Convention for the creation of a new "Missionary District." Acting pursuant to Article VI.2 of the Church's Constitution, the Diocese of California petitioned the General Convention to accept cession of the fourteen California counties that now

form the geographic boundaries of the Diocese of San Joaquin. That petition also requested, pursuant to Article VI.1 of the Church's Constitution and Canon 10 of the Episcopal Church (now I.11(2)), that the House of Bishops create the Missionary District of San Joaquin within the ceded territory, and choose a Missionary Bishop for the new Missionary District, subject to confirmation by the House of Deputies.

- 32. The Episcopal Church's General Convention accepted the Diocese of California's cession, and the House of Bishops created and elected a Bishop for the new Missionary District.
- 33. At the time of the petition, there were five parishes and thirteen missions in the ceded territory. The Diocese of California relinquished for the Missionary District all real and personal property held by or for each of those parishes and missions, as well as those portions of the Diocese of California's Disabled Clergy Fund, Widows and Orphans Fund, and Endowment Fund previously contributed by those parishes and missions.
- 34. In 1911, the then-Bishop of the foregoing Missionary District incorporated as "The Protestant Episcopal Bishop of San Joaquin, a corporation sole," under what was then Part Four, Division One, Title Twelve of the California Civil Code.
- 35. The original articles of incorporation of "The Protestant Episcopal Bishop of San Joaquin, a corporation sole," stated:

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

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

| 37. | In 1913, the General Convention's House of Bishops granted the Missionary District of |
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| San Jo | oaquin's petition for approval of its proposed Constitution and Canons. |
| 38. | Article II of the Constitution of the Missionary District provided that "It lhe Church in the |

- 38. Article II of the Constitution of the Missionary District provided that "[t]he Church in the Missionary District of San Joaquin accedes to the Constitution of that branch of the Holy Catholic Church known as the Protestant Episcopal Church in the United States of America, and recognizes the authority of the General Convention of the same."
- 39. Article XVII of the Constitution of the Missionary District provided that in order to become a parish of the Missionary District, a congregation must have a Constitution "in which such Parish expressly accedes to the Constitution, Canons, Doctrine, Discipline and Worship of the Protestant Episcopal Church in the United States of America, and to the Constitution and Canons of the Church in the Missionary District of San Joaquin."
- 40. Canon XXXII, Sec. 321, of the Missionary District's Canons required every group desiring to be a parish forming within the Missionary District's borders to promise in writing as follows:

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

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

[T]hat the Constitution, Canons, Rules, Regulations and Discipline of the Church now known as the Protestant Episcopal Church in the United States of America, and the Constitution and Canons of the same Church in the Missionary District of San Joaquin shall, unless they be contrary to the laws of this State, always form part of its by-laws, ordinances, constitution or articles 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"
- 43. In 1944, the office of the Bishop of San Joaquin became vacant, and, pursuant to Article II.1 of the Church's Constitution and Canon I.11 of the Episcopal Church, the Episcopal Church's House of Bishops chose a successor to the office.
- 44. During the period 1910-1961, the Missionary District of San Joaquin received substantial financial and other support from the Episcopal Church and grew to include 19 parishes, 23 organized missions, and 6 unorganized missions.
- 45. In 1961, pursuant to Article V.1 of the Episcopal Church's Constitution, the Missionary District of San Joaquin petitioned the Episcopal Church's General Convention for admission and acceptance as a diocese of the Episcopal Church. The petition affirmed that "the Church in the Missionary District of San Joaquin has acceded to the Constitution and Canons for the Government of the Protestant Episcopal Church in the United States of America."
- 46. The 1961 petition attached a certified copy of the "Resolutions of the Special Convocation of the Missionary District of San Joaquin Pertaining to the Petition for Diocesan Status," which affirmed that "it is the desire and expression of the Clergy and Laity of the

Missionary District of San Joaquin to accede to the Constitution and Canons for the Government of the Protestant Episcopal Church in the United States of America."

- 47. The 1961 petition was further supported by a proposed diocesan Constitution and proposed diocesan Canons.
- 48. Article II of the Constitution of the new Diocese provided: "The Church in the Diocese of San Joaquin accedes to the Constitution of that branch of the Holy Catholic Church known as the Protestant Episcopal Church in the United States of America and recognizes the authority of the General Convention of the same."
- 49. Article XII of the Constitution of the new Diocese provided that any parish or mission of the Diocese seeking to be "admitted into union" with the Diocese's Annual Convention must in its Constitution "expressly accede[] to the Constitution and Canons of the Protestant Episcopal Church in the United States of America and to the Constitution and Canons of the Diocese of San Joaquin."
- 50. Canon XIII, Sec. 334(a), of the new Diocese required that any congregation seeking admission to the Diocese as an organized mission affirm in writing that:

We the undersigned, ... desiring to establish in our midst the regular and permanent Ministrations of the Protestant Episcopal Church and to be numbered with those who share in the fellowship and work of the Convention 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

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

51. Canon XIII, Section 335(d), of the new Diocese required that a mission or other congregation seeking recognition as a parish of the Episcopal Church in the Diocese of San

Joaquin affirm in writing that it "agrees to abide by and conform to the Constitutions and Canons incurred within this Diocese and to all the canonical and legal enactments thereof."

- 52. Canon XVII, Secs. 411 and 412, of the new Diocese required the Bishop of the Diocese to be a corporation sole under California law that would hold title to "Trust Funds and real estate acquired by gift or purchase for the use of the Diocese of San Joaquin, or for any unincorporated Parish therein, or for the use of the Protestant Episcopal Church in any place within this Diocese where there is no organized congregation."
- 53. In September 1961, upon consideration of the foregoing documents and in reliance upon the foregoing promises and affirmations, the General Convention accepted the petition and admitted the newly-formed Diocese of San Joaquin into union with the General Convention of the Episcopal Church, and the Church's Executive Counsel approved and accepted the proposed Diocesan Constitution and Canons.
- In 1968, the office of Bishop of San Joaquin became vacant. Pursuant to the Church's and the Diocese's rules for the qualification and election of a diocesan Bishop, the Rev. Victor M. Rivera was elected Bishop by the Diocesan Convention. After the Diocese had received the necessary canonical consents from the majority of the leadership of the rest of the Church as prescribed by the Canons and Constitution of the Church and the Diocese, and Rev. Victor M. Rivera executed the Declaration of Conformity described in paragraph 24 above, the Rev. Victor M. Rivera was ordained Bishop of the Diocese of San Joaquin by three Bishops of the Episcopal Church, as required by Canon III.11(6) and (8) of the Episcopal Church.
- 55. In 1968, the articles of incorporation of "The Protestant Episcopal Bishop of San Joaquin, a corporation sole," were amended to remove the prior reference to San Joaquin's status as a Missionary District and the description of the Episcopal Church's process for filling a vacancy in

the office of bishop of a missionary district. The amended articles incorporated the requirements of the Episcopal Church's Constitution and Canons for the election and ordination of a new diocesan bishop, as stated in Articles II.1, II.2, and VIII of the Church's Constitution.

- 56. In 1988, at his request, a majority of the House of Bishops of the Episcopal Church permitted Bishop Rivera to resign as the Bishop of San Joaquin.
- 57. Following the procedures set forth in the Constitutions and Canons of the Episcopal Church and the Diocese of San Joaquin, as set out in the articles of "The Protestant Episcopal Bishop of San Joaquin, a corporation sole," defendant Schofield was elected Bishop by the Diocesan Convention. After the Diocese had receive the necessary canonical consents and defendant Schofield had executed the Declaration of Conformity described in paragraph 24 above, defendant Schofield was ordained Bishop of the Diocese of San Joaquin by three Bishops of the Episcopal Church in January 1989.

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

- 58. The Diocese of San Joaquin has benefited in numerous economic and non-economic ways from its status as a diocese of the Episcopal Church and from its repeated commitments to accede to the Church's Doctrine, Discipline, and Worship.
- 59. As stated in paragraph 33 above, at its inception, the Missionary District of San Joaquin acquired 18 local parishes and missions and their associated property as well as portions of several Diocesan trust funds that had been ceded for this purpose by the Diocese of California.
- 60. The Episcopal Church Building Fund has made numerous low-interest loans to the Diocese of San Joaquin for parishes and missions in the Diocese. The Episcopal Church Building Fund does not lend money to entities that are not subordinate parts of the Church. For each loan, the Diocese of San Joaquin made a joint application with the respective borrowing

parish or mission, and the Bishop of the Diocese was a signatory to the respective promissory notes.

- 61. At all relevant times, all congregations and ordained clergy of the Diocese of San Joaquin participated in the Church Pension Fund, an agency of the Episcopal Church. Participation in the Pension Fund by all congregations in the Diocese and their clergy is mandated by Episcopal Church Canon I.8, and such funds are available only to dioceses that are subordinate entities and representatives of the Church.
- 62. In January 1989, defendant Schofield became Bishop of the Diocese of San Joaquin, and as a result the incumbent of "The Protestant Episcopal Bishop of San Joaquin, a corporation sole" and president of the Investment Trust and the Episcopal Foundation, in reliance on his commitment "to conform to the Doctrine, Discipline, and Worship of the Episcopal Church."
- 63. "The Protestant Episcopal Bishop of San Joaquin, a corporation sole" holds fee simple title to most property of the Church in the Diocese of San Joaquin, including title to specific properties held by or for many of the Episcopal parishes and missions within its jurisdiction.

The Current Dispute

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

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

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

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

No ownership or proprietary interest in any real or personal property in which title and/or ownership is held by the Diocese of San Joaquin, its churches, congregations, or institutions, shall be imputed to any party other than the 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.

- 66. On March 21, 2006, defendant Schofield purported to amend the articles of incorporation of "The Protestant Episcopal Bishop of San Joaquin, a corporation sole." In the purported amended articles, defendant Schofield correctly stated that he had been elected Bishop of the Diocese of San Joaquin at a meeting of the "Diocese of San Joaquin, duly called and held in accordance with the Constitution and Canons of the Episcopal Church," and correctly identified himself as "Bishop of the Diocese of San Joaquin in that branch of the holy catholic church now known as the Episcopal Church."
- 67. The March 21, 2006, purported amendment to the articles of incorporation of "The Protestant Episcopal Bishop of San Joaquin, a corporation sole" attempted to remove references to the requirements of Article II of the Episcopal Church Constitution that, before a new bishop may be ordained, consent must be obtained from a majority of the Diocesan Bishops and Standing Committees of the Episcopal Church's other dioceses and the new bishop must be consecrated by three Episcopal Bishops.

- 68. Cal. Corp. Code § 10003(d) requires that a corporation sole's articles of incorporation set forth "[t]he manner in which any vacancy occurring in the office of the bishop, chief priest, presiding elder, or other presiding officer is required to be filled by the rules, regulations, or constitution of the denomination, society, or church."
- 69. The March 21, 2006 purported amendment to the articles of "The Protestant Episcopal Bishop of San Joaquin, a corporation sole" was *ultra vires* and is of no effect, because it violates § 10003(d). The purported amendment purported to delete from the articles the required description of how a vacancy in the office of the Bishop of the Diocese of San Joaquin is required to be filled.
- 70. On June 14, 2007, the Episcopal Church's Executive Council passed a resolution stating that "any amendment to a diocesan Constitution that purports in any way to limit or lessen an unqualified accession to the Constitution and Canons of The Episcopal Church is null and void," that the amendment purportedly enacted by the Diocese of San Joaquin limiting its accession was "null and void," and that the Diocese of San Joaquin's Constitution was "as if such amendment[s] had not been passed."
- 71. After purporting to make the changes to the Diocesan Constitution and Canons and the articles of the corporation sole identified in paragraphs 64-67 above, defendant Schofield sought to disaffiliate the Diocese from the Episcopal Church and affiliate it with another religious denomination.
- A pastoral letter from defendant Schofield to the Diocese, which was read in all or nearly all congregations of the Diocese on November 18 and November 25, 2007, stated that the Province of the Southern Cone, a separate church located in South America, had adopted a resolution in November 2007 "welcom[ing] into membership of our Province on an emergency

and pastoral basis, those dioceses of the Episcopal Church taking appropriate action to separate from the Episcopal Church."

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

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

- (b) change the title of Article II, "Accession and/or Incorporation of the Constitution of the Protestant Episcopal Church in the United States to the Constitution of the Diocese of San Joaquin," to "Anglican Identity,"; and
- (c) replace the text of Article II in its entirety to read:

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

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

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- 75. On December 5, 2007, defendant Schofield responded to the Presiding Bishop's December 3, 2007, letter, and affirmed his intention to attempt to disaffiliate the Diocese of San Joaquin from the Episcopal Church.
- 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.
- 77. At the urging of defendant Schofield, the 2007 meeting of the Convention of the Diocese also purported to add a new Diocesan Canon XXXVIII to state: "The Diocese of San Joaquin is a full member of the Anglican Province of the Southern Cone of South America."
- 78. The purported amendments described in paragraphs 73 and 77 above violated the Church's Constitution and Canons, and are invalid.
- 79. Even as purportedly amended, the Diocesan Constitution and Canons continue to contain numerous ties to the Episcopal Church and its Constitution and Canons, including requiring that the Bishop of the Diocese be a corporation sole by the title of "The Protestant Episcopal Bishop of San Joaquin, a Corporation Sole" and that "[t]he title to trust funds and real estate acquired by gift or purchase for the use of the Diocese of San Joaquin, or for any unincorporated Parish therein, or for the use of the Episcopal Church in any place within this Diocese where there is no organized congregation, shall be vested in the Protestant Episcopal Bishop of San Joaquin, a Corporation Sole"
- 80. Upon information and belief, the 2007 meeting of the Convention neither considered nor passed any resolution authorizing any amendment of the articles of "The Protestant Episcopal Bishop of the Diocese of San Joaquin, a corporation sole."

- 81. On January 9, 2008, pursuant to Canon IV.9(1) of the Episcopal Church, a "Review Committee" comprised of bishops, priests, and lay people charged with reviewing disciplinary allegations involving bishops of the Church, having considered, among other things, the actions of defendant Schofield in connection with the purported amendments to the Diocesan Constitution and Canons and the articles of "The Protestant Episcopal Bishop of the Diocese of San Joaquin, a corporation sole" alleged in paragraphs 64-66, 73, and 77 above, found that defendant Schofield had "abandoned the Communion of this Church by an open renunciation of the Doctrine, Discipline or Worship of this Church." The Review Committee issued a certificate of abandonment to the Presiding Bishop of the Church.
- 82. On January 11, 2008, after receiving the certificate of defendant Schofield's abandonment, in accordance with Canon IV.9(1) of the Episcopal Church, the Episcopal Church's Presiding Bishop, the Most Rev. Katharine Jefferts Schori, with the consent of the three senior diocesan Bishops of the Church, "inhibited" defendant Schofield, and ordered that he "cease all 'episcopal, ministerial, and canonical acts, except as relate to the administration of the temporal affairs of the Diocese of San Joaquin," until the inhibition may be terminated or superseded.
- 83. On January 22, 2008, defendant Schofield purported to amend the articles of incorporation of "The Protestant Episcopal Bishop of San Joaquin, a corporation sole," to change its name to "The Anglican Bishop of San Joaquin, a corporation sole." This purported amendment was not authorized by any resolution of the diocesan Convention at its 2007 meeting or otherwise, and was otherwise invalid, as set forth in paragraphs 84-90 below.
- 84. Cal. Corp. Code §§ 10000, *et seq*. provides a mechanism under which the titular head of an ecclesiastical organization, such as a diocese or missionary district of the Episcopal Church,

may incorporate "for the purpose of administering and managing the affairs, property, and temporalities thereof." *Id.* § 10002. A California corporation sole may not divert the assets that it holds to any mission other than that of its underlying religious organization – here, the Episcopal Church in the Diocese of San Joaquin – except as the applicable rules of that underlying religious organization may permit.

- 85. The Diocese of San Joaquin is a charitable religious organization formed by the Episcopal Church, which exists to carry out the Episcopal Church's ministry and mission within its geographic territory.
- 86. Cal. Corp. Code § 10010 permits the officer of a corporation sole to amend the corporation sole's articles, but the officer must first "sign and verify a statement ... stating that [the amendment] has been duly authorized by the religious organization governed by the corporation."
- 87. The January 2008 purported amendments to the articles of "The Protestant Episcopal Bishop of San Joaquin, a corporation sole" by defendant Schofield violated Cal. Corp. Code § 10010, and were *ultra vires* and are of no effect because, upon information and belief, there was no resolution of the Convention of the Diocese authorizing any amendment to the articles of the corporation sole.
- 88. The January 2008 purported amendments to the articles of the foregoing corporation sole by defendant Schofield were *ultra vires* and are of no effect because they violate Diocese of San Joaquin Canon 25.01, which requires that the name of the corporation sole be "The Protestant Episcopal Bishop of San Joaquin, a Corporation Sole."
- 89. The January 2008 purported amendments to the articles of the foregoing corporation sole by defendant Schofield were *ultra vires* and are of no effect because they conflict with the

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Constitution and Canons of the Episcopal Church and the Diocese and violate defendant Schofield's fiduciary duties and canonical authority, as provided in Articles V.1 and VIII of the Episcopal Church's Constitution and Episcopal Church Canons I.17.8 and IV.1.1(e), (f), and (h). 90. The January 2008 purported amendments to the articles of the foregoing corporation sole by defendant Schofield were *ultra vires* and are of no effect because the January 11, 2008, inhibition of defendant Schofield by the Presiding Bishop barred him from all "episcopal, ministerial, and canonical acts, except as relate to the administration of the temporal affairs of

- 91. On March 12, 2008, the Episcopal Church's House of Bishops met, and pursuant to Canon IV.9.2 of the Episcopal Church, authorized the Presiding Bishop to depose defendant Schofield from the ordained ministry of the Episcopal Church. On March 12, 2008, the Presiding Bishop deposed defendant Schofield from the ordained ministry of the Episcopal Church.
- 92. Upon his deposition and removal as the Bishop of the Diocese of San Joaquin, defendant Schofield's positions as the incumbent of "The Protestant Episcopal Bishop of the Diocese of San Joaquin, a corporation sole," and President of the Investment Trust and the Episcopal Foundation, terminated.
- 93. "Canon III.13(1) of the Episcopal Church provides that "[a] Diocese without a Bishop may, by an act of its Convention, and in consultation with the Presiding Bishop, be placed under the provisional charge and authority of a Bishop of another Diocese or of a resigned Bishop, who shall by that act be authorized to exercise all the duties and offices of the Bishop of the Diocese

until a Bishop is elected and ordained for that Diocese or until the act of the Convention is revoked."

- 94. On March 29, 2008, at a special meeting of the Convention of the Diocese of San Joaquin, pursuant to Canon III.13(1), Bishop Lamb was selected as the Provisional Bishop of the Diocese of San Joaquin with full episcopal jurisdiction and ecclesiastical authority to serve until the Diocese elects a new bishop or the Convention of the Diocese acts to terminate his position.
- 95. As the Provisional Bishop of the Diocese, Bishop Lamb is the incumbent of "The Protestant Episcopal Bishop of the Diocese of San Joaquin, a corporation sole," and President of the Episcopal Foundation and the Investment Trust.
- 96. At the March 29, 2008, special meeting of the Convention of the Diocese of San Joaquin, the Diocese passed several resolutions confirming that the 2005 and 2007 purported amendments to the Diocesan Constitution and Canons set forth in paragraphs 64-65, 73, and 77 above were *ultra vires*, null and void, and are not in effect.
- 97. At the March 29, 2008, special meeting of the Convention of the Diocese of San Joaquin, the Diocese authorized Bishop Lamb to file corrected, amended articles of "The Protestant Episcopal Bishop of the Diocese of San Joaquin, a corporation sole."
- 98. On April 3, 2008, Bishop Lamb sent defendant Schofield a letter requesting that he vacate the offices of the Diocese and relinquish all real and personal property held by the Diocese, the Episcopal Foundation, and the Investment Trust, and requested that defendant Schofield confirm in writing by April 9, 2008, that he had done so.
- 99. In an April 9, 2008, response to the April 3, 2008, letter, defendant Schofield did not agree to vacate the offices of the Diocese and relinquish all real and personal property held by

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the Diocese, the Episcopal Foundation, and the Investment Trust, and he remains in possession of the offices of the Diocese of San Joaquin and in control of all of its real and personal property. 100. On April 9, 2008, Bishop Lamb, as the incumbent of "The Protestant Episcopal Bishop of the Diocese of San Joaquin, a corporation sole," and with the express authorization of the Diocesan Convention in compliance with Cal. Corp. Code § 10010, filed with the Secretary of State corrected articles of incorporation of the corporation sole, making clear that the name of the corporation sole is "The Protestant Episcopal Bishop of San Joaquin, a corporation sole" and that the Bishop of the Diocese of San Joaquin is to be consecrated and installed according to the rules and procedures of the Episcopal Church. That filing also amended the articles of incorporation of the corporation sole to state that Bishop Lamb is the incumbent of the corporation sole. 101. Defendants take the position that defendant Schofield was authorized to revise the articles of "The Protestant Episcopal Bishop of San Joaquin, a corporation sole" in 2006 and 2008, and

- that defendant Schofield may continue as the incumbent of the "The Protestant Episcopal Bishop of San Joaquin, a corporation sole" and as President of the Episcopal Foundation and the Investment Trust after leaving the Episcopal Church and being deposed.
- 102. Plaintiffs contend to the contrary, that the purported amendments to the articles of the corporation sole were ultra vires, invalid, and void, and that defendant Schofield may not continue as the incumbent of the "The Protestant Episcopal Bishop of San Joaquin, a corporation sole," or as President of the Episcopal Foundation or the Investment Trust, after leaving the Episcopal Church and being deposed.
- An actual controversy therefore exists between the parties on the legal issues identified in paragraphs 101-102 above. A declaratory judgment is therefore necessary and proper to set forth and determine the parties' rights and duties with respect to those issues.

SECOND CAUSE OF ACTION

(Declaratory Relief As to the Status of Property of the Diocese – As Against All Defendants)

- 104. Plaintiffs adopt and incorporate by reference paragraphs 1 through 103 above, as though fully set forth herein.
- 105. Under the Episcopal Church's polity, discipline, and rules, all property held by or for any of the Church's constituent parts is held and must be used for the Church's mission and may not be diverted to other purposes.
- 106. All property held by or for the Diocese of San Joaquin is held and must be used for the mission of the Episcopal Church.
- 107. On or about March 28, 2008, defendant Schofield caused to be recorded in the office of the Madera County Recorder a grant deed purporting to transfer title to the real property commonly known as 43140 Highway 41, Oakhurst, California, from "The Anglican Bishop of San Joaquin, a Corporation Sole, which acquired title under the name 'The Protestant Episcopal Bishop of San Joaquin, a Corporation Sole" to "The Anglican Bishop of San Joaquin, Corporation Sole."
- 108. On or about April 7, 2008, defendant Schofield formed the defendant Holding Corporation.
- 109. After defendant Schofield formed the Holding Corporation, he purported to transfer to it several properties located in California, the legal descriptions for which are identified in Attachment A hereto. These properties are properly held by "The Protestant Episcopal Bishop of the Diocese of San Joaquin, a corporation sole," and they are some of the properties that are the subject of this action.

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Upon information and belief, in addition to the properties identified in Attachment A hereto, defendant Schofield has also sought to transfer or has transferred to the Holding Corporation other properties that are properly held by "The Protestant Episcopal Bishop of the Diocese of San Joaquin, a corporation sole," and that are also the subject of this action. Defendant Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") is a Delaware 111. corporation, with offices in Fresno, California. Merrill Lynch operates several investment accounts that include assets that are or were owned and titled to the Diocese of San Joaquin and "The Protestant Episcopal Bishop of San Joaquin, a corporation sole," including but not limited to accounts in the name of "The Anglican Bishop of the Diocese of San Joaquin, a corporation sole"; Diocese of San Joaquin – Combined and Pooled Accounts; The Diocesan Investment Trust; Episcopal Conference Center Oakhurst ("ECCO"); St. James's Cathedral – Episcopal Ministry Account; St. John's, Porterville; St. John's, Tulare; and the Holding Corporation. 112. Upon information and belief, defendant Schofield has improperly purported to cause "The Protestant Episcopal Bishop of San Joaquin, a corporation sole" to retitle or transfer substantial amounts from its accounts held by Merrill Lynch to accounts titled in the name of "The Anglican Bishop of the Diocese of San Joaquin, a corporation sole"; Diocese of San Joaquin – Combined and Pooled Accounts; The Diocesan Investment Trust; Episcopal Conference Center Oakhurst ("ECCO"); St. James's Cathedral – Episcopal Ministry Account; St. John's, Porterville; St. John's Tulare; or the Holding Corporation. Defendants contend that the assets held by "The Protestant Episcopal Bishop of San

Joaquin, a corporation sole," the Episcopal Foundation, the Investment Trust, and the Holding Corporation, and all assets held in the above-referenced Merrill Lynch accounts, may lawfully be diverted for use by a church other than the Episcopal Church.

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114. Plaintiffs contend to the contrary, that the assets held by "The Protestant Episcopal Bishop of San Joaquin, a corporation sole," the Episcopal Foundation, the Investment Trust, and the Holding Corporation, and all assets held in the above-referenced Merrill Lynch accounts, may not lawfully be diverted for use by a religious denomination other than the Episcopal Church, that all such assets may be used only for the mission of the Church and the Diocese of San Joaquin, and that the misappropriation of those assets has caused and continues to cause them irreparable harm.

115. An actual controversy therefore exists between the parties on the legal issues identified in paragraphs 113-114 above. A declaratory judgment is therefore necessary and proper to set forth and determine the parties' rights and duties with respect to those issues.

THIRD CAUSE OF ACTION (Breach of Fiduciary Duty – As Against Defendant Schofield)

- Plaintiffs adopt and incorporate by reference paragraphs 1 through 115 above, as though 116. fully set forth herein.
- 117. Because of the position to which defendant Schofield was elected as Bishop of the Diocese of San Joaquin, which entailed leadership and pastoral authority over the Diocese, and possession and control of property held by the Diocese, and because of his own explicit commitment to conform to the "doctrine, discipline and worship of [the Episcopal] Church," defendant Schofield had a fiduciary duty at all times to ensure that the Diocesan property was not diverted for some other purpose.
- 118. Defendant Schofield's attempt to divert the Diocese of San Joaquin itself and its property for the use and benefit of another church in violation of the Episcopal Church's Constitution and Canons breached his fiduciary duties as the Bishop and ecclesiastical authority of the Diocese of San Joaquin.

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

FOURTH CAUSE OF ACTION (Conversion – As Against All Defendants Other Than Merrill Lynch)

- 120. Plaintiffs adopt and incorporate by reference paragraphs 1 through 119 above, as though fully set forth herein.
- 121. Plaintiff Diocese of San Joaquin owns valuable property, including but not limited to personal property, bank and brokerage accounts, monies, valuable chattels, personnel records, financial records, real property records and deeds, and historical records of the Diocese held in the name of "The Protestant Episcopal Bishop of San Joaquin, a corporation sole," the Diocese of San Joaquin, the Episcopal Foundation, and the Investment Trust.
- 122. Defendants have converted the property of the Diocese of San Joaquin by wrongfully claiming it, wrongfully asserting control over it, wrongfully transferring it to non-Episcopal entities, and wrongfully applying it for their own uses and purposes.
- 123. Plaintiffs have demanded that defendant Schofield return the property, but the demand has been refused.
- 124. As a result of defendants' wrongful conversion and refusal to turn over the possession of the foregoing property, plaintiffs have suffered and will suffer substantial damages, and have been and continue to be irreparably harmed.

FIFTH CAUSE OF ACTION (Ejectment – As Against Defendants Schofield and the Holding Corporation)

125. Plaintiffs adopt and incorporate by reference paragraphs 1 through 124 above, as though fully set forth herein.

126. Plaintiffs Bishop Lamb, in his capacity as "The Protestant Episcopal Bishop of San Joaquin, a corporation sole" and president of the Episcopal Foundation and the Investment Trust, and the Diocese of San Joaquin are, and have been, entitled to the use and possession of all real property owned or held by the Diocese.

- 127. Defendants Schofield and the Holding Corporation are now wrongfully in possession of the real property owned by "The Protestant Episcopal Bishop of San Joaquin, a corporation sole," the Diocese of San Joaquin, the Episcopal Foundation, and the Investment Trust, and have ousted the Diocese of San Joaquin from peaceful possession of the property. Bishop Lamb and the Diocese of San Joaquin have demanded that defendant Schofield vacate these premises, but defendant Schofield has unlawfully withheld possession of the premises from plaintiffs.
- 128. As a result of the refusal of defendants Schofield and the Holding Corporation to turn over the possession of this property, plaintiffs have suffered and will suffer substantial damages, and have been and continue to be irreparably harmed.

SIXTH CAUSE OF ACTION

(Fraudulent Conveyances – As Against All Defendants Other Than Merrill Lynch)

- 129. Plaintiffs adopt and incorporate by reference paragraphs 1 through 128 above, as though fully set forth herein.
- 130. At all times mentioned herein, plaintiffs have been the holders of a certain claim against defendants, consisting of plaintiffs' right to possession and control of the real and personal property held by or for the Diocese of San Joaquin, including property held by "The Protestant Episcopal Bishop of San Joaquin, a corporation sole," the Episcopal Foundation, or the Investment Trust, and property formerly held by those entities that has been wrongfully transferred to the Holding Corporation, "The Anglican Bishop of the Diocese of San Joaquin, a corporation sole"; Diocese of San Joaquin Combined and Pooled Accounts; Episcopal

| Conference Center Oakhurst ("ECCO"); and St. James's Cathedral – Episcopal Ministry | | | |
|--|--|--|--|
| Account, or other non-Episcopal entities not yet known. | | | |
| 131. On or about April 7, 2008, defendants Schofield, the Episcopal Foundation, and/o | | | |
| Investment Trust were in possession and control of the properties identified in Attachme | | | |

131. On or about April 7, 2008, defendants Schofield, the Episcopal Foundation, and/or the Investment Trust were in possession and control of the properties identified in Attachment A, which are properly held by "The Protestant Episcopal Bishop of the Diocese of San Joaquin, a corporation sole," and are some of the properties that are the subject of this action.

- 132. On information and belief, on or about April 7, 2008, defendants Schofield, the Episcopal Foundation, and/or the Investment Trust purported to transfer to defendant Holding Corporation the real property identified in Attachment A .
- 133. Defendants Schofield, the Investment Trust, and the Episcopal Foundation had no authority to divert those asserts to defendant Holding Corporation or any other non-Episcopal entity.
- 134. On information and belief, in exchange for the aforementioned transfers, defendants Schofield, the Holding Corporation, the Episcopal Foundation, and/or the Investment Trust did not receive reasonably equivalent value in exchange for the properties transferred.
- 135. On information and belief, defendant Holding Corporation received the above-described real and personal property with knowledge that defendants Schofield, the Episcopal Foundation, and/or the Investment Trust intended to hinder, delay, or defraud the collection of plaintiffs' aforementioned claim.
- 136. As a result of defendants' fraudulent conveyance of the above-described property, plaintiffs have suffered and will suffer substantial damages, and have been and continue to be irreparably harmed.

SEVENTH CAUSE OF ACTION
(Quiet Title – As Against All Defendants Other Than Merrill Lynch)

137. Plaintiffs adopt and incorporate by reference paragraphs 1 through 136 above, as though fully set forth herein.

138. Plaintiff Lamb, in his capacity as "The Protestant Episcopal Bishop of San Joaquin, a corporation sole," owns the properties identified in Attachment A hereto, which is incorporated herein by reference.

139. The basis of plaintiff Lamb's title to said property in his capacity as "The Protestant Episcopal Bishop of San Joaquin, a corporation sole," is the deeds granting the property in fee simple to "The Protestant Episcopal Bishop of San Joaquin, a corporation sole," and recorded as confirmed in Attachment A hereto. The incumbent of "The Protestant Episcopal Bishop of San Joaquin, a corporation sole," was possessed of the above-described property within five years of the commencement of this action.

140. On information and belief, defendants Schofield, the Episcopal Foundation, the Investment Trust, and/or the Holding Corporation claim ownership in fee simple of the above-described real property. Defendants' claim is adverse to the claim of plaintiff Lamb, in his capacity as "The Protestant Episcopal Bishop of San Joaquin, a corporation sole," in the above-described property.

141. Plaintiff Lamb, in his capacity as "The Protestant Episcopal Bishop of San Joaquin, a corporation sole," is seeking to quiet title against the claims of defendants in the above-referenced property. Defendants' claims are without any right whatsoever and defendants have no right, title, estate, lien, or interest whatever in the above-described property or any part thereof.

142. Plaintiff Lamb, in his capacity as "The Protestant Episcopal Bishop of San Joaquin, a corporation sole," seeks to quiet title as of April 7, 2008, the date that defendants purported to transfer title of the above-described properties to the defendant Holding Corporation.

PRAYER FOR RELIEF

Wherefore, plaintiffs pray for:

- 1. an order declaring that defendant Schofield ceased to be the incumbent of, and may not represent or otherwise act on behalf of, "The Protestant Episcopal Bishop of the Diocese of San Joaquin, a corporation sole," after his deposition as the Episcopal Bishop of San Joaquin;
- an order declaring that Bishop Lamb is the incumbent of the "The Protestant
 Episcopal Bishop of the Diocese of San Joaquin, a corporation sole" pursuant to
 California Corporations Code §§ 10000, et seq.;
- an order declaring that the corrected articles filed by Bishop Lamb on April 9,
 2008, are the current and correct articles of "The Protestant Episcopal Bishop of the Diocese of San Joaquin, a corporation sole";
- 4. an order declaring that all property held by or for the Diocese of San Joaquin, including all property held by "The Protestant Episcopal Bishop of the Diocese of San Joaquin, a corporation sole," the Episcopal Foundation, or the Investment Trust, is held and may be used only subject to the Constitutions and Canons of the Episcopal Church and the Diocese of San Joaquin;
- 5. an order requiring defendant Schofield to vacate the offices of the Diocese of San Joaquin and relinquish to Bishop Lamb and the Diocese of San Joaquin possession and control of all real and personal property of the Diocese, including

- all property held by the Diocese for the benefit of parishes within the Diocese as well as property of mission congregations of the Diocese;
- 6. an order requiring each defendant to relinquish to Bishop Lamb and the Diocese of San Joaquin possession and control of all real and personal property that each may hold for the Diocese of San Joaquin or for the benefit of parishes within the Diocese as well as property of mission congregations of the Diocese;
- 7. an order requiring each defendant to provide an accounting of all real and personal property of the Diocese of San Joaquin that it holds, including all property held by the Diocese for the benefit of parishes within the Diocese as well as property of mission congregations of the Diocese;
- 8. a judgment declaring that defendant Schofield has violated his fiduciary obligations to the membership of the Diocese of San Joaquin and the Episcopal Church in seeking to disaffiliate the Diocese from the Episcopal Church and affiliate the Diocese with another church, while taking all of the real and personal property of the Diocese with him;
- 9. an injunction prohibiting each defendant from diverting, alienating, or using the assets of the Diocese of San Joaquin except as provided by and in accordance with the Constitution and Canons of the Episcopal Church;
- 10. an order enjoining defendant Schofield from using the symbols and other trademarks of the Episcopal Diocese of San Joaquin, including, but not limited to, the Bishop's seal;
- an order that the transfer of the properties identified in Attachment A hereto be annulled and declared void to the extent necessary to satisfy the right of plaintiff

- Lamb, in his capacity as "The Protestant Episcopal Bishop of San Joaquin, a corporation sole," to possession and control of those properties;
- 12. an order that the property in the hands of defendant Holding Corporation be attached in accordance with the provisions of Sections 481.010, *et seq.* of the Code of Civil Procedure;
- 13. an order that defendant Holding Corporation be restrained from disposing of the property transferred to it by any defendant pending final resolution of this lawsuit;
- 14. a judgment that plaintiff Lamb, in his capacity as "The Protestant EpiscopalBishop of San Joaquin, a corporation sole," is the title owner of the property and that defendants have no interest in the property;
- an order requiring defendant Merrill Lynch to freeze all accounts held by defendant Schofield or any entity he purports to represent, including but not limited to "The Protestant Episcopal Bishop of the Diocese of San Joaquin, a corporation sole"; "The Anglican Bishop of the Diocese of San Joaquin, a corporation sole"; Diocese of San Joaquin Combined and Pooled Accounts; The Diocesan Investment Trust; Episcopal Conference Center Oakhurst ("ECCO"); St. James's Cathedral Episcopal Ministry Account; St. John's, Porterville; St. John's, Tulare; and/or the Anglican Diocese Holding Corporation, pending final resolution of this lawsuit;
- 16. an order requiring defendant Merrill Lynch to acknowledge all right, title, and interest of "The Protestant Episcopal Bishop of the Diocese of San Joaquin, a corporation sole," in the accounts held by "The Protestant Episcopal Bishop of the Diocese of San Joaquin, a corporation sole"; "The Anglican Bishop of the

Diocese of San Joaquin, a corporation sole"; Diocese of San Joaquin – Combined and Pooled Accounts; The Diocesan Investment Trust; Episcopal Conference Center Oakhurst ("ECCO"); St. James's Cathedral – Episcopal Ministry Account; St. John's, Porterville; St. John's Tulare; and/or the Anglican Diocese Holding Corporation.

- an order requiring defendant Merrill Lynch to transfer to "The Protestant Episcopal Bishop of San Joaquin, a corporation sole" all of the assets properly owned by "The Protestant Episcopal Bishop of San Joaquin, a corporation sole" that have been transferred to accounts held by other account holders;
- 18. a decree awarding plaintiffs their costs of suit; and
- 19. such other and further relief as the Court deems just and proper.

Respectfully submitted,

LAW OFFICES OF MICHAEL O. GLASS

By: Michael O. Glass

Attorneys for the Diocese of San Joaquin and the Rt. Rev. Jerry A. Lamb

OVERSTREET & ASSOCIATES

By: David M. Overstreet IV

GOODWIN PROCTERALP

By: Jeffrey D. Skinner

Attorneys for the Episcopal Church

VERIFICATION

I, The Rt. Rev. Jerry A. Lamb, am the Provisional Bishop of the Diocese of San Joaquin, a party to this action, and am authorized to make this verification on behalf of all plaintiffs to this action. I have read the foregoing VERIFIED FIRST AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF, TO RECLAIM POSSESSION OF REAL AND PERSONAL PROPERTY, AND TO REMEDY BREACH OF FIDUCIARY DUTY, and know its contents. I am informed and believe and on that ground allege that the matters stated therein are true. The same is true of my own knowledge, except as to those matters alleged on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 3/ day of <u>Pray</u>

008, in <u>Mondo</u>, California

The Rt. I

Jerry A. Lamb

Case No. 08 CE CG 01425 (Amended Complaint)

EXHIBIT A Legal Descriptions

The land referred to is situated in the unincorporated area of the County of Kern, State of California, and is described as follows:

That portion of the Southeast quarter of Section 22, Township 25 South, Range 33 East, Mount Diablo Meridian, in the County of Kern, State of California, according to the Official Plat thereof, described as follows:

Beginning at the Southeast corner of the property conveyed to George C. Karsgor, and wife, recorded in Book 2425, Page 241 of Official Records, said point being 1,049.82 feet, more or less, South of the Northeast corner of said Southeast quarter of Section 22, measured along the East line of said Southeast quarter of Section 22; thence South along the East line of said Southeast quarter of Section 22; a distance of 300 feet, more or less, to the Northeast corner of that property conveyed to the Protestant Episcopal Bishop of San Joaquin, a corporation sole, by Deed recorded May 8, 1974 in Book 4839, Page 1891, of Official Records; thence Westerly parallel to the South line of said Southeast quarter of Section 22 to a point in the Easterly right of way line of County Road No. 572, opened by the Board of Supervisors of the County of Kern on November 10, 1924; thence Northerly along the said Easterly right of way line 300.38 feet, more or less, to the Southerly line of said Karsgor property; thence Easterly along the South line of said Karsgor property to the point of beginning.

Except any portion of said land which lies within County Road No. 2460.

APN: 082-231-08

The land referred to is situated in the County of Kern, City of Bakersfield, State of California, and is described as follows:

Lot 18 of Tract No. 4083, in the City of Bakersfield, County of Kern, State of California, as per Map recorded September 18, 1979, in Book 29, Pages 97 and 98 of Maps, in the office of the County Recorder of said County.

EXCEPTING THEREFROM all oil, gas, other hydrocarbon substances and minerals of any kind or character, in, on, or thereunder, as reserved in Deeds of Record.

ALSO EXCEPTING THEREFROM all water and/or water rights within said land.

APN: 381-170-03

Exhibit A

All that portion of Section 25, Township 6 South, Range 21 East, M.D.B. & M., in the unincorporated area of the County of Madera, State of California more particularly described as follows:

Beginning at the Northwest corner of said Section 25; thence N.88°23'27"E. 2646.44 feet to the North 1/4 corner of said Section 25, thence N.88°28'06"E. 1331.39 feet; thence N.88°22'26"E. 1325.71 feet; thence S.0°51'44"W. 1335.10 feet; thence S.89°35'54"W. 1153.77 feet to the center line of the Lewis Fork of the Fresno River; thence along said center line N.4°15'40"W. 49.40 feet; thence N.7°47'57"W. 54.77 feet; thence leaving said centerline N.67°35'49"W. 59.49 feet; thence S.59°39'48"W. 160.16 feet; thence S.65°01'07"W. 69.56 feet; thence S.45°43'04"W. 66.12 feet; thence S.26°39'04"W. 73.83 feet; thence S.25°10'00"W. 143.56 feet; thence S.9°32'42"W. 84.01 feet; thence S.8°31'45"W. 115.90 feet; thence N.89°59'53"E, 219.00 feet to the East line of the Southwest 1/4 of the Northeast 1/4 of said Section 25; thence S.0°30'26"W. 423.04 feet; thence N.78°29'30"W. 764.65 feet; thence N.59°28'54"W. 294.86 feet; thence S.77°29'49"W. 334.83 feet; thence N.9°27'53"W. 669.90 feet; thence N.59°32'29"W. 443.49 feet; thence S.7°58'46"W. 323.15 feet; thence S.89°59'52"W. 499.73 feet; thence S.44°45'37"W. 653.66 feet; to a point on the Easterly right-of-way line of State Highway #41 thence Northerly along said right-of-way line through a curve concave to the West having a radius of 750.00 feet through a central angle of 21°19'24" an arc distance of 279.12 feet and whose chord bears N.9°53'03"W. 277.51 feet; thence N.20°28'13"W. 792.51 feet; thence along a curve to the left through a central angle of 63°59'22" an arc distance of 837.62 feet and whose chord bears N.52°29'40"W. 794.76 feet; thence N.84°24'19"W. 91.30 feet; thence along a curve to the right having a radius of 250.00 feet through a central angle 15°58'15" an arc distance of 69.69 feet to the West line of the Northwest 1/4 of said Section 25; thence N.1°11'21"E. 186.11 feet to the POINT OF BEGINNING.

| 1 | Diocese of San Joaquin v. Schofield, et al Fresno Superior Court Case No.: 08 CE CG 01425 | | |
|----------|---|--|--|
| 2 | PROOF OF SERVICE | | |
| 3 | | | |
| 4 5 | I, Kathleen D. Vargas, declare that I am employed in the City of San Rafael, County of Marin, California; I am over the age of eighteen years and not a party to the within entitled action. My business address is 900 Fifth Avenue, Suite 100, San Rafael, CA, 94901. On June 2, 2008 along | | |
| 6 | with this Proof of Service, I served, in the manner indicated below, the following documents: | | |
| 7 | SUMMONS (On Amended Complaint) VERIFIED FIRST AMENDED COMPLAINT | | |
| 8 | | | |
| 9 | [xx] (U.S. MAIL) placing true and correct copies thereof enclosed in a sealed envelope(s), mailed in the United States mail with first class postage fully prepaid, at San Rafael, California, addressed as follows: | | |
| 10 | | | |
| 11 | John-David Schofield Russell G. VanRozeboom 4159 E. Dakota Avenue Wild, Carter & Tipton | | |
| 12 | Fresno, CA 93726 246 West Shaw Avenue Fresco, Ca 93704 | | |
| 13 | John-David Schofield Eric J. Glassman | | |
| 14 15 | 3547 West Locust Street Mennemeier, Glassman, & Stroud, LLP Fresno, CA 93711 980 9 th Street, Suite 1700 Sacramento, CA 95814-2736 | | |
| 16 | L. Duke Golden | | |
| 17 | 4159 E. Dakota Avenue Fresno, CA 93726 | | |
| 18 | | | |
| 19 | I declare under nanelty of nations and the first transfer of the same and the same | | |
| 20 | I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct, and that this declaration was executed on June 2, 2008, at San Rafael, California. | | |
| 21 | Kant line & M | | |
| 22 | Kathleen D. Vargas | | |
| 23 | | | |
| 24 | | | |
| 25 | | | |