VIRGINIA:

IN THE CIRCUIT COURT FOR FAIRFAX COUNTY

In re:		
Multi-Circuit Episcopal Church Litigation	)	**Civil Case Numbers:**
	)	CL 2007-248724,
	)	CL 2006-15792,
	)	CL 2006-15793,
	)	CL 2007-556,
	)	CL 2007-1235,
	)	CL 2007-1236,
	)	CL 2007-1237,
	)	CL 2007-1238,
	)	CL 2007-1625,
	)	CL 2007-5249,
	)	CL 2007-5250,
	)	CL 2007-5362,
	)	CL 2007-5363,
	)	CL 2007-5364,
	)	CL 2007-5682,
	)	CL 2007-5683,
	)	CL 2007-5684,
	)	CL 2007-5685,
	)	CL 2007-5686,
	)	CL 2007-5902,
	)	CL 2007-5903, and
	)	CL 2007-11514

ORDER

The Court is in receipt of the parties' joint submission regarding legal issues that may be resolved without an additional evidentiary hearing. The parties state that there is just one issue that, at the present time, they can all agree is an issue that can be resolved without further evidence: "May the Court approve a petition under Va. Code Section 57-9(A) without analyzing the factors used in *Green v. Lewis*, 221 Va. 547 (1980), to determine whether the Episcopal Church or the Diocese of Virginia has a proprietary or contractual interest in the properties at issue?"

The Court assumes that the "factors" referenced above are those set out in this sentence from Green: "In determining whether the A.M.E. Zion Church has a proprietary interest in the Lee Chapel property, we look to our own statutes, to the language of the deed conveying the property, to the constitution of the general church, and to the dealings between the parties." Id. at 555.

Regarding this issue, the CANA Congregations assert in the joint submission that "this issue has been fully briefed, argued, and submitted to the Court, and . . . the Court has already resolved the statutory component of the issue." ECUSA and the Diocese "disagree that the issue has been fully briefed or argued, or submitted to the Court, and that the Court has resolved any component of the issue."

Although this Court does not agree with the manner in which the question is phrased, the Court does agree that this issue submitted jointly by the parties can be decided as a question of law, without the taking of additional evidence. Therefore, the purpose of this Order is to set a schedule for the briefing of this matter.[1] In addition, the Court adds several other questions that should be addressed in these briefs, all of which the Court believes are pure questions of law which can be resolved without taking additional evidence.

The questions the parties shall address in their briefs are as follows:

1.) Did the Supreme Court of Virginia, in Green v. Lewis, hold that a trial court presiding over a 57-9(A) petition must consider the factors set out in Green v. Lewis, in addition to making the determinations actually set out in 57-9(A)? Does the holding of Green v. Lewis apply only to proceedings under 57-15, or does it apply to proceedings brought under 57-9 as well?

2.) Has the Court in its April 3, 2008 opinion already resolved the issue described in Question 1 above, as asserted by the CANA Congregations?

3.) What is the meaning of the phrase "if the determination be approved by the court" as that phrase is used in 57-9(A)? Specifically, once this Court determines that 57-9(A) has been properly invoked, is the "approval" limited to a review of the vote taken or does it permit, or even require, as ECUSA and the Diocese assert, that the Court examine various other considerations, including those set forth in Green v. Lewis?

4.) What is the meaning of the phrase "shall be conclusive as to the title to and control" of the property in question, as that phrase is used in 57-9(A)?

5.) What is the meaning of the phrase "congregation whose property is held by trustees," as that phrase is used in 57-9(A)? Specifically, is Mr. Hurd correct when he asserted at oral argument on May 28th, 2008 that the phrase

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[1] The fact that the Court is setting a briefing schedule should not be interpreted as a rejection of the CANA Congregations' position that the matter has been both briefed and resolved. Rather, the Court is setting a briefing schedule because ECUSA and the Diocese assert that they have not yet been heard on this issue.

"congregation whose property is held by trustees" is not simply a reference to the property that is the subject of the 57-9(A) petition but, rather, requires the Court to make an initial determination, prior to the Court's consideration of the validity of the vote, as to "who" owns the property at issue?

EACH OF THE FIVE ISSUES LISTED ABOVE WILL BE DECIDED ON THE BASIS OF THE PAPERS FILED, WITHOUT ORAL ARGUMENT.

The briefing schedule is as follows:

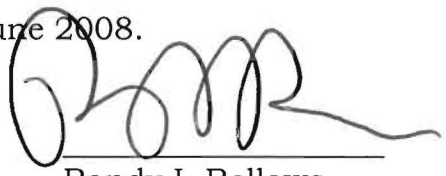
PARTIES' OPENING BRIEFS: FILE BY 4 PM ON MONDAY, JUNE 16th. Page Limit: 20 PAGES

PARTIES' RESPONSIVE BRIEFS: FILE BY 4 PM ON MONDAY, JUNE 23rd. Page Limit: 10 PAGES

PARTIES' REPLY BRIEFS: FILE BY 4 PM ON THURSDAY, JUNE 26th. Page Limit: 5 PAGES

ECUSA and the Diocese will share their page limit. The CANA Congregations will share their page limit. Because of the possibility that the resolution of these questions may, in the view of the parties, impact upon the constitutional issues, the Amici may, if they wish, file one brief of their own of no more than 10 pages by Monday, June 23rd at 4 PM.

SO ORDERED, this 6 day of June 2008.



Randy I. Bellows,
Circuit Court Judge