

IN THE _____ CIRCUIT _____ COURT OF _____ MADISON _____ COUNTY

Plaintiff CENTRAL PRESBYTERIAN CHURCH IN THE UNITED STATES OF AMERICA OF HUNTSVILLE, ALA. **v. Defendant** NORTH ALABAMA PRESBYTERY

NOTICE TO North Alabama Presbytery, 3330 L&N Drive, SW, Huntsville, Alabama 35801

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE PLAINTIFF OR PLAINTIFF'S ATTORNEY _____ Roderic G. Steakley, Sirote & Permutt, P.C. _____ WHOSE ADDRESS IS _____ 305 Church Street, Suite 800, Huntsville, Alabama 35801 _____

THIS ANSWER MUST BE MAILED OR DELIVERED WITHIN 30 DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

TO ANY SHERIFF OR ANY PERSON AUTHORIZED by the Alabama Rules of Civil Procedure:

- You are hereby commanded to serve this summons and a copy of the complaint in this action upon the defendant.
- Service by certified mail of this summons is initiated upon the written request of _____ Plaintiff _____ pursuant to the Alabama Rules of Civil Procedure.

Date _____ Clerk/Register _____ By: _____

Certified Mail is hereby requested.

Rod Steakley

 Plaintiff's/Attorney's Signature

RETURN ON SERVICE:

Return receipt of certified mail received in this office on _____ (Date)

I certify that I personally delivered a copy of the Summons and Complaint to _____ in _____ County, Alabama on _____ (Date)

 Date

 Server's Signature

 Address of Server

 Type of Process Server

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 2007 JAN 29 A 10:33
 JANE SMITH
 CIRCUIT COURT CLERK
 DIVISION
 MADISON COUNTY, ALABAMA

IN THE CIRCUIT COURT OF MADISON COUNTY, ALABAMA

CENTRAL PRESBYTERIAN CHURCH IN)
 THE UNITED STATES OF AMERICA OF)
 HUNTSVILLE, ALA.,)
)
 Plaintiff,)
)
 v.)
)
 NORTH ALABAMA PRESBYTERY,)
)
 Defendant.)

CASE NO. CV 2007-

JANE SMITH
 CIRCUIT CLERK
 CIRCUIT COURT DIVISION
 MADISON COUNTY, ALABAMA

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COMPLAINT

Plaintiff, Central Presbyterian Church in the United States of Huntsville, Ala. ("Central Presbyterian"), files its complaint against defendant, North Alabama Presbytery (the "Presbytery"), and states as follows:

THE PARTIES

1. Central Presbyterian is an Alabama nonprofit corporation located in Huntsville, Alabama, established at its current location in 1854 and incorporated in 1912.
2. The "Presbytery is an Alabama nonprofit corporation located in Huntsville, Alabama. Presbytery is a regional administrative unit for the Presbyterian Church (U.S.A.) ("PCUSA" or "denomination"). PCUSA was formed in 1983 and currently has approximately 11,000 member churches located throughout the United States, including the State of Alabama and Madison County.

JURISDICTION AND VENUE

3. This court has jurisdiction to hear and decide this church property dispute under Jones v. Wolf, 443 U.S. 995 (1979) and Trinity Presbyterian Church of Montgomery v.

Tankersley, 374 So.2d 861 (Ala. 1979), and pursuant to Ala. Code §§ 12-11-30 and 12-11-33 (1975).

4. Venue is proper in Madison County, Alabama, as the defendant is domiciled in Madison County, Alabama and the property the subject of this litigation is located in Madison County, Alabama.

FACTUAL ALLEGATIONS

5. The denomination known as the Cumberland Presbyterian Church was formed in 1810. Central Presbyterian was founded as a Cumberland Presbyterian Church around 1812. Central Presbyterian incorporated as The Cumberland Presbyterian Church in Huntsville, Alabama on May 20, 1854 in Madison County, Alabama ("Huntsville Cumberland Presbyterian Church").

6. In 1906, several churches in the Cumberland Presbyterian Church denomination merged or united with churches in the Presbyterian, U.S.A., a predecessor of the PCUSA. The Huntsville Cumberland Presbyterian Church which had by then located at the subject property was one of the churches that united with the Presbyterian, U.S.A., and became known as the Central Presbyterian Church in May 1906. In November 1912, Central Presbyterian Church incorporated as a nonprofit church corporation in the State of Alabama under the name "Central Presbyterian Church in the United States of America of Huntsville, Ala." Central Presbyterian is the successor in interest to the Huntsville Cumberland Presbyterian Church, and has been in open, hostile and adverse possession of all of its property since that date.

7. All real property owned and occupied by Central Presbyterian consists of or is situated on tracts acquired in five different deeds dating from 1854 to 2001. The 1854 conveyance was to the Huntsville Cumberland Presbyterian Church; the 1972 conveyances were

to Central Presbyterian Church in the United States of America, Huntsville, Alabama; the 1978 conveyance was to Central Presbyterian Church in the United States of America of Huntsville, Alabama; the 1991 conveyance was to Central Presbyterian Church; and the 2001 conveyance was to Central Presbyterian Church, Inc., (collectively the "Land"). These tracts have been held, controlled, insured, maintained, improved and purchased by members of Central Presbyterian without interruption since their acquisition. The Land is described in Exhibit "1" attached hereto and incorporated by this reference herein.

8. All acquisitions of real property held by Central Presbyterian, and all improvements thereon, whether corporeal or incorporeal, movable or immovable, real or personal, were acquired and/or built exclusively as a result of financial contributions made by the members of Central Presbyterian with the clear understanding that the property and improvements were and would continue to be owned by Central Presbyterian.

9. None of the national denominations to which Central Presbyterian belonged at any point in time held or obtained any interest in the real property, including, without limitation, the Land, held by Central Presbyterian. None of the deeds to the real property held by Central Presbyterian mentions or refers to a national denomination as grantee or trustee (including the PCUSA), nor does any deed contain language creating or accepting a trust over said property in favor of a national denomination or any of its regional administrative units, such as the Presbytery. The Land has continuously been so titled in the public mortgage and conveyance records of Madison County, Alabama, exclusively in Central Presbyterian.

10. Central Presbyterian is an income beneficiary of a New York trust created under the Last Will and Testament of Marguerite Cartwright Hawthorne dated September 28, 1984, which is administered by the Trustee named therein, the United States Trust Company of New

York. The proceeds or income of this trust are referred to herein as "Income under the Will".

The said Will states, in pertinent part, as follows:

SEVENTH:

All the rest, residue and remainder of my estate, of whatsoever nature and wheresoever situate I give, bequeath and devise to my Trustees hereinafter named, IN TRUST NEVERTHELESS, to be held, invested, reinvested and managed, in perpetual trust, for the uses and purposes hereinafter set forth:

...

B. Ninety-six (96%) of the income shall be paid over quarterly to Central Presbyterian Church of Huntsville, Alabama (the church of my father and mother) presently located at 406 Randolph Avenue, S.E. Huntsville, Alabama 35801

11. PCUSA was formed by the merger in 1983 of the Presbyterian Church in the United States ("hereinafter the "PCUS" or the "southern church") and the United Presbyterian Church in the United States of America (hereinafter the "UPCUSA" or the "northern church"). Prior to the formation of the PCUSA, Central Presbyterian was affiliated with the UPCUSA and its then Presbytery -- The Huntsville Presbytery. Upon formation of the PCUSA, the PCUS and the UPCUSA both ceased to exist as separate denominations and The Huntsville Presbytery (subsequently re-formed as the North Alabama Presbytery) ceased being a regional administrative unit of UPCUSA and became a regional administrative unit of the PCUSA.

12. The Constitution of the PCUSA consists of two parts, the Book of Confessions (Part I) and the Book of Order (Part II). The Book of Confessions contains doctrinal statements and statements of church governance (polity). The Book of Order focuses on church governance and divides itself into three main sections: (1) the Form of Government, (2) the Directory for Worship and (3) the Rules of Discipline. The provisions in the PCUSA Constitution relating to

property are found primarily, but not exclusively, in the Form of Government of the Book of Order, Chapter VIII, G-8.000 - G-8.700 (8.0701).

13. The PCUSA Book of Order includes a clause, G-8.0201, which states that, "All property held by or for a particular church ... is held in trust nevertheless for the use and benefit of the Presbyterian Church (USA)." This clause is not applicable to the Land or Central Presbyterian's other real or personal property and is not legally enforceable under the Constitution or the laws of the State of Alabama.

14. The PCUSA Book of Order contains a clause which, upon information and belief, the denomination contends pertains to ownership of property. Specifically, the denomination contends that a PCUSA presbytery (such as the Presbytery) may dictate ownership of local church property located within the geographical bounds of the presbytery pursuant to clause G-8.0600. Clause G-8.0600, and any predecessor clause in the UPCUSA Book of Church Order, is not applicable to Central Presbyterian's real and personal property and is not legally enforceable under the Constitution or the laws of the State of Alabama.

15. Clause G-8.0301 of the PCUSA Book of Order pertains to disaffiliation and provides that when a local church ceases to be a particular church of the PCUSA, its property shall be "held, used, applied, transferred, or sold as provided by the presbytery." Clause G-8.0301, and any predecessor clause in the UPCUSA Book of Church Order, is not applicable to Central Presbyterian's property and is not legally enforceable under the Constitution of the State of Alabama.

16. The PCUSA Book of Order sets forth "Historic Principles of Church Order" which state at G-1.0301(1) that, as a matter of religious freedom, provisions of the

denominational constitution are not to be enforced through the power of civil courts. Clause G-1.0301(1) states:

(a) That "God alone is Lord of the conscience, and hath left it free from the doctrines and commandments of men which are in anything contrary to his Word, or beside it, in matters of faith or worship.

(b) Therefore we consider the rights of private judgment, in all matters that respect religion, as universal and unalienable: We do not even wish to see any religious constitution aided by the civil power, further than may be necessary for production and security, and at the same time, be equal and common to all others.

17. Part I of the Constitution of the PCUSA, the Book of Confessions, sets forth the principle that the collective organization or gathering (communion) of Christians under a Presbyterian form of government should not burden or infringe existing property rights. The Westminster Confession of 1647, included in the Book of Confessions, states at 6.148, "Nor doth their communion one with another as saints, take away or infringe the title or property which each man hath in his goods and possessions."

18. According to the Constitution of the PCUSA, ecclesiastical authority, instruction and rules are derived from Scripture, as guided first by the Book of Confessions, and derived only secondarily by the Book of Order.

19. For over 75 years, from the time Central Presbyterian was founded in 1906, and continuously throughout its existence until 1983, no denomination with which it was affiliated contained an express trust clause in the denominational constitution.

20. The process whereby the property clause of the 1983 PCUSA Book of Order (G-clause 8.0201) was adopted did not include or result from any vote, approval or action by Central Presbyterian, which is the owner and title holder of record of the subject property. Instead, the process involved: a) participation by commissioners (voting delegates) to the General Assembly,

which commissioners are chosen by regional bodies (the presbyteries) who would be beneficiaries of the asserted trusts, and b) participation by presbyters (voting delegates) to the presbyteries, which presbyters are sent to the meeting of the presbytery by the congregations. However, those presbyters are not required under Presbyterian governance to act in a representative capacity on behalf of the congregations.

21. Following initial approval by the commissioners to the General Assembly, the new clauses that asserted trusts were added to the denominational Constitutions upon ratification by a requisite number of presbyteries -- irrespective of whether or not the Presbytery, acting through its then-presbyters, voted in favor of ratification.

22. The PCUSA Book of Order does not require that any property deeds include trust clauses in favor of a national denomination, such as the PCUSA.

23. At no time has the congregation of Central Presbyterian, its governing body (the session) or the governing body of its local church corporation (the board of trustees) ever voted for, concurred in, accepted or otherwise indicated acquiescence in or agreement to the denomination's assertion of a trust over local church property. nor any denominational claim to determine ownership of property titled in the name of the local church corporation or of any improvements thereon.

24. At all times the congregation, the session, and the board of trustees of Central Presbyterian have affirmed and reaffirmed their understanding and intent that all property held by the corporation known as "Central Presbyterian Church in the United States of America of Huntsville, Ala.," and any improvements thereon, whether corporeal or incorporeal, movable or immovable, or real or personal, are held by it in full and complete ownership in accordance with its articles of incorporation, and by their own affirmation and reaffirmations none of the said

property is held in trust for the use and benefit of a national denomination or any of its regional administrative units such as the Presbytery.

25. The Articles of Incorporation of Central Presbyterian provide that the board of trustees shall exercise all powers of corporation and serve at the pleasure of the congregation.

26. The Articles of Incorporation Central Presbyterian do not contain any provision creating or establishing any trust, express or implied, upon the property in favor of a national denomination. The said Articles were never amended to add such trust provisions. Neither the congregation, the session nor the board of trustees of Central Presbyterian have ever adopted a corporate or congregational resolution creating or establishing a trust pertaining to property held by and titled in the name of the local church corporation.

27. The laws of the State of Alabama, Ala. Code § 19-3B-401 (2006 Cumulative. Supp.), sets forth the exclusive means by which a trust may be validly established and, absent conformity with these requirements, among others (Ala. Code , § 19-3B-402), a trust does not exist in Alabama.

28. The actions of Central Presbyterian, and its property-related documents recited herein, preclude the finding of the existence of any trust with respect to its property in favor of a national denomination. Specifically, but not exclusively, none of the methods of creating a trust contained in Ala. Code § 19-3B-401 have been satisfied, nor have any of the requirements for creating a trust contained in Ala. Code § 19-3B-402 with respect to any property held by or titled to Central Presbyterian, and any improvements thereon, in regard to a trust in favor of a national denomination. Further, Ala. Code § 19-3B-1301 provides, in pertinent part, that, "No trust concerning lands . . . can be created, unless by instrument in writing, signed by the party creating or declaring the same . . ." No such written instrument concerning the subject property exists by

and between Central Presbyterian and the Presbytery or the denomination, and a parol trust in land in Alabama is void *ab initio*.

29. Central Presbyterian's board of trustees have unanimously adopted a resolution reciting the particulars of its property history, as set forth above, and reaffirmed its historic understanding and longstanding intent that all property held by Central Presbyterian is held by it in full and complete ownership, that the denomination has no right, title or interest in the said property, or right to determine the ownership thereof, and that none of the said properties are being held in trust for the use and benefit of a national denomination or any of its administrative units such as the Presbytery.

30. Clause G-7.0401 of the PCUSA Book of Order states that, "Whenever permitted by civil law, each particular church shall cause a corporation to be formed and maintained." The PCUSA Book of Order not only mandates incorporation where permitted by civil law, but also provides, at clause G-7.0402, that the corporation so formed shall be the title holder of record of the local church property.

31. In mandating local church incorporation when permitted by civil law, the PCUSA and its regional administrative unit, the Presbytery, have tacitly agreed to submit to and be bound by the laws of the state in which the property is located. The PCUSA has expressly acknowledged this in its Legal Resource Manual for Presbyterian Church (USA) Middle Governing Bodies and Churches 2000-2003 ("Almost all property matters are governed by state law ..."). Clause G-9.0102 of the PCUSA Book of Order further distinguishes spiritual province from civil authority by providing that, "Governing bodies of the church are distinct from the government of the state and have no civil jurisdiction or power to impose civil penalties. They have only ecclesiastical jurisdiction ..."

32. As a corollary to clause G-9.0102 of the PCUSA Book of Order which states that the PCUSA and its administrative units, such as the Presbytery, have only ecclesiastical jurisdiction and do not have authority over civil matters (in recognition that property matters are to be governed by state law), clause G-1.0301(b) of the PCUSA Book of Order states that the provisions of the denominational constitution are not, as a matter of the free exercise of religion, to be enforced by the civil power of the state through its courts. Thus, while this court has subject matter jurisdiction to resolve the property dispute before it, it cannot do so by applying the PCUSA Book of Order property provisions, as such would constitute an unlawful church establishment prohibited by both the First Amendment to the United States Constitution and by the PCUSA's own constitution. To be effective, any trust or other property interest in favor of the Presbytery or PCUSA must be founded upon and meet all requirements of Alabama law.

33. Central Presbyterian does not identify with or submit to the authority of the PCUSA in its Articles of Incorporation, nor does it include the PCUSA in its name.

34. There is a judiciable issue and controversy presently existing between Central Presbyterian and the Presbytery which requires immediate resolution; otherwise, economic and other material interests of Central Presbyterian will be damaged and a cloud on title to the subject property will exist.

35. The session of Central Presbyterian has made specific plans to call a congregational meeting to discuss and vote on various matters relating to the property, including, without limitation, the initiation of a local capital improvement fund drive. It is anticipated that the scope of the planned capital improvements will require bank financing to be paid through pledges to the fund drive. It is anticipated that the financing will require that Central Presbyterian grant mortgages and security interests in the local church property to secure the

repayment thereof. Central Presbyterian will not be able to provide acceptable title insurance on its property until such time as the questions presented herein are resolved. Moreover the underwriting of any extension of credit will be significantly impacted by any questions concerning the status of ownership of local church property and who may convey a mortgage and security interest in the property.

36. Efforts to promote an effective, local capital funds drive for improvements to the local church property will be stymied by the uncertainty and cloud on title which will exist in the absence of the relief sought by Central Presbyterian. Few will give to fund improvements to facilities the ownership to which is claimed by others.

37. Congregational meetings by nature present an open forum, and some of the members of the congregation will initiate discussion of whether to continue or discontinue affiliation with the PCUSA. While it is presently unknown how the congregation would vote on these related issues, in the absence of a preliminary injunction, the Presbytery could (and on the basis of actions elsewhere by PCUSA presbyteries, would) attempt to take preemptive action to preclude or pre-determine such vote(s) through depriving plaintiff of its rights under Alabama law and the Alabama and United States Constitutions.

38. The threat of adverse action and immediate harm by the Presbytery directed at Central Presbyterian is not theoretical or fanciful. According to the PCUSA Book of Order, at clauses G-9.0503a.(4), G-11.0103.s. and G-11.0502.j, when there is a "report" that a particular church is "affected with disorder," a presbytery can, *without prior notice or hearing*, appoint an "administrative commission" to indefinitely assume "original jurisdiction of the existing session" (i.e. remove and replace the governing body of the particular church) and act to "correct the difficulties," which can include the power to "dissolve a pastoral relationship" (i.e. remove and

replace the local pastor). The use of an administrative commission, though purportedly for ecclesiastical governance, is the mechanism or device which has actually been used by the PCUSA in its efforts to seize ownership and control over local church property. There are presently cases pending in other jurisdictions in which such actions have been undertaken.

39. PCUSA presbyteries, in response to dissent (whether perceived or actual) by local congregations, ministers, church officers, and trustees to certain denominational actions, have in other actual situations engaged in the following action:

(a) taken actions intended to assert ownership or place clouds on otherwise merchantable local property titles by recording, without prior notice, affidavits or other documents in local mortgage and conveyance records, improperly asserting trusts on local church property in favor of the denomination. Such action is taken regardless of the facts of a local church's property history or the laws of the state in which local church property is situated;

(b) without notice, sought to change locks on local church property and otherwise seize local church assets; and

(c) appointed "administrative commissions" to assert "original jurisdiction" to supplant existing congregational governance by removing, without notice and opportunity for hearing, dissenting ministers and sessions. Such actions permit the PCUSA presbytery to effectively confiscate local church property and treat it as if such property was its own.

There is a likelihood that the filing of this complaint will be perceived to be dissent, causing the Presbytery to act in such a manner.

40. Further heightening the threat to local congregations, the PCUSA, through its Office of General Assembly (Department of Constitutional Services), on or about August 10, 2006 issued "Advisory Opinion Note 19," which states in part III thereof that if a presbytery, such as the Presbytery, fails to appoint an administrative commission to take over control of a local church voicing dissent over denominational policies, then the next higher ecclesiastical

authority, the synod, may appoint an administrative commission to take over control of the presbytery.

41. In further illustration of the aggressive tactics being used by PCUSA presbyteries and their use of "administrative commissions" as the mechanism or device to try and seize denominational ownership and control over local church property, the PCUSA has prepared legal strategy memoranda, waived any privilege of confidentiality and disclosed them to the press and public. These memoranda have been publicly available on the internet since at least August 9, 2006, and are available through a Google search of "Presbyterian Church (USA) and property law." No attempt has been made by the PCUSA to dispute the authenticity of these memoranda, to retrieve them, or to prohibit their further circulation. These PCUSA memoranda:

- a) advocate use of "administrative commissions" specifically for church property disputes, and in conjunction therewith advises how to remove the local pastor and/or governing board of the local church;
- b) advise how to freeze the local church assets and physically seize property;
- c) recommend placing a cloud on local church property titles by filing affidavits in property records, irrespective of state law or the facts of any property in dispute;
- d) recommend mailing letters concerning contested property to any banks or other financial institutions that hold accounts for the local church, which letters "order" that no assets be released to the local church;
- e) instruct presbyteries to investigate the religious background of any judge assigned to the case in order to exploit potential partiality or religious bias;
- f) recommend that presbyteries in their pleadings "use spiritual language" in order to posture themselves in a positive light, and to negatively refer to the local church in the caption and in pleadings as "schismatic"; and

g) recommend to presbyteries through the use of administrative commissions, to try and keep the local church in a defensive secular legal posture, counseling "Let the schismatics seek Caesar's help."

42. In response to this escalation of retaliatory behavior, a conclave of traditional Presbyterians, gathered from around the United States, passed a resolution on July 22, 2006 asking PCUSA denominational officials to declare a "moratorium" on retaliatory action in the form of "discipline", administrative commissions or other punitive measures, stating:

... we call upon the Moderator of the PCUSA and all general presbyters to announce and adopt a moratorium on discipline of ordained members engaged in discourse regarding the issues of theology and polity which confront our denomination, including those discussions which may lead to a consideration of departure from the denomination. We call upon you to announce a moratorium on actions to seize or encumber property, interfere with the operations of duly elected session members, or otherwise exercise or initiate discipline upon ordained members of our denomination for engaging in such discussions on either side of the debate.

43. On August 22, 2006, the highest PCUSA officials, the Stated Clerk and the Moderator, issued a reply, refusing to urge or otherwise call for such a moratorium.

COUNT ONE
DECLARATORY JUDGMENT

44. Central Presbyterian realleges and incorporates by reference paragraphs 1 through 43 as if fully set forth herein.

45. As noted herein, an actual controversy exists between the parties as to the ownership of certain real and personal property, including, without limitation, the Land and Income under the Will.

46. Specifically, Central Presbyterian seeks a judicial determination of its rights and duties, and a declaration: (a) that all property held by or for Central Presbyterian, and any improvements thereon, whether real or personal, including, without limitation, the Land and

Income under the Will, corporeal or incorporeal, movable or immovable, is held without any trust in favor of the national denomination or any of its regional administrative units, such as the Presbytery; (b) that all property held by or titled in the name of the local church corporation is held by it in full and exclusive ownership; and (c) that neither the PCUSA nor the Presbytery has any right, title or interest in the said property, nor right to determine or interfere with the ownership thereof or the exercise of rights therein.

47. A judicial declaration is necessary and appropriate at this time under the circumstances to declare and protect the rights of Central Presbyterian in the subject property.

COUNT TWO
INJUNCTIVE RELIEF

48. Central Presbyterian realleges and incorporates by reference paragraphs 1 through 47 as if fully set forth herein.

49. The actions taken by the PCUSA presbyteries described above and threatened actions against Central Presbyterian violate state property law and trust law, free speech rights guaranteed by the First and Fourteenth Amendments to the United States Constitution and by the Alabama Constitution, the religion clauses of the First Amendment to the United States Constitution and the Alabama Constitution, the due process guarantees of the Fourteenth Amendment to the United States Constitution and the Alabama Constitution. The effect of such actions, if taken in whole or in part or threatened by the Presbytery, would chill if not violate the foregoing rights, impede the ability of the congregation of Central Presbyterian to hold a congregational or corporate meeting free of improper interference, and cloud the title of property held by Central Presbyterian, including, without limitation, the Land and Income under the Will.

50. As noted above, Central Presbyterian is a not-for-profit corporation. Its primary purpose is not monetary. The damages which will be inflicted upon it and its members by the

stated actions are not susceptible to quantification or measurement in monetary damages. A monetary award is thus an insufficient remedy at law.

51. Absent a preliminary injunction, the rights of petitioners and the ministry of Central Presbyterian will be irreparably injured. Central Presbyterian has an approximate membership of 280, with an annual budget of over \$900,000.00. It employs approximately 60 people. It supports numerous ministries and missionaries. No amount of subsequent monetary award would be an adequate remedy to the irreparable damage that would be done to the mission and ministries of Central Presbyterian which would occur as a result of confiscatory or disciplinary action initiated by the Presbytery in retaliation for the exercise of plaintiff's rights.

52. A preliminary injunction during the pendency of this suit is necessary to stay the hand of the Presbytery from appointing an administrative commission that would, without just cause, usurp and replace the authority of the pastor, the session, or the board of trustees. A preliminary injunction would protect the members of Central Presbyterian who, under Alabama nonprofit corporation law, are also the members and, in effect, the shareholders of the local church corporation.

53. A preliminary injunction would preserve the status quo until such time as the question of ownership and use of the subject property of Central Presbyterian can be determined by this Court. Absent the entry of a preliminary injunction, the rights of Central Presbyterian, the governing body of Central Presbyterian (the session), and the members of the congregation of Central Presbyterian, as well as Central Presbyterian's property rights will be irreparably injured.

54. Inasmuch as Central Presbyterian seeks only a preliminary injunction during the pendency of this suit, the interests of Central Presbyterian, its members and its local church

corporation outweigh any possible injury to the Presbytery which might result from the granting of a preliminary injunction, as the said relief and injunction are in the public interest.

55. Moreover, there is a substantial likelihood that Central Presbyterian will prevail on the merits of its suit for declaratory judgment.

56. The public interest favors prohibiting the kind of interference and damaging actions which may occur if the Presbytery is not enjoined and restrained by this Court.

57. A permanent injunction should be entered protecting the subject property and other rights or interests of Central Presbyterian, as set forth above.

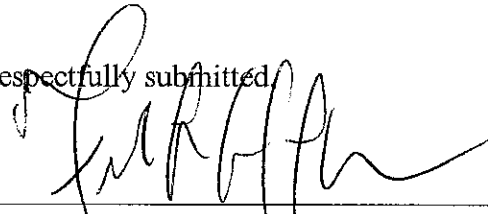
WHEREFORE, premises considered, Central Presbyterian prays for a declaration, judgment and granting of relief against the Presbytery as follows:

- 1) For a preliminary and permanent injunction restraining and enjoining the Presbytery and any of its agents, employees or other persons or entities acting on its behalf or in its stead, or acting in concert with it, from (a) filing any documents in the mortgage and conveyance records of Madison County, Alabama, the effect of which would be to place a cloud on the title of any property titled in the name of Central Presbyterian, or otherwise taking any action to claim ownership of local church property, including, without limitation, the Land and the Income under the Will, whether corporeal or incorporeal, movable or immovable, or real or personal, or a right to determine ownership of local church property, in the possession of, control of, or owned by Central Presbyterian; and (b) further restraining and enjoining the Presbytery and any agents, employees or other persons or entities acting on its behalf or in its stead, or acting in concert with it, from asserting any rights to the property of Central Presbyterian, including, without limitation, seeking to change the locks of Central Presbyterian, appointing an administrative commission, or otherwise interfering in any way with the rights and responsibilities of the ministers or other employees of Central Presbyterian, the governing body of Central Presbyterian (the session), its congregation, or the governing body of its local church corporation Central Presbyterian (the board of trustees);
- 2) For a declaration by the Court that all property, including, without limitation, the Land and Income under the Will, held by or titled in the name of Central Presbyterian or any predecessor or successor in interest, such as the Cumberland Presbyterian Church in Huntsville, Alabama, Central Presbyterian Church, Inc. and any improvements thereon, whether corporeal or incorporeal, movable or immovable, or real or personal, is owned by Central Presbyterian without trust for the use and benefit of the PCUSA or other national denomination, or any of its

regional administrative units such as the Presbytery, and that Central Presbyterian holds all property titled in its name or any other entity named hereinabove, and all improvements thereon, in full and complete ownership pursuant to the laws of the State of Alabama, and that neither the PCUSA nor any of its regional administrative units, such as the Presbytery, has any right, title or interest in the said property, nor right to determine the ownership thereof;

- 3) For all general and equitable relief to which Central Presbyterian shows itself to be justly entitled, and;
- 4) For all costs of these proceedings.

Respectfully submitted,



Roderic G. Steakley (STE079)

Fred L. Coffey, Jr. (COF001)

Matthew B. Reeves (REE059)

Attorneys for Plaintiff

Central Presbyterian Church in the United
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Serve Defendant by Certified Mail:

North Alabama Presbytery
3330 L & N Drive SW
Huntsville, Alabama 35801

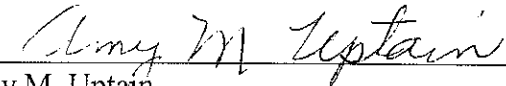
VERIFICATION

STATE OF ALABAMA)
)
COUNTY OF MADISON)

Before me, the undersigned Notary Public, duly commissioned and qualified in and for Madison County, Alabama, personally appeared:

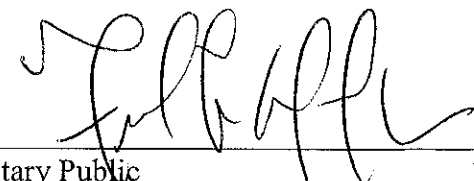
AMY M. UPTAIN

who, first being duly sworn, did depose and say that she is a Trustee and the authorized representative of the Board of Trustees of Central Presbyterian, an Alabama corporation and the plaintiff herein, that she has read the above and foregoing Petition for Preliminary Injunction and Declaratory Judgment and is familiar with the facts alleged therein, and that all information contained in the aforesaid petition is true and correct to the best of her knowledge, information and belief.



Amy M. Uptain

SWORN TO and SUBSCRIBED before me this the 28 day of January, 2007.



Notary Public
My Commission Expires: 1-12-2008

EXHIBIT "A"¹

TRACT 1, RECORDED AUGUST 30, 1854
BOOK Z, Page 533

All that certain land or parcel of ground, situated in being in said town of Huntsville, Alabama and described as follows:

Beginning at the southeast corner of Lincoln and Randolph Streets and on the south side of said Randolph Street, eastwardly with said Randolph Street, to the northwest corner of W.H. Posey land, on said Randolph Street, thence southwardly with said Posey land 72 feet more or less to the northeast corner of Dr. David Moore land, thence westerly with said Mosey land to Lincoln Street, thence with said Lincoln Street, northwardly to the beginning, containing 3/8 of an acre more or less.

¹A general depiction of Tracts 1, 2, 3, and 4 is attached hereto as Exhibit A-I.

TRACT 2 RECORDED JANUARY 10, 1972
BOOK 464, PAGE 846

A house and lot located on Randolph Street, described as beginning at the Northeast corner of the Central Presbyterian (formerly Cumberland Presbyterian) Parsonage lot on the South side of Randolph Street; thence North 54 degrees East 41 feet 6 inches along Randolph Street (in an easterly direction) to the Northwest corner of lot now belonging to Fannie J. Ridley; thence South 36 degrees East course 156 feet, more or less, being along property line of Mrs. Ridley, crossing two stone monuments, size 6 inches x 9 inches x 24 inches, set 2 feet and 75 feet, respectively from said Randolph Street line; thence in a westerly direction South 54 degrees West 42 feet 7 inches along the property of the heirs of Andrew J. Johnson (now owned by Mary Gilbert); thence North 36 degrees 24 minutes East long the line of David L. Moore lot (now Miller lot) and the said Central Presbyterian Church (formerly Cumberland Presbyterian Church) lot, to point of beginning 156 feet, more or less, also the use of a driveway on the West side of the lot that lies immediately East of the above described lot, for all purposes necessary to the convenience and use of said lot above conveyed. This is a part of the lot conveyed in deed recorded in Book JJ, page 326, and is in the same lot of land conveyed to Arthur F. Giles by Fannie J. Ridley by deed dated the 11th day of January, 1902, and recorded in Deed Book 87, page 489, of the records of Madison County, Alabama. This property being also the same property conveyed by David A. Grayson and wife, Juliet Grayson, to Mary F. Thompson, dated September 22, 1913, recorded September 27, 1913, in Deed Book 107, page 165, Probate Office, Madison County, Alabama, and being the same property described in the Last Will and Testament of Mary F. Thompson, deceased. See Madison County Probate Office Case No. 16440, described as being located at 408 Randolph Avenue, Huntsville, Alabama.

TRACT 3 RECORDED JANUARY 3, 1979
BOOK 560, PAGE 445

Particularly described as beginning on the eastern margin of Lincoln Street at the southwest corner of lot on which stands the Central Presbyterian Church; thence eastwardly along the south boundary of said Church lot 212 feet more or less to the southeast corner of said Church lot, said point forming a junction with what was formerly the Fannie Ridley lot; thence southwardly along the western boundary of said Ridley lot 53 feet 9 inches to the north boundary of what was formerly the Mrs. Andrew J. Johnson and later Gilbert's lot; thence westwardly along the northern boundary of said Gilbert lot 212 feet to the eastern margin on Lincoln Street; thence North along the east margin of Lincoln Street 56 feet to point of beginning. Being the same property conveyed by Frank Fickling and his wife by deed of record in the office of the Probate Judge of Madison County, Alabama, in Deed Book K, K, K, at page 623.

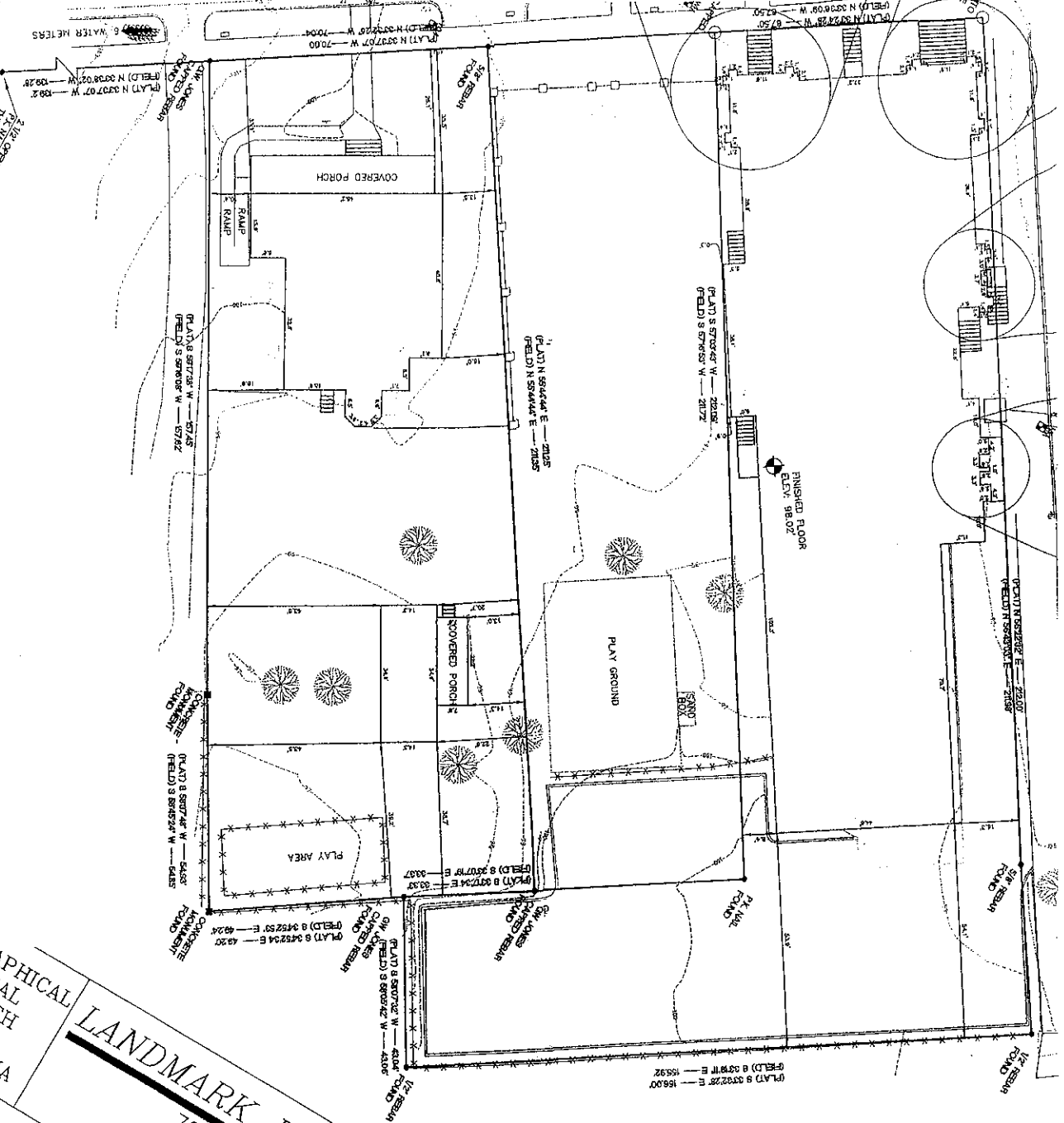
TRACT 4 RECORDED JANUARY 3, 1992
BOOK 784, PAGE 125

The following tract or lot of land, to-wit: All that part of Lot 3, Block 334 of the Quigley Map of the City of Huntsville, Madison County, Alabama as of record in the Tax Assessor's Office of said County, particularly described as beginning North 33 deg. 37 min. 07 sec. West 139.2 feet from the intersection of the East margin of Lincoln Street with the North margin of Eustis Avenue, said point is further described as being the Southwest corner of said Block 334; thence from the place of beginning and continuing North 33 deg. 37 min. 07 sec. West along the said East margin of Lincoln Street 70.0 feet; thence North 55 deg. 44 min. 44 sec. East 211.25 feet; thence South 33 deg. 17 min. 34 sec. East 33.33 feet; thence South 34 deg. 52 min. 34 sec. East 49.20 feet to a concrete monument; thence South 58 deg. 38 min. 48 sec. West 54.93 feet to a concrete monument; thence South 59 deg. 17 min. 38 sec. West 157.45 feet to the place of beginning and 0.371 acres, more or less.

TRACT 5 RECORDED JANUARY 9, 2001 DEED
BOOK 986, PAGE 332

ALL THAT PART OF LOT 6, BLOCK 333, QUIGLEY MAP OF THE CITY OF HUNTSVILLE, MADISON COUNTY, ALABAMA, AS OF RECORD IN THE TAX ASSESSOR'S OFFICE OF MADISON COUNTY, ALABAMA, PARTICULARLY DESCRIBED AS BEGINNING NORTH 56 DEGREES 30 MINUTES EAST 120.4 FEET FROM THE INTERSECTION OF THE NORTH MARGIN OF RANDOLPH AVENUE WITH THE EAST MARGIN OF LINCOLN STREET; THENCE FROM THE PLACE OF BEGINNING NORTH 33 DEGREES 20 MINUTES WEST 170.0 FEET; THENCE NORTH 56 DEGREES 30 MINUTES EAST ALONG A FENCE 74.83 FEET; THENCE SOUTH 33 DEGREES 24 MINUTES EAST 170.0 FEET; THENCE SOUTH 56 DEGREES 30 MINUTES WEST 75.0 FEET TO THE PLACE OF BEGINNING, AND CONTAINING 0.29 ACRES, MORE OR LESS.

THIS DESIGNATION WITH
 THEREIN IS GENERAL AND
 DOES NOT CONSTITUTE A
 WARRANTY OF ANY KIND OR
 LIABILITY ON THE PART OF
 THE ENGINEER.



EPISCOPAL
 CENTRAL
 CHURCH
 OF HUNTSVILLE
 COUNTY, ALABAMA

LANDMARK ENGINEERING
 724 MADISON STREET, HUNTSVILLE, ALABAMA
 PHONE: (256) 551-0820

EXHIBIT A-1