

IN THE CIRCUIT COURT OF ALCORN COUNTY, MISSISSIPPI

FIRST PRESBYTERIAN CHURCH
OF CORINTH, MISSISSIPPI

PLAINTIFF

v.

CIVIL ACTION NO. CV07-053AA

PRESBYTERY OF SAINT ANDREW,
PRESBYTERIAN CHURCH U.S.A., INC.

DEFENDANT

FIRST PRESBYTERIAN CHURCH OF CORINTH, MISSISSIPPI'S
PROPOSED FINDINGS OF FACTS AND CONCLUSIONS OF LAW

COMES NOW First Presbyterian Church of Corinth, Mississippi ("Corinth") and submits the following Findings of Fact and Conclusions of Law.

1. This Court has authority to resolve the subject property dispute by applying neutral principles of Mississippi property and trust law.
2. The organizational structure of a denomination is irrelevant to the neutral principles analysis.
3. Under the neutral principles analysis, a court does not defer to the provisions of a denomination's constitution relevant to the subject property. Rather, the provisions of the denomination's constitution are analyzed under state law to determine whether they create enforceable property rights.
4. All of Corinth's deeds are properly titled in the name of its Trustees and do not create or acknowledge a trust in favor of the Presbytery of St. Andrew ("Presbytery") or the Presbyterian Church (U.S.A.) (PCUSA).

5. All of Corinth's property was acquired exclusively through the contributions of its members; neither the Presbytery nor the PCUSA made any financial contributions.

6. Corinth owns all of the real property described in Exhibit "A" of its Brief in Support of Motion for Summary Judgment free and clear of any interests asserted by the Presbytery or the PCUSA.

7. Corinth owns all of its personal property free and clear of any interests asserted by the Presbytery or the PCUSA.

8. Corinth is a recognized legal entity under Miss. Code Ann. § 79-11-31 and has the right to hold property in its name or in the name of its Trustees and may sue or be sued in its name.

9. Under Miss. Code Ann. § 79-11-31, Corinth has a vested interest in all of its property and can only be divested of its interest through a deed, deed of trust, or mortgage executed under the conditions set forth in the statute.

10. Because Corinth has never executed a deed, deed of trust, or mortgage in favor of the Presbytery or the PCUSA, neither the Presbytery nor the PCUSA has any legal interest in Corinth's property.

11. Corinth never executed any document conveying an interest in its property to the Presbytery or the PCUSA.

12. Corinth never created an express or implied trust in any of its property in favor of the Presbytery or the PCUSA.

13. Corinth never entered into a contractual or otherwise legally binding relationship with the Presbytery or the PCUSA.

14. The trust clause contained in G-8.0201 of the PCUSA *Book of Order*, which reads "[a]ll property held by or for a particular church...is held in trust nevertheless for the use and benefit of the Presbyterian Church (U.S.A.)," does not create an express trust in Corinth's property or otherwise confer upon the Presbytery or the PCUSA any legal interest in Corinth's property.

15. Under Mississippi trust law, Corinth could not have created a resulting trust in favor of the Presbytery or the PCUSA for all property acquired prior to the PCUSA's formation in 1983.

16. By simply remaining voluntarily associated with the PCUSA, Corinth did not, as a matter of law, create an implied trust over any of its property in favor of the Presbytery or the PCUSA.

17. Because the Presbytery does not have any interests in Corinth's property, it does not have any legal authority to determine ownership or use of Corinth's property and any provisions in the *Book of Order* that purport to confer such authority are unenforceable.

18. Because Corinth is an independent legal entity, the Presbytery does not have the authority to determine which members of Corinth constitute the "true" church and any provisions of the *Book of Order* that purport to confer such authority are unenforceable.

THIS the 6 day of April, 2007.

Respectfully submitted,

FIRST PRESBYTERIAN CHURCH OF
CORINTH, MISSISSIPPI

By Its Attorneys,
BAKER, DONELSON, BEARMAN, CALDWELL
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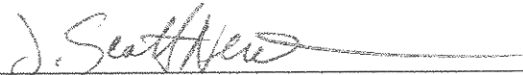
CERTIFICATE OF SERVICE

I certify that I have this day served a true and correct copy of the foregoing *Proposed Findings of Facts and Conclusions of Law* by mailing same, via U.S. First Class Mail, postage prepaid, to the following:

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COUNSEL FOR DEFENDANT

THIS the 6 day of April, 2007.



J. SCOTT NEWTON