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LEGAL PROCESS 1/2

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10 Nonprofit Religious Corporation

11 SUPERIOR COURT OF CALIFORNIA
12 COUNTY OF SACRAMENTO

07AS01238

11 FAIR OAKS PRESBYTERIAN
12 CHURCH, a California Nonprofit
13 Religious Corporation,

13 Plaintiff,

14 v.

15 PRESBYTERY OF SACRAMENTO, a
16 California Nonprofit Religious
17 Corporation; and Does 1 through 20,
18 inclusive,

18 Defendants.

CASE NO.

VERIFIED COMPLAINT:

- 1. **DECLARATORY RELIEF;**
- 2. **QUIET TITLE; AND**
- 3. **INJUNCTIVE RELIEF**

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20 COMES NOW, Plaintiff FAIR OAKS PRESBYTERIAN CHURCH, and for
21 causes of action alleges:

22 **I.**

23 **GENERAL ALLEGATIONS**

24 **A. The Parties.**

25 1. Plaintiff FAIR OAKS PRESBYTERIAN CHURCH ("FOPC") is now, and
26 at all times relevant herein was, a California nonprofit religious corporation duly organized under
27 the laws of the State of California, with its principal place of business in the County of
28 Sacramento, State of California.

1 2. Defendant PRESBYTERY OF SACRAMENTO (“Presbytery”) is now, and
2 at all times relevant herein was, a nonprofit religious corporation organized under the laws of the
3 State of California, with its principal place of business in the County of Sacramento, State of
4 California. Presbytery is a local administrative unit of the Presbyterian Church (USA)
5 (“PC(USA)” or “denomination”), which was formed in 1983 and currently has approximately
6 11,000 churches throughout the United States, including the County of Sacramento, State of
7 California.

8 3. The true names and capacities of Does 1 through 20, inclusive, are unknown
9 to FOPC, which therefore sues said Defendants by such fictitious names. FOPC is informed and
10 believes and thereon alleges that each of the Defendants designated herein as “DOE” is legally
11 and/or equitably responsible in some manner for the events, transactions, occurrences, and
12 happenings alleged herein. Plaintiff will amend this Complaint to allege the true names and
13 capacities of these fictitiously named Defendants when they are ascertained.

14 4. Plaintiff is informed and believes and thereon alleges that the defendants
15 named herein, and each of them, were at all times herein relevant the principals and/or agents of
16 each of the remaining defendants and that in doing the things herein alleged the defendants, and
17 each of them, were acting within the course and scope of said agency.

18 **B. Jurisdiction and Venue.**

19 5. The real property which forms the subject matter of this action is located in
20 the Township of Fair Oaks, County of Sacramento, State of California. It consists of six parcels
21 of real property the physical address of which is generally referred to as 11417 Fair Oaks
22 Boulevard, Fair Oaks, California 95628. The legal description of these parcels is as follows:

23 PARCEL 1:

24 A PORTION OF THE NORTH 110 ACRES OF THE SOUTHEAST ONE-QUARTER
25 OF SECTION 1, TOWNSHIP 9 NORTH, RANGE 6 EAST, M.D.B.&M., .AS
26 PROJECTED INTO RANCHO SAN JUAN. DESCRIBED AS FOLLOWS:

27 BEGINNING AT A 1 1/2 CAPPED IRON PIPE SET IN THE WEST LINE: OF FAIR
28 OAKS BOULEVARD, FROM WHICH THE EAST 1/4 CORNER OF SAID SECTION
 1 BEARS NORTH 0 DEGREES 09 MINUTES 41 SECONDS EAST 1409.00 FEET;

1 THENCE FROM SAID POINT OF BEGINNING IN A SOUTHWESTERLY
2 DIRECTION ALONG THE WEST LINE OF SAID FAIR OAKS BOULEVARD, ON
3 THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 775 FEET;
4 THENCE CHORD OF WHICH BEARS SOUTH 27 DEGREES 22 MINUTES 49
5 SECONDS WEST 448.51 FEET TO A POINT, THENCE CONTINUING ALONG THE
6 WEST LINE OF SAID FAIR OAKS BOULEVARD SOUTH 44 DEGREES 12
7 MINUTES WEST 45.02 FEET TO A POINT IN THE EXISTING FENCE MARKING
8 THE SOUTH LINE OF SAID NORTH 110 ACRES OF THE SOUTHEAST
9 1/4 OF SAID SECTION ONE, THENCE SOUTH 88 DEGREES 41 1/2 MINUTES
10 WEST 400.10 FEET ALONG SAID FENCE LINE, (SAID LAST COURSE BEING
11 DELINEATED IN PARCEL NO.2 OF DEED DATED JANUARY 24, 1947,
12 RECORDED FEBRUARY 7, 1947, IN BOOK 1267-A PAGE 429, EXECUTED BY
13 PERCY K. MCMILLAN AND OTHER TO WINIFRED R. CODMAN AS "THENCE
14 ALONG AN OLD FENCE LINE NORTH 87 DEGREES 38 MINUTES 30 SECONDS
15 EAST,") TO A POINT, THENCE LEAVING SAID FENCE LINE AND RUNNING
16 NORTH 01 DEGREES 18 MINUTES 30 SECONDS WEST 425.00 FEET TO A POINT
17 THENCE NORTH 88 DEGREES 41 MINUTES 30 SECONDS EAST 647.52 FEET TO
18 THE POINT OF BEGINNING.

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PARCEL 2:

A PORTION OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 9
NORTH, RANGE 6 EAST, M.D.B.&M., DESCRIBED AS FOLLOWS:

BEGINNING AT A 1 1/4 CAPPED IRON PIPE STAMPED L.S. 2217 IN THE SOUTH
LINE OF PERCY K. MCMILLAN 92.67 ACRE PARCEL AS SHOWN ON THE
RECORD OF SURVEY "THE PERCY K. MCMILLAN PROPERTY", FILED IN THE
OFFICE OF THE COUNTY RECORDER OF SACRAMENTO
COUNTY OCTOBER 27, 1952 IN BOOK 9 OF SURVEYS, SURVEY NO. 33, SAID
PIPE ALSO MARKING THE SOUTHWEST CORNER OF THE FAIR OAKS
PRESBYTERIAN CHURCH 5.405 ACRE PARCEL, THENCE FROM SAID POINT
OF BEGINNING SOUTH 88 DEGREES 41 MINUTES 30 SECONDS WEST
454.00 FEET ALONG THE SOUTH LINE OF SAID PERCY K. MCMILLAN
PROPERTY TO A 1 1/4 IRON PIPE MARKED L.S. 2217, THENCE NORTH 1
DEGREES 18 MINUTES 30 SECONDS WEST 425.00 FEET TO A 2" IRON PIPE
MARKED R.E. 2675, THENCE NORTH 88 DEGREES 41 MINUTES 30 SECONDS
EAST 454.00 FEET TO A 1 1/4 CAPPED IRON PIPE STAMPED L.S. 2217
MARKING THE NORTHWEST CORNER OF SAID FAIR OAKS
PRESBYTERIAN CHURCH PROPERTY, THENCE SOUTH 1 DEGREES 18
MINUTES 30 SECONDS EAST. 425.00 FEET ALONG THE WEST LINE OF SAID
PROPERTY TO 'THE POINT OF BEGINNING.

PARCEL 3:

A PORTION OF THE SOUTHEAST ONE-QUARTER OF SECTION 1, TOWNSHIP 9
NORTH, RANGE 6 EAST MOUNT DIABLO BASE AND MERIDIAN, DESCRIBED
AS FOLLOWS:

1 BEGINNING AT A POINT WHICH IS LOCATED FROM THE SOUTHEAST
2 CORNER OF SAID SECTION 1, SOUTH 89 DEGREES 04 MINUTES 30 SECONDS
3 WEST 606.96 FEET TO THE CENTER OF FAIR OAKS BOULEVARD, A 40 FOOT
4 COUNTY ROAD, THENCE ALONG THE CENTER LINE OF FAIR OAKS
5 BOULEVARD, A 40 FOOT COUNTY ROAD, THENCE ALONG THE CENTER LINE
6 OF SAID ROAD AND ITS EXTENSION NORTH 0 DEGREES 06 MINUTES WEST
7 376.63 FEET, TO A POINT IN THE NORTHWESTERLY LINE OF SAID ROAD,
8 THENCE ALONG SAID LINE NORTH 21 DEGREES 28MINUTES EAST 103.10
9 FEET, AND NORTH 35 DEGREES 37 MINUTES 31 SECONDS EAST 12.15 FEET
10 TO SAID POINT OF BEGINNING AND THE MOST SOUTHERLY CORNER OF
11 THE HEREIN DESCRIBED PARCEL OF LAND, THENCE NORTH 40 DEGREES 26
12 MINUTES WEST 72.74 FEET, TO A 2" X 2" REDWOOD STAKE STAMPED L.S.
13 2217, THENCE NORTH 0 DEGREES 06 MINUTES WEST 179.40 FEET, TO A
14 SIMILAR MONUMENT, THENCE SOUTH 89 DEGREES 57 MINUTES 30
15 SECONDS EAST 252.34 FEET, TO A SIMILAR MONUMENT IN THE
16 NORTHWESTERLY LINE OF SAID FAIR OAKS BOULEVARD BEING THE
17 SOUTHEASTERLY LINE OF THAT TRACT OF LAND DESCRIBED IN THE DEED
18 FROM WINNIFRED R. CODMAN TO A. H. COFFING DATED APRIL 17, 1941,
19 RECORDED MAY 2, 1941, IN BOOK 884 OF OFFICIAL RECORDS, PAGE 264,
20 SACRAMENTO COUNTY, THENCE ALONG SAID LINE SOUTH 44 DEGREES
21 37 MINUTES 30 SECONDS WEST 170.18 FEET TO A SIMILAR MONUMENT,
22 THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 519.88 FEET,
23 THE CHORD OF WHICH BEARS SOUTH 36 DEGREES 56 MINUTES 13 SECONDS
24 WEST 141.96 FEET TO THE POINT OF BEGINNING, ACCORDING TO A SURVEY
25 MADE BY NORMAN B. BAILIFF, LICENCED LAND SURVEYOR, NO 2217, ON
26 NOVEMBER 20, 1953.

16 PARCEL 4:

17 A PORTION OF THE SOUTHEAST ONE-QUARTER OF SECTION 1, TOWNSHIP 9
18 NORTH, RANGE 6 EAST. MOUNT DIABLO BASE AND MERIDIAN, DESCRIBED
19 AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID
20 SECTION 1; THENCE FROM SAID SOUTHEAST CORNER SOUTH 89 DEGREES
21 04 MINUTES 30 SECONDS WEST 606.96 FEET TO A POINT IN THE CENTERLINE
22 OF FAIR OAKS BOULEVARD; THENCE ALONG THE CENTER LINE OF SAID
23 ROAD AND ITS EXTENSION NORTH 0 DEGREES 06 MINUTES WEST 376.63
24 FEET TO A POINT IN THE NORTHWESTERLY LINE OF SAID ROAD; THENCE
25 ALONG SAID LINE, NORTH 21 DEGREES 28 MINUTES EAST, 103.10 FEET;
26 THENCE NORTH 35 DEGREES 37 MINUTES 31 SECONDS EAST 12.15 FEET TO
27 THE MOST SOUTHERLY CORNER OF THAT CERTAIN PARCEL OF LAND
28 CONVEYED IN DEED TO THOMAS MONTVILLE AND MERLE L. MONTVILLE
HIS WIFE, RECORDED APRIL 6, 1954, IN BOOK 2582 OF OFFICIAL RECORDS,
PAGE 246; THENCE NORTH 40 DEGREES 26 MINUTES WEST, ALONG THE
SOUTHWESTERLY LINE OF SAID MONTVILLE LAND, 69.48 FEET TO A 3' X 2"
REDWOOD STAKE STAMPED L.S. 2217; THENCE, NORTH 0 DEGREES 06
MINUTES WEST, 179.40 FEET TO A SIMILAR MONUMENT, SAID MONUMENT,
ALSO BEING THE NORTHWEST CORNER OF MONTVILLE LAND, AND THE
POINT OF BEGINNING OF THE FOLLOWING DESCRIBED LAND, THENCE

1 CONTINUING NORTH 0 DEGREES 06 MINUTES WEST, 110.35 FEET, TO THE
2 NORTHEAST CORNER OF THAT CERTAIN PARCEL OF LAND CONVEYED IN
3 DEED TO CLARENCE GORD ODELL AND LILLY MAE ODELL, HIS WIFE,
4 RECORDED FEBRUARY 26, 1954, IN BOOK 2561 OF OFFICIAL RECORDS, PAGE
5 158, SAID NORTHEAST CORNER BEING MARKED BY 2" X 2" REDWOOD
6 STAKE STAMPED L. 5. 2217; THENCE NORTH 89DEGREES 11 MINUTES
7 54 SECONDS EAST 365.36 FEET TO A SIMILAR MONUMENT IN THE
8 NORTHWESTERLY LINE OF FAIR OAKS BOULEVARD; THENCE SOUTH 44
9 DEGREES 37 MINUTES 30 SECONDS WEST, ALONG THE NORTHWESTERLY
10 LINE OF SAID ROAD, 162.18 FEET, TO A 2" X 2' REDWOOD STAKE
11 MARKED L.S. 2217 MARKING THE NORTHEAST CORNER OF THE ABOVE
12 MENTIONED LAND CONVEYED TO MONTVILLE; THENCE NORTH 89
13 DEGREES 47 MINUTES 30 SECONDS WEST 254.34 FEET TO THE POINT OF
14 BEGINNING, ACCORDING TO A SURVEY MADE BY NORMAN B.
15 BAILIFF, LICENSED LAND SURVEYS, NO. 2217, ON NOVEMBER 20, 1953.

16 PARCEL 5:

17 ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE COUNTY OF
18 SACRAMENTO STATE OF CALIFORNIA AND BEING A PORTION OF THE
19 SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 9, NORTH, RANGE 6 EAST,
20 M.D.B.&M., AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

21 BEGINNING AT A POINT BEING THE NORTHWEST CORNER OF FAIR OAKS
22 PRESBYTERIAN CHURCH 5.405 ACRE PARCEL AS SHOWN ON THE RECORD
23 OF SURVEY "THE PERCY K. MCMILLIAN PROPERTY" FILED IN THE OFFICE
24 OF THE RECORDER OF SACRAMENTO COUNTY OCTOBER 27, 1952 IN BOOK 9
25 OF SURVEYS, SURVEY NO. 33; THENCE, FROM SAID POINT OF BEGINNING
26 ALONG THE SOUTHERLY LINE OF THAT CERTAIN PROPERTY GRANTED TO
27 FAIR OAKS RECREATION AND PARK DISTRICT OF SACRAMENTO COUNTY
28 RECORDED BOOK 711220 PAGE 51 OFFICIAL RECORDS, SOUTH 88 DEGREES
31 MINUTES 00 SECONDS WEST, 63.57 FEET; THENCE NORTH 1 DEGREES 29
MINUTES.00 SECONDS WEST, 50.20 FEET; THENCE, PARALLEL WITH THE
NORTH LINE OF SAID FAIR OAKS PRESBYTERIAN CHURCH 5.405 ACRE
PARCEL, NORTH 88 DEGREES 41 MINUTES 30 SECONDS EAST 207.14 FEET;
THENCE SOUTH 81 DEGREES 12 MINUTES 49 SECONDS EAST, 142.63 FEET TO
POINT THAT LIES 25 FEET NORTHERLY AND PERPENDICULAR TO THE SAID
THE NORTH LINE OF SAID FAIR OAKS PRESBYTERIAN CHURCH 5,405 ACRE
PARCEL; THENCE, PARALLEL WITH THE NORTH LINE OF SAID FAIR OAKS
PRESBYTERIAN CHURCH 5.405 ACRE PARCEL, NORTH 88 DEGREES 41
MINUTES 30 SECONDS EAST, 368.49 FEET TO THE WESTERLY RIGHT-OF-
WAY OF THAT CERTAIN ROAD KNOWN AS FAIR OAKS BOULEVARD;
THENCE, ALONG THE SAID WESTERLY RIGHT-OF-WAY ALONG THE ARC OF
A CURVE CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 775.00
FEET AND BEING SUBTENDED BY A CHORD BEARING SOUTH 09 DEGREES 37
MINUTES 09 SECONDS WEST, 25.46 FEET; THENCE, ALONG THE NORTH LINE
OF SAID FAIR OAKS PRESBYTERIAN CHURCH 5.405ACREPARCEL, SOUTH 88

1 DEGREES 41 MINUTES 30 SECONDS WEST 647.52 FEET TO THE POINT OF
2 BEGINNING.

3 PARCEL 6:

4 ALL THAT CERTAIN REAL PROPERTY SIUTATED IN THE COUNTY OF
5 SACRAMENTO STATE OF CALIFORNIA AND BEING A PORTION OF THE
6 SOUTHEAST QUARTER OF SECTION 1. TOWNSHIP 9, NORTH, RANGE 6 EAST,
7 M.D.B.&M., AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

8 ALL THAT REAL PROPERTY AS DESCRIBED IN THAT CERTAIN GRANT DEED
9 TO FAIR OAKS RECREATION AND PARK DISTRICT OF SACRAMENTO
10 COUNTY RECORDED IN BOOK 930426, PAGE 1334 OFFICIAL RECORDS,
11 EXCEPTING THEREFROM THE FOLLOWING DESCRIBED LAND BEGINNING
12 AT A POINT BEING THE NORTHEAST CORNER OF FAIR OAKS
13 PRESBYTERIAN CHURCH 5.405 ACRE PARCEL AS SHOWN ON THE RECORD
14 OF SURVEY "THE PERCY K. MCMILLIAN PROPERTY", FILED IN THE OFFICE
15 OF THE RECORDER OF SACRAMENTO COUNTY OCTOBER 27, 1952 IN BOOK 9
16 OF SURVEYS, SURVEY NO. 33; THENCE, FROM SAID POINT OF BEGINNING
17 ALONG THE NORTH LINE OF SAID FAIR OAKS PRESBYTERIAN CHURCH
18 5.405 ACRE PARCEL, SOUTH 88 DEGREES 41 MINUTES 30 SECONDS WEST,
19 5.34 FEET; THENCE NORTH 1 DEGREES 18 MINUTES 30 SECONDS EAST 25.03
20 FEET TO THE TRUE POINT OF BEGINNING; THENCE FROM THE TRUE
21 POINT OF BEGINNING NORTH 1 DEGREES 18 MINUTES 30 SECONDS EAST
22 29.97 FEET; THENCE, PARALLEL WITH THE SAID NORTH LINE OF SAID FAIR
23 OAKS PRESBYTERIAN CHURCH 5.405 ACRE PARCEL, NORTH 88 DEGREES 41
24 MINUTES 30 SECONDS EAST, 49.71 FEET; THENCE, ALONG THE CURVE
25 CONCAVE TO THE RIGHT, BEING THE WESTERLY RIGHT-OF-WAY
26 OF A FUTURE 80 FOOT WIDE FAIR OAKS BOULEVARD, HAVING A RADIUS
27 OF 760.00 FEET AND BEING SUBTENDED BY A CHORD BEARING SOUTH 10
28 DEGREES 15 MINUTES 42 SECONDS WEST, 3056 FEET; THENCE, PARALLEL
WITH THE SAID NORTH LINE OF SAID FAIR OAKS PRESBYTERIAN CHURCH
5.405 ACRE PARCEL, SOUTH 88 DEGREES 41 MINUTES 30 SECONDS WEST,
44.95 FEET TO THE TRUE POINT OF BEGINNING.

APN: 233-0142-054 & 069

(See Title Report attached hereto as Exhibit 1 and incorporated herein by reference. The six parcels are referred to collectively hereafter as "the church property.")

6. As more fully set forth in the Title Report which is marked as Exhibit 1 to this complaint and which is incorporated herein by reference, FOPC first took title to the various parcels described above as follows: Parcel 1 – October 24, 1952; Parcel 2 – December 11, 1957; Parcel 3 – July 27, 1978; Parcel 4 – October 27, 1983; Parcel 5 – January 12, 2004; and Parcel 6 – January 12, 2004. From those dates and continuously throughout to the present, FOPC has held

1 title to the church property in fee simple, subject to certain exceptions not applicable to this
2 proceeding.

3 7. All deeds of real property held by FOPC which comprise the church
4 property were originally titled in, and at all times have remained titled in, the corporation, "Fair
5 Oaks Presbyterian Church" or its predecessors in interest. At no time have the deeds of real
6 property which comprise the church property mentioned or referred to a national denomination,
7 such as the PC(USA), nor contain any language creating or accepting any trust over said property
8 in favor of a national denomination, or any of its regional administrative units including, but not
9 limited to, defendants, and each of them. Said property continuously has been so titled in the
10 public records of the County of Sacramento, State of California from the original recording of any
11 and all applicable documents showing title to said real property up to and including the present
12 time.

13 8. As more fully set forth in the Title Report which is marked as Exhibit 1 to
14 this complaint and which is incorporated herein by reference, none of the defendants named
15 herein has held any legal and/or equitable interest in the church property at any time relevant to
16 this action and more specifically, from the date of original conveyances to FOPC up to the
17 present.

18 **C. Relevant Provisions From Plaintiff's Corporate Governing Documents.**

19 9. FOPC was originally incorporated on or about August 12, 1954. On or
20 about October 15, 2006, FOPC, at a duly noticed congregational meeting at which a quorum was
21 present, adopted Amended and Restated Articles of Incorporation (hereinafter "Articles"), a true
22 and correct copy of which is attached hereto, marked as Exhibit 2, and incorporated herein by
23 reference. As stated in FOPC's Articles, FOPC's corporate purpose includes, *inter alia*, "[t]o
24 acquire, own, hold, lease, encumber, convey, or otherwise dispose of real and personal property
25 within or without the State of California for religious purposes, *free of any express or implied*
26 *trust interest, and solely and exclusively for, and on behalf of, members of the corporation ...*"
27 (Emphasis added.) In order to fulfill that purpose, the Articles specifically provide that "FOPC
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1 hereby expressly revokes and disclaims any such express or implied trust interest claimed by any
2 denominational or national body to the corporation's real or personal property or other assets."

3 10. The above-quoted provisions from FOPC's Articles are consistent with
4 parallel provisions in its corporate bylaws ("Bylaws"), a true and correct copy of which is
5 attached hereto as Exhibit 3 and is incorporated by reference. FOPC's Bylaws provide that,
6 among other powers, FOPC's corporate board of directors shall have "sole and exclusive
7 authority to acquire, own, hold, lease, encumber, convey, or otherwise dispose of real and
8 personal property within or without the State of California, free of any express or implied trust
9 interest, and solely for, and on behalf of, members of FOPC." FOPC's Bylaws further provide:

10 In order to properly effectuate the above-stated corporate duties and
11 powers, the FOPC Session [*i.e.*, its board of directors] expressly
12 declares that any purported trust interest in any property, real,
13 personal, or otherwise of FOPC is, and hereafter shall be, revoked.
14 Furthermore, and as a limitation on the corporate powers and duties
15 of the FOPC Session, any property, real, personal or otherwise,
16 heretofore or hereafter held by or for FOPC or titled in the name of
17 FOPC or its predecessors, and any gifts, sums of money and/or chattels
18 heretofore or hereafter given, devised or bequeathed to FOPC shall be
19 held for the use and benefit of FOPC and its members only, without a
20 trust in favor of any other entity.

21 **D. Present Dispute Between the Parties.**

22 11. The constitution of the PC(USA) consists of two parts: Part I is the *Book of*
23 *Confessions* and Part II is the *Book of Order* ("BOO"). (See section G-1.0500 of the BOO
24 defining what constitutes the Constitution of the PC(USA).) The Book of Confessions contains
25 doctrinal statements and statements of church governance (polity). The BOO focuses on church
26 governance and is divided into three main sections: the Form of Government, the Directory of
27 Worship, and the Rules of Discipline.

28 12. Chapter VIII, section G-8.0200 of the BOO provides as follows:

All property held by or for a particular church, a presbytery, a
synod, the General Assembly, or the Presbyterian Church (USA),
whether legal title is lodged in a corporation, a trustee or trustees, or
an unincorporated association, and whether the property is used in
programs of a particular church or of a more inclusive governing
body or retained for the production of income, is held in trust
nevertheless for the use and benefit of the Presbyterian Church
(USA).

1 Plaintiff is informed and believes and thereon alleges that defendants, and each of them, rely on
2 this clause for the proposition that they have a legally enforceable trust interest in the church
3 property.

4 13. Yet, the PC(USA) Constitution is inherently ambiguous and contradictory
5 with respect to its support of defendants' assertion of a legally enforceable trust interest in the
6 church property. For instance, section 6.148 of the Westminster Confession, which forms a part
7 of the Book of Confessions and is, therefore, a part of the Constitution of the PC(USA) states
8 "[n]or doth their communion one with another as saints, take away or infringe the title or property
9 which each man hath in his goods and possessions." Thus, plaintiff alleges that its association
10 with defendants, and each of them, does not, and historically has not, infringed on plaintiff's
11 rights to exclusive right, title, and interest to the church property. This is made even more
12 manifest by the fact that at no time have defendants, or any of them, contributed in any way
13 financially to the purchase, improvement, or maintenance of the church property, but rather such
14 purchase, improvement, and maintenance of the church property has at all times herein relevant
15 been financed by the contributions of members of FOPC. Plaintiff alleges that the inherent
16 contradictions and ambiguities in the PC(USA) Constitution render any claim by defendants, or
17 any of them, to any express or implied trust interest in the church property unenforceable,
18 particularly in light of the clear and unequivocal action of plaintiff to revoke any such express or
19 implied trust interest to the extent such interest may exist.

20 14. Pursuant to the powers and authority expressly granted it by California law,
21 by the constitution of the PC(USA), and by its own governing documents, FOPC, at its regularly
22 scheduled corporate meeting of February 27, 2007, unanimously passed a corporate resolution
23 expressly revoking any and all trust interest in its property, including any trust interest that
24 defendants, and any of them, might attempt to assert based upon language found in Chapter VIII,
25 section G-8.0200 of the BOO. A true and correct copy of this corporate resolution is attached
26 hereto, marked as Exhibit 4, and incorporated herein by reference.

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1 15. It was necessary for FOPC to take this action as a result of unprecedented
2 and improper actions taken and threatened by defendants, and each of them, to confiscate the
3 property of local churches such as FOPC.

4 16. These actions and threats by defendants, and each of them, have been
5 manifested in, *inter alia*, two legal strategy papers authored and published by legal counsel for the
6 PC(USA) instructing subordinate bodies such as defendants in this action regarding steps to be
7 taken to improperly confiscate the property of local churches. True and correct copies of these
8 legal strategy papers are attached hereto, marked as Exhibits 5 and 6 respectively, and
9 incorporated herein by reference. Among other things, these legal strategy papers recommend:

10 a. That presbyteries send a letter to all banks and other
11 institutions that hold accounts for a particular church to instruct
12 these financial institutions that no assets belonging to an individual
13 church be released pending further notice from the presbytery.

14 b. That presbyteries file suits against individual churches to
15 confiscate church property and name its members as defendants in
16 the lawsuit referring to them as "schismatics."

17 c. That the presbytery determine the religious background of
18 the judge who will hear the case because the judge's religious
19 background will likely influence the way the presbytery's case is
20 viewed. Specifically, this recommendation goes on to state that
21 judge's from an episcopal system, such as the Roman Catholic
22 church, are preferable and that when a case is brought before such a
23 judge "it is very helpful to say, 'The presbytery is the bishop.'"

24 d. That presbyteries, synods, and even the General Assembly
25 appoint administrative commissions to take over the governance
26 and property of local churches even to the point of dissolving
27 relations between the local church and its pastor(s).

28 e. Finally, the legal strategy papers instruct the presbytery to
secure the corporate name of the individual church to ensure that
present endowments and future estates will be in the name of the
original church. "Keeping the name and corporation with the
presbytery should ensure that these funds remain secure."

 17. In addition to the recommendations contained in the legal strategy papers
(Exhibits 5 and 6), the PC(USA) has issued Advisory Opinion No. 19 in which it threatens to take
over presbyteries unless presbyteries take the draconian measures advocated in the legal strategy
papers to control local church property. A true and correct copy of Advisory Opinion No. 19 is
attached hereto as Exhibit 7 and incorporated herein by reference.

1 18. Most recently, Presbytery proposed an amendment to its own bylaws which
2 would shift the authority to appoint administrative commissions empowered, among other things,
3 to take action against local church property such as the church property at issue here away from
4 the Presbytery's full assembly to four unelected and/or unrepresentative agents of the Presbytery.
5 Plaintiff is informed and believes and thereon alleges that this bylaw change was proposed at
6 Presbytery's February 24, 2007 meeting in order to give Presbytery greater ability to take adverse
7 action quickly against local church property such as the church property at issue here.

8 **II.**

9 **FIRST CAUSE OF ACTION**

10 **(DECLARATORY RELIEF)**

11 19. FOPC incorporates by reference as though fully set forth herein, each and
12 every preceding paragraph in this Complaint.

13 20. An actual controversy has arisen and now exists between FOPC and
14 defendants, and each of them, concerning their respective rights and duties to FOPC's real
15 property in that FOPC contends it owns that property free and clear of any express or implied
16 trust interest claimed by defendants, and each of them, while defendants contend they hold a trust
17 interest in FOPC's real property as a result of the property trust clause in the BOO.

18 21. FOPC seeks a judicial determination of whether defendants have an
19 enforceable trust interest in FOPC's real property in order that FOPC may ascertain its rights to
20 encumber, sell, lease, or otherwise dispose of this real property and/or acquire additional real
21 property in its name free and clear of the efforts of defendants, and each of them, to impose a trust
22 interest on such property.

23 22. A judicial determination of the rights and responsibilities of the parties over
24 the real property in question is necessary and appropriate at this time in that the uncertainty over
25 the issue of whether defendants, and each of them, have an enforceable trust interest in FOPC's
26 property is thwarting FOPC's efforts to engage in a capital campaign to obtain funding for church
27 expansion and/or to acquire additional real property for that same purpose.

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III.

SECOND CAUSE OF ACTION

(QUIET TITLE)

23. FOPC incorporates by reference, as though fully set forth herein, each and every preceding paragraph alleged in this Complaint.

24. FOPC is the sole owner in fee simple of the real property hereinabove described.

25. The basis of FOPC's title is as follows:

DEED FROM PERCY K, MCMILLAN AND EULA L. MCMILLAN, -TO THE PRESBYTERIAN CHURCH OF FAIR OAKS, CALIFORNIA, A CORPORATION, RECORDED OCTOBER 24, 1952, IN BOOK 2301, PAGE 233, OFFICIAL RECORDS AS TO PARCEL 1.

CORPORATION GRANT DEED FROM NORTH AMERICAN TITLE GUARANTY CORPORATION, TO THE PRESBYTERIAN CHURCH OF FAIR OAKS, CALIFORNIA, A CALIFORNIA CORPORATION, RECORDED DECEMBER II, 1957, IN BOOK 3416, PAGE 574, OFFICIAL RECORDS AS TO PARCEL 2.

GRANT DEED FROM CLARENCE G. ODELL AND LILY M. ODELL, TO THE PRESBYTERIAN CHURCH OF FAIR OAKS, RECORDED JULY 27, 1978. IN BOOK 7807 27, PAGE 354, OFFICIAL RECORDS AS TO PARCEL 3.

GRANT DEED FROM GRANT URSENBACH AND ALICE W. URSENBACH, TO THE PRESBYTERIAN CHURCH OF FAIR OAKS, CALIFORNIA, A CORPORATION. RECORDED OCTOBER 27, 1983, IN BOOK 83 1027, PAGE 68, OFFICIAL RECORDS AS TO PARCEL 4.

GRANT DEED FROM FAIR OAKS RECREATION AND PARK DISTRICT OF SACRAMENTO COUNTY, TO THE PRESBYTERIAN CHURCH OF FAIR OAKS, A CALIFORNIA NON-PROFIT RELIGIOUS CORPORATION, RECORDED JANUARY 12, 2004, IN BOOK 2004 01 12, PAGE 406, OFFICIAL RECORDS AS TO PARCELS 5 AND 6.

26. FOPC is informed and believes and thereon alleges that defendants, and each of them, claim an interest in the above-described real property adverse to FOPC in that defendants, and each of them, claim a trust interest in that real property by operation of the property trust clause in the BOO.

27. FOPC seeks in this action to quiet title against the trust claims of defendants, and each of them. The claims of defendants, and each of them, are without merit and defendants

1 have no right, title, or interest whatsoever in the above-described real property or any part thereof.
2 FOPC seeks to quiet title in the aforementioned real property solely in its name free and clear of
3 any claimed trust interest by defendants, and each of them, and seeks to so quiet title as of the
4 date of the commencement of this action.

5 IV.

6 THIRD CAUSE OF ACTION

7 (INJUNCTIVE RELIEF)

8 28. FOPC incorporates by reference, as though fully set forth herein, each and
9 every preceding paragraph alleged in this Complaint.

10 29. At all times herein relevant, defendants, and each of them, have wrongfully
11 and unlawfully threatened: (1) FOPC's quiet enjoyment and use of its real property; (2) FOPC's
12 governance of its own corporate affairs; and (3) the livelihood of FOPC officers, directors,
13 employees, agents, and affiliated persons including, but not limited to, FOPC's pastors, through
14 the actions advocated in defendants' legal strategy papers, Advisory Opinion No. 19, and other
15 official and unofficial statements and publications attributable to defendants, and each of them.

16 30. Defendants' threatened conduct, unless and until enjoined and restrained by
17 this Court will cause great and irreparable injury to FOPC in that (1) it will be deprived of the
18 quiet use and enjoyment of its real property; (2) its governance of its own corporate affairs will be
19 disrupted; and (3) the livelihood of its officers, directors, employees, agents, and affiliated
20 persons including, but not limited to, its pastors will be harmed.

21 31. Not only will defendants' threatened conduct cause great and irreparable
22 harm to FOPC unless and until enjoined, but that same threatened conduct will cause great and
23 irreparable harm to the community as well. FOPC operates a number of community-based
24 activities on the church property which are of great value and benefit to the surrounding
25 community. Some of these activities include, but are not limited to, the following:

26 **Sayonara** - FOPC has partnered with the city of Citrus Heights, The Youth
27 Guidance Commission and Campus Life to renovate a center located at 7861 Sayonara in
28 Apartments A & B. This center accommodates a growing number of children and provides an

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1 after school program that includes snacks, tutoring and games.

2 **Baby Boutique** - An FOPC quarterly event that provides clothing and furniture for
3 expecting and new moms who would not have the resources to purchase these items on their own.

4 **Homeless Ministry** - The second Saturday of each month a group of volunteers
5 from FOPC gather together in the youth complex to make lunches, hygiene bags, and sort
6 clothing to take to the homeless. The volunteers then take the items to downtown Sacramento
7 where they give them away to the downtrodden of our own community.

8 **Katrina Relief Mission Trip** – Shortly after Hurricane Katrina hit New Orleans,
9 FOPC made a three-year commitment to help the people in the Gulfport region of the Mississippi.
10 FOPC has sent several teams to help people rebuild their homes and lives, specifically building
11 Camp Noah for Children which help them to deal with catastrophes related to water.

12 **KidZArt** – FOPC, in partnership with San Juan Unified School District and Fair
13 Oaks Park & Recreation Department, this is an outreach to the community children teaching them
14 a variety of arts/music/crafts.

15 **AARP Tax Preparation** – For several years now, AARP volunteer tax preparers
16 have met on the FOPC campus two days a week from February through April to prepare taxes at
17 no charge for low income, middle income and senior citizens. who call the church to set up an
18 appointment.

19 **Divorce Recovery** – is a recovery group offered for eight weeks at a time, twice
20 each year and is open to anyone suffering through a divorce.

21 **SJUSD (San Juan Unified School District)** – FOPC hosts annual basketball,
22 football and teacher appreciation dinners.

23 **SJUSD Visions** – is a home schooling system for children who meet all the
24 SJUSD requirements. FOPC hosts the parent training, student testing and annual training
25 sessions of District teachers.

26 **APRC (Alternative Pregnancy Crisis Center)** - meets annually at FOPC for a
27 fund-raising banquet.

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1 **Sacramento Valley Teen Challenge** – is a Christian outreach that specifically
2 reaches out to teens and parents. Staff retreats meet at FOPC twice a year while the fund-raising
3 banquet meets annually.

4 **S.C.O.P.E. (Sacramento Council of Parent Educators)** - hosts their annual book
5 faire/teacher training in June.

6 **Orangevale PC Users Group** – an affiliate of The Sacramento PC Users Group,
7 they assist individuals in the community to understand how to monitor their P.C. systems and
8 software. The group meets monthly on the FOPC campus.

9 **Sierra Mountain Music Camp** - Concert at FOPC after a week at camp with
10 specialized training.

11 **Village Singers** – are a local Acapella group that holds practices at FOPC. They
12 also have an annual concert at the church.

13 **Department of Fish & Game: Turkey Expo** – annual convention for 30 vendors
14 and the Department to share rules/regulations with local hunters/gatherers. It is also educational
15 in regard to environmental issues, controls and assistance to nature.

16 **Sacramento County Sheriff's Department** - FOPC hosts Sheriff Academy
17 graduations four times a year.

18 **Sacramento Realtors Association** – Annual convention to have 80 vendors show
19 their wares to local Realtors.

20 If an injunction does not issue restraining and enjoining defendants, and each of them, from
21 disrupting plaintiff's customary and normal operations, not only will plaintiff be irreparably
22 harmed, but members of the greater Sacramento community will be irreparably harmed as a result
23 of the loss of the above-described programs.

24 32. FOPC has no adequate remedy at law for the injuries that will result from
25 the threatened conduct of defendants, and each of them, in that it will be impossible for FOPC to
26 calculate the precise amount of damages it will suffer if defendants conduct is not enjoined and
27 restrained.

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1 WHEREFORE, plaintiff Fair Oaks Presbyterian Church prays for judgment
2 against defendants, and each of them, as follows:

3 1. For a judgment declaring that defendants, and each of them, have no
4 enforceable trust interest, express or implied, in FOPC's real property and that FOPC owns and
5 holds that real property free and clear of any trust interest so claimed by defendants, and any of
6 them;

7 2. For a judgment quieting title in the aforementioned real property finding
8 that FOPC is the owner in fee simple of that property and that defendants, and each of them, have
9 no enforceable trust interest, express or implied, in that real property;

10 3. For the issuance of a temporary restraining order, preliminary and
11 permanent injunction enjoining defendants, and each of them, along with defendants' officers,
12 directors, employees, and agents, attorneys, and any and all persons acting in concert with any of
13 them, from any and all of the following acts:

14 a. Trespassing on FOPC's real property;

15 b. Filing any documents in the official records of Sacramento County,
16 California to assert any trust or ownership interest in any real property titled in the name of Fair
17 Oaks Presbyterian Church the effect of which would be to place a cloud on title to that real
18 property ;

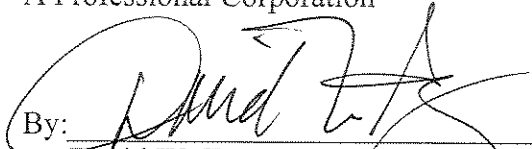
19 c. Taking any action that could adversely affect FOPC's rights to the
20 quiet use and enjoyment of the aforementioned real property including, but not limited to, (1)
21 seeking to change the locks of the church; (2) initiating any disciplinary action against the pastors
22 or members of FOPC with respect to any issue raised in, prompted by, or related to this action;
23 (3) appointing or initiating processes leading to the appointment of an administrative commission
24 to asset original jurisdiction over FOPC with respect to matters related to this action; (4)
25 contacting any financial institution with which FOPC does business in order to interfere with, or
26 adversely impact, FOPC's financial assets; or (5) otherwise interfering with the normal duties,
27 responsibilities, and operations of FOPC, and its pastors, and other employees, as well as the
28 governing officers and directors of FOPC.

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- 4. For costs of suit incurred in this action; and
- 5. For such other and further relief as the Court deems just and proper.

Dated: March 5, 2007

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD
A Professional Corporation

By: 

David W. Tyra
Attorneys for Plaintiff
FAIR OAKS PRESBYTERIAN CHURCH, a
California Nonprofit Religious Corporation

VERIFICATION

I, the undersigned, certify and declare that I have read the foregoing complaint, and know its contents. The statement following the box checked is applicable.

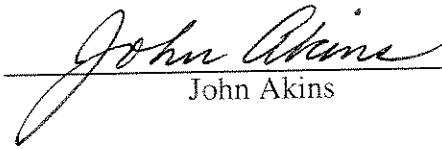
I am a party to this action. The matters stated in the document described above are true of my own knowledge and belief except as to those matters stated on information and belief, and as to those matters I believe them to be true.

I am [] an officer [] a partner [X] President of Fair Oaks Presbyterian Church, a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I am informed and believe and on that ground allege that the matters stated in the document described above are true.

I am the attorney, or one of the attorneys for _____ parties to this action. Such parties are absent from the county where I or such attorneys have their offices and is unable to verify the document described above. For that reason, I am making this verification for and on behalf of that parties. I am informed and believe on that ground allege that the matters stated in said document are true.

Executed on February 28, 2007, at Fair Oaks, California.

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



John Akins

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