

IN THE CIRCUIT COURT OF ALCORN COUNTY, MISSISSIPPI

**FIRST PRESBYTERIAN CHURCH
OF CORINTH, MISSISSIPPI**

PLAINTIFF

v.

CIVIL ACTION NO. CV07-053-TJG

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

DEFENDANT

**DEFENDANT'S MOTION TO TRANSFER
CASE TO THE CHANCERY COURT OF ALCORN COUNTY**

Comes Now, Defendant, Presbytery of Saint Andrew ("Presbytery"), Presbyterian Church U.S.A., Inc. ("PCUSA") and files its Motion to Transfer Case to the Chancery Court of Alcorn County, and would show unto the Court as follows:

1. Plaintiff First Presbyterian Church of Corinth, Mississippi ("FPC Corinth") filed its Complaint in this matter on February 5, 2007, asking this Court to decide a dispute between the parties involving the title to certain real property, whether a trust applies to the real property, and to award it injunctive and declaratory relief. In its Answer filed March 1, 2007, the Presbytery counterclaimed and asked for identical relief. Neither party has prayed for any relief constituting damages at law.

2. One of the principal issues before the court is whether real property upon which FPC Corinth is located is subject to a trust in favor of the Presbytery. (See Complaint of FPC Corinth, pp. 5-7; Answer, Counterclaim of the Presbytery, pp. 8-9, 19-20). A trust is a matter of equity for Chancery Court resolution. FPC Corinth has not asserted a claim at law or asked for any monetary relief. Thus, the issues before the court consist entirely of Chancery Court matters, including matters of interpretation and application of the PCUSA ecclesiastical governance

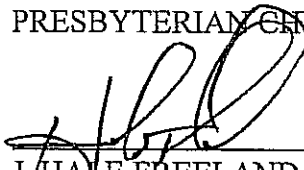
contained in the Book of Order, a section of the PCUSA Constitution.¹

3. Mississippi Constitution Art. 6, Sec. 160 specifically grants the chancery courts jurisdiction over title disputes. Mississippi Constitution Art. 6, Sec. 159 specifically grants chancery courts full jurisdiction over all matters in equity. All matters in equity have been specifically held to include trust matters and injunctive relief. Further, Miss. Code Ann. § 9-5-81 grants the chancery courts jurisdiction of all matters transferred to it from circuit courts. Finally, all of the landmark church property disputes in this state have been tried in the state's chancery courts.

4. Accordingly, the Presbytery requests this Court to immediately transfer the case to the Chancery Court of Alcorn County for further proceedings, and in further support thereof, would rely on the Presbytery's Memorandum in Support of Defendant's Motion to Transfer Case to the Chancery Court of Alcorn County, which has been contemporaneously transmitted to the Judge pursuant to Uniform Rule 4.03.

Respectfully submitted this the 13th day of March, 2007.

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



J. HALE FREELAND, MS BAR NO. 5525
JOHN T. MOSES, MS BAR NO. 101126

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¹The Presbytery's primary position is that the civil courts may only complete a brief, initial "neutral principles" constitutional analysis of the facts to determine that the PCUSA is a connectional, hierarchal church, and that it contains applicable church constitutional provisions, and thus the civil courts must defer to the PCUSA's ecclesiastical tribunals for further adjudication of this dispute. See Answer, Counterclaim of the Presbytery.

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CERTIFICATE OF SERVICE

I, J. Hale Freeland, do hereby certify that I have this day served a true and correct copy of the foregoing via U.S. Mail, postage prepaid, upon the following:

Walker W. Jones III, Esq.
Everett E. White, Esq.
Baker, Donelson, Bearman,
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This the 13th day of March, 2007.



J. HALE FREELAND