

IN THE CHANCERY COURT OF WARREN COUNTY, MISSISSIPPI

FIRST PRESBYTERIAN CHURCH PETITIONER
OF VICKSBURG, MISSISSIPPI

VS. NO.

PRESBYTERY OF MISSISSIPPI DEFENDANT

PETITION FOR TEMPORARY RESTRAINING ORDER,
PRELIMINARY INJUNCTION AND DECLARATORY JUDGMENT

Comes now First Presbyterian Church of Vicksburg, Mississippi, by and through its attorneys, and respectfully petitions this Court for a Temporary Restraining Order, Preliminary Injunction and Declaratory Judgment, and in support thereof, would represent and show the following, to-wit:

1. First Presbyterian Church of Vicksburg, Mississippi is a domestic non-profit corporation domiciled in Warren County, Mississippi first incorporated in 1830 as the Vicksburg Presbyterian Church, making it the oldest continuously incorporated Presbyterian Church in the State of Mississippi. The corporate name was changed to First Presbyterian Church of Vicksburg, Mississippi in 1961.
2. The Defendant, Presbytery of Mississippi is a domestic non-profit corporation domiciled in Forrest County, Mississippi. Said Defendant is a regional administrative unit for the Presbyterian Church (USA) ("PCUSA" or "denomination"), which denomination was formed in 1983, and which currently has approximately 11,000 member churches located throughout the United States, including the State of Mississippi and Warren County, Mississippi. The Defendant may be served with the process of this Court by service upon its Executive Presbyter, Dr. William A. DePrater and/or Rev. John C. Dudley, Stated-Clerk at 710 South 28th Avenue, Suite A, Hattiesburg, Mississippi 39402.
3. This Court has jurisdiction over the subject matter of this action and venue is proper in Warren County, Mississippi, as your Petitioner's property is all situated in Warren County, Mississippi.
4. The real property presently owned by First Presbyterian Church of Vicksburg, Mississippi consists of or is situated on tracts acquired via eight conveyances dating from 1904 through 2000. Those properties are described in the various deeds recorded in the Land Records of Warren County, Mississippi, as follows, to wit:

(A) Deed dated February 11, 1904, recorded in Deed Book 100 at Page 574, from Betty J. Gusdofer to the Board of Deacons of the Vicksburg Presbyterian Church;

(B) Deed dated August 17, 1926, recorded in Deed Book 166 at Page 305, from Ophelia A. Rose to the Board of Deacons of the Vicksburg Presbyterian Church;

(C) Deed dated January 14, 1959, recorded in Deed Book 348 at Page 556, from Catherine W. Varner and Joe E. Varner to the Board of Deacons of the Vicksburg Presbyterian Church;

(D) Deed dated January 4, 1964, recorded in Deed Book 386 at Page 391, from E. H. McGruder and Alice H. Cummins to First Presbyterian Church of Vicksburg, Mississippi;

(E) Deed dated May 13, 1965, recorded in Deed Book 398 at Page 389, from Alice Hunt Cummins and Edward H. McGruder to First Presbyterian Church of Vicksburg, Mississippi;

(F) Deed dated January 26, 1972, recorded in Deed Book 484 at Page 543, from Lewis E. Leyens and Merchants National Bank, Vicksburg, Mississippi, as Trustee of Francis H. Leyens Family Trust to First Presbyterian Church of Vicksburg, Mississippi;

(G) Deed dated November 10, 1986, recorded in Deed Book 796 at Page 293, from M. Emmett Ward and Ellena C. Ward to First Presbyterian Church, Vicksburg, Mississippi;

(H) Deed dated March 24, 2000, recorded in Deed Book 1198 at Page 838, from Harvey Smith to First Presbyterian Church of Vicksburg, Mississippi, PC USA.

5. All of said tracts of real property were acquired and improvements erected exclusively as a result of financial contributions made by the members of First Presbyterian Church of Vicksburg, Mississippi with a clear understanding that the property and improvements were and would continue to be owned by First Presbyterian Church of Vicksburg, Mississippi. No loans or financial contributions were or have been made by the Presbytery of Mississippi, PCUSA, or any predecessor denomination toward the purchase or maintenance of any real or personal property owned by First Presbyterian Church of Vicksburg, Mississippi.

6. The PCUSA was formed by the merger in 1983 of the Presbyterian Church in the United States (hereinafter the "PCUS") and the United Presbyterian Church in the United States of American (hereinafter the "UPCUSA"). Prior to the formation of the PCUSA, First Presbyterian Church of Vicksburg, Mississippi was affiliated with the PCUS. Upon formation of the PCUSA, the PCUS and the UPCUSA both ceased to exist as separate dominations, and the Presbytery of Mississippi ceased being a regional administrative unit of the PCUS and became a regional administrative unit of the PCUSA.

7. The Article of Agreement between the PCUS and UPCUSA to form the PCUSA provided in Article 13.1 that the provisions for merger "shall not alter, abridge or nullify in any way the principles as to the ownership of property in either antecedent Church or in the reunited Church as established and by ecclesiastical and civil law."

8. 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: the Form of Government, the Directory of Worship and 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-8.0000 - G-8.0700.

9. The PCUSA Book of Order includes a clause, G-8.0201, which asserts 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, and its predecessor trust clauses in the PCUS Book of Church Order, are not applicable to Petitioner's property and are not legally enforceable under the Constitution or the Laws of the State of Mississippi.

10. The PCUSA Book of Order contains a clause asserted by the denomination to pertain to ownership. G-8.0600 asserts that a PCUSA presbytery (in this case, the Defendant, Presbytery of Mississippi) may dictate ownership of local church property located within the geographic bounds of the presbytery. The PCUS Book of Church Order was amended in 1982/1983 to add a similar clause (6-5). Upon information and belief, the PCUS Book of Church Order did not previously contain a similar clause. It is Petitioner's position that G-8.0600 and any predecessor clause in the PCUS Book of Church Order are not applicable to Petitioner's property and are not legally enforceable under the Constitution or the laws of the State of Mississippi.

11. 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." The PCUS Book of Church Order was amended in 1982/1983 to add a similar clause (6-4). On information and belief, the PCUS Book of Church Order did not previously contain a similar clause. It is the Petitioner's position that G-8.0301 and any predecessor clause in the PCUS Book of Church Order are not applicable to Petitioner's property and are not legally enforceable under the U. S. Constitution or the laws of the State of Mississippi.

12. Although G-8.0501 of the PCUSA Book of Order states that written permission of the presbytery is required before a particular church can sell, mortgage or otherwise encumber any of its real property, Chapter 6 of the 1982/1983 edition of the PCUS Book of Church Order did not contain such a requirement but, to the contrary, stated at 6-8, that "Nothing in this chapter shall be construed to require a particular church to seek or obtain the consent or approval of any church court above the level of the particular church in order to buy, sell or mortgage the property of that particular church in the conduct of its

affairs as a church of the PCUS."

13. In addition, other property provisions in Chapter VIII of the PCUSA Book of Order that are not substantially similar to provisions in Chapter 6 of the 1982/1983 edition of the PCUS Book of Church Order are also not applicable to the First Presbyterian Church of Vicksburg, Mississippi.

14. 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 powers of civil courts. (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 protection and security, and at the same time, be equal and common to all others.

15. 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."

16. G-8.0700 of the PCUSA Book of Order sets forth an exemption from the provisions of Chapter VIII of the PCUSA Book of Order by providing that no particular church (local congregation) of the PCUSA shall be bound by any of the provisions in Chapter VIII if it was not previously subject to a similar provision in the denomination of which it was a part before the creation of the PCUSA - as long as that congregation, within a period of eight years following the establishment of PCUSA, votes to exempt itself from such provision. In the event of such timely vote, a particular church "shall hold title to its property and exercise its privileges of incorporation and property ownership under the provisions of the Constitution to which it was subject immediately prior to the establishment of the Presbyterian Church USA."

17. First Presbyterian Church of Vicksburg, Mississippi timely exercised the exemption clause of G-8.0700 of the PCUSA Book of Order at a regularly called meeting on January 27, 1985, unanimously adopting a resolution to be exempt from all provisions of Chapter VIII of the PCUSA Book of Order. A copy of the minutes of the Congregational Meeting are attached hereto as Exhibit "A".

18. Following the unanimous congregational adoption of the resolution, the minutes of that congregational meeting were signed by the Interim Pastor, Henry P. Mobley, and Clerk of Session, W. H. Larsen, and timely submitted to the Presbytery of Central Mississippi (predecessor to the Defendant Presbytery of Mississippi) which, pursuant to G-9.0407 - 9.0409 of the PCUSA Book of Order, and were accepted without objection. A copy of the notice to the Presbytery of Central Mississippi is attached hereto as Exhibit "B".

19. From the time First Presbyterian Church of Vicksburg, Mississippi was founded, and continuously throughout its existence until 1982, no denomination with which it was affiliated contained an express trust clause in the denominational constitution. Prior to the addition of express trust language in the 1982/1983 edition of the PCUS Book of Church Order, the PCUS Book of Church Order did not contain an implied trust over local church property.

20. The resolution adopted by First Presbyterian Church of Vicksburg, Mississippi at its January 27, 1985 congregational meeting, which resolution and minutes were received and approved by the Presbytery, manifest an intent by First Presbyterian Church of Vicksburg, Mississippi to reject any ownership claims by the national denomination, or claims by the national denomination of a right to determine ownership, and to reject the concept of holding or conveying any of its property in trust, or creating or establishing a trust, for the use and benefit of a national denomination, whether PCUSA or the PCUS, all of which was done in compliance with the procedures established by G-8.0700 of the PCUSA Book of Order.

21. At no time has the Congregation of First Presbyterian Church of Vicksburg, Mississippi, its governing body (the session) or the governing body of its local church corporation (the board of trustees) ever concurred in, accepted or otherwise indicated acquiescence to the denomination's assertion of a trust over local church property. The Congregation, its governing body and Board of Trustees has likewise never agreed or acquiesced in any denominational claim to determine ownership of property titled in the name of the local church or of any improvements thereon. At all times the congregation, the session, and the board of trustees have reaffirmed their understanding and intent that all property held by First Presbyterian Church of Vicksburg, Mississippi, and any improvements thereon, real or personal, is held by it in full and complete fee simple title and ownership, and that none of 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 of Mississippi.

22. The laws of the State of Mississippi, §91-9-1, et seq. of the Mississippi Code of 1972, as amended, its predecessor, §269 of the Miss. Code of 1942, and its predecessor, §348 of the Miss. Code of 1930, set forth the exclusive means by which a trust in real property may be validly established in Mississippi. Absent conformity with these requirements, no trust exists in Mississippi.

23. In particular, Mississippi Code Ann. §91-9-1 (Supp 2006) requires that:

a) All declarations or creations of trust or confidence of or in any land shall be made and manifested by a writing, signed by the party who declares or creates such trust or it "shall be utterly void" (emphasis added).

b) Every writing declaring or creating a trust must be acknowledged in the manner of Deeds.

c) The trust or a certificate of the trust must be filed and recorded with the Clerk of the Chancery Court of the proper county and the trust shall only take effect from the time it or a certificate is so lodged of record. 24. It is respectfully submitted, therefore, that this Court is precluded from finding the existence of any trust with respect to the property of First Presbyterian Church of Vicksburg, Mississippi in favor of any national denomination including, but not necessarily limited to the PCUSA.

25. Section 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 PCUS Book of Church Order also contains clauses authorizing and encouraging incorporation under state law (6-1, 6-2 of the 1982/1983 edition). The PCUSA Book of Order not only mandates incorporation where permitted by civil law, but also provides, at G-7.0402, that the corporation so formed shall be the title holder of record for the local church property.

26. In mandating local church incorporation when permitted by civil law, the PCUSA and its regional administrative unit, the Presbytery of Mississippi, have acknowledged that property matters are not governed exclusively by any trust or ownership provisions asserted in the PCUSA Constitution, or the constitutions of its predecessor denominations, but instead are subject to 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 ..."). G-9.0102 of the PCUSA Book of Order further distinguishes the spiritual realm from civil authority by providing, "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."

27. Pursuant to Mississippi non-profit corporation law, plenary authority on corporate matters is vested in the Board of Trustees, subject only to congregational approval as needed.

28. As a corollary to G-9.01012 of the PCUSA Book of Order, which states that the PCUSA and its administrative units such as the Presbytery of Mississippi have only ecclesiastical jurisdiction and do not have authority over civil matters (in recognition that property matters are to be governed by state law), 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. Rather, any trust or other property interest in favor of the Presbytery of Mississippi or PCUSA must be founded only upon mutual intent evidenced by the use of ordinary civil means pursuant to state law.

29. The PCUSA Book of Order does not, and the former PCUS Book of Church Order did not, require that a local church corporation be identified with the denomination in the text of its articles of incorporation, nor require inclusion of the name of the denomination (PCUS or PCUSA) in its corporate name.

30. The PCUS Book of Church Order did not require, nor does the PCUSA Book of Order require, that any property deeds include trust clauses in favor of a national denomination.

31. During the past 5 years, the session and the congregation of First Presbyterian Church of Vicksburg, Mississippi initiated a complete renovation of its church buildings at a cost in excess of \$655,000. This renovation program was named "Project 175". The scope of such capital improvements required not only pledges from its members, but also bank financing to be repaid from pledges from the congregation to the fund drive. In addition, First Presbyterian Church of Vicksburg, Mississippi has negotiated for the possible purchase of adjacent property, but such purchase would also require bank financing, and absent resolution of the questions presented herein regarding title to the property owned by First Presbyterian Church of Vicksburg, Mississippi, the church will be unable to provide acceptable title insurance on its present property or future purchases. The underwriting of any extension of credit is significantly impacted by the status of ownership of local church property.

32. Efforts to continue an effective local capital fund drive to pay for improvements to local church property or to purchase adjacent property will be stymied in the absence of the injunction and declaratory relief Petitioner seeks. Few will give to fund improvements to facilities, the ownership of which is claimed by others.

33. In the absence of a temporary restraining order and preliminary injunction, the Presbytery of Mississippi could (and on the basis of actions elsewhere by the PCUSA, presbyteries would) attempt to take preemptive action to deprive the Petitioner of its rights under Mississippi law and the Mississippi and United States Constitutions.

34. According to the PCUSA Book of Order, at G.-9.0503a.(4), G-11.0103.s. and G-11.0502j, 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 used by the PCUSA in its efforts to seize ownership and control over local church property.

35. PCUSA presbyteries, or other higher denominational authorities, in response to dissent (whether perceived or actual) by local congregations, ministers, church officers, and trustees to certain denominational actions, have variously: a) taken acts 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 which improperly assert trusts on local church property in favor of the denomination, 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, thereby permitting the PCUSA presbytery to effectively confiscate local church property and deal with it as if it were its own. There is a likelihood that the filing of this petition will be perceived to be dissent, causing the Presbytery of Mississippi to act in such a manner.

36. 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 of Mississippi, 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. The Presbytery of Mississippi recently adopted a policy statement which concedes Petitioner's assertion of its property rights and states that the Presbytery will not oppose those rights. The Presbytery of Mississippi policy statement is attached hereto as Exhibit "C". Advisory Opinion Note 19, however, indicates there remains a threat of hostile local church take over by higher ecclesiastical authorities who may seek to act by or through the Presbytery of Mississippi or an administrative commission appointed in lieu of the Presbytery of Mississippi.

37. In further illustration of the aggressive tactics being taken by PCUSA presbyteries and their use of "administrative commissions" as the mechanism or device in an effort to exert denominational ownership and control over local church property, the PCUSA 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, advise how to remove the local pastor and/or governing board of the local church;
- b) advise how to freeze 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."

38. 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.

39. 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.

40. The actions by PCUSA and/or presbyteries described above violate state property law and trust law, free speech rights guaranteed by the First and Fourteenth Amendments to the United States Constitution and by Article III, Section 24 and Section 25 of the Mississippi Constitution. The effect of such actions, if taken in whole or in part or

threatened by the Presbytery of Mississippi, would chill if not violate the foregoing protected rights, interfere with appropriate local church governance of congregational matters, impede the ability of the congregation of First Presbyterian Church of Vicksburg, Mississippi to hold a congregational or corporate meeting free of improper interference, and cloud the title of property held by First Presbyterian Church of Vicksburg, Mississippi.

41. First Presbyterian Church of Vicksburg, Mississippi is a non-profit corporation. Its primary purpose is not monetary but spiritual and philanthropic. A monetary award is thus an insufficient remedy at law. Absent a temporary restraining order and preliminary injunction, the rights of Petitioner and the ministry of First Presbyterian Church of Vicksburg, Mississippi will be irreparably harmed and injured. The Church supports numerous ministries and missionaries. No amount of money would be an adequate remedy to compensate the irreparable damage that would be done to the mission of ministries of First Presbyterian Church of Vicksburg, Mississippi which would occur as a result of confiscatory or disciplinary action initiated by the Presbytery of Mississippi in retaliation for the exercise of Petitioner's lawful rights to its property.

42. In a meeting of the Presbytery of Mississippi convened Thursday, November 30, 2006, the Presbytery of Mississippi passed a Policy Statement marked Exhibit "C" hereto, which, among other matters not herein relevant, contained the following policy statement.

a) The Presbytery of Mississippi recognizes all its particular churches as having the ability to sell, lease, mortgage or otherwise encumber any of their real property without further written permission of the presbytery;

b) The Presbytery of Mississippi recognizes all its particular churches as having the ability to acquire real property subject to an encumbrance or condition without further written permission of the presbytery;

c) The Presbytery of Mississippi resolves that it shall take no action to enforce any general trust interest claimed by any higher governing body against any property, real or personal, held by any of its particular churches while they remain under its jurisdiction;

d) The Presbytery of Mississippi resolves that it will not resist any particular church of the Presbytery of Mississippi which would ask the courts of the State of Mississippi to clear its property of any claims made by higher governing bodies against that property;

43. A temporary restraining order and preliminary injunction during the pendency of this suit is necessary to stay the hand of the Presbytery of Mississippi 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 of First Presbyterian Church of Vicksburg, Mississippi. Said restraining order and preliminary injunction would protect the members of First Presbyterian Church of Vicksburg, Mississippi who, under Mississippi non-profit corporation law, are also members, and in effect, the shareholders of the local church corporation. Said restraining order and preliminary injunction would

preserve the status quo until such time as the question of ownership and use of the property of the First Presbyterian Church of Vicksburg, Mississippi can be determined by this Court. Absent said temporary restraining order and preliminary injunction the rights of Petitioner, the governing body of First Presbyterian Church of Vicksburg, Mississippi (the session), and the members of the congregation of First Presbyterian Church of Vicksburg, Mississippi, and the property rights of First Presbyterian Church of Vicksburg, Mississippi will be irreparably harmed and injured.

44. In addition, a Temporary Restraining Order and Preliminary Injunction are necessary to protect against any attempt by any unit of the national denomination from usurping the authority of the Presbytery of Mississippi by appointing an administrative commission to assume its powers.

45. Inasmuch as petitioner seeks only a temporary restraining order and preliminary injunction during the pendency of this suit, the interests of the Petitioner and the members of First Presbyterian Church of Vicksburg, Mississippi and its local church corporation outweigh any possible injury to the Presbytery of Mississippi which might result from the granting of a temporary restraining order and a preliminary injunction, said relief and injunction being in the public interest.

46. Petitioner seeks a declaratory judgment: (a) that all property held by or for First Presbyterian Church of Vicksburg, Mississippi, and any improvements thereon, whether real or personal, movable or immovable, is held without any trust in favor of a national denomination or any of its regional administrative units, such as the Presbytery of Mississippi; (b) that all property held by or titled in the name of the local church is held by it in full and exclusive ownership; and (c) that neither the PCUSA nor the Presbytery of Mississippi has any right, title or interest in said property, nor right to determine the ownership thereof.

47. There is a substantial likelihood that First Presbyterian Church of Vicksburg, Mississippi will prevail on the merits of its suit for declaratory judgment. WHEREFORE, PREMISES CONSIDERED, Petitioner, First Presbyterian Church of Vicksburg, Mississippi prays that a temporary restraining order and preliminary injunction be issued herein and a declaratory judgment be issued herein, granting to your Petitioner the following relief:

1) A Temporary Restraining Order, restraining and enjoining The Presbytery of Mississippi and any of its agents, employees or other persons or entities acting on its behalf or in its stead, from (a) filing any documents in the mortgage and conveyance records of Warren County, Mississippi, the effect of which would be to place a cloud on the title of any property titled in the name of Petitioner, its Trustee's, or its corporate name, or otherwise taking any action to claim ownership of local church property whether real or personal, or a right to determine ownership of local church property, in the possession of, control of, or owned by First Presbyterian Church of Vicksburg, Mississippi; and, (b) Further restraining the Presbytery of Mississippi and any agents, employees or other persons or entities acting on its behalf or in its stead, from asserting

any rights to the property of First Presbyterian Church of Vicksburg, Mississippi, including but not limited to seeking to change the locks of First Presbyterian Church of Vicksburg, Mississippi, initiating any disciplinary action against the ministers or members of First Presbyterian Church of Vicksburg, Mississippi, appointing an administrative commission, or otherwise interfering in any way with the rights and responsibilities of the ministers or other employees of First Presbyterian Church of Vicksburg, Mississippi, the governing body (session) of First Presbyterian Church of Vicksburg, Mississippi, its congregation, or the governing body of its local church corporation, First Presbyterian Church of Vicksburg, Mississippi (the board of trustees);

2) A Preliminary Injunction, enjoining the Presbytery of Mississippi during the pendency of this suit, from any of the acts described in paragraph 1) of this prayer;

3) A Declaratory Judgment, declaring that all property held by or titled in the name of the petitioner, and any improvements thereon, whether real or personal, is held without trust for the use and benefit of the PCUSA or any other national denomination, or any of its regional administrative units such as the Presbytery of Mississippi, and that the petitioner holds all property titled in its name, or the name of its Trustees, and all improvements thereon, in full and complete fee simple ownership pursuant to the laws of the State of Mississippi, and that neither the PCUSA nor any of its regional administrative units such as the Presbytery of Mississippi, nor any person, entity, administrative unit, agency, commission, committee, or governing body acting on behalf of the Presbytery of Mississippi, or in its stead, or claiming by, through or under the Presbytery of Mississippi has any right, title or interest in said property nor right to determine ownership thereof; and,

4) That the Presbytery of Mississippi be served with a copy of the above and foregoing petition, and summoned to respond to said petition and to appear before this Honorable Court at a date and time fixed by this Court to show cause, if any it can, why a Temporary Restraining Order and a Preliminary Injunction should not issue as prayed for; and,

After all due proceedings be had, a Declaratory Judgment issue as prayed for in favor of First Presbyterian Church of Vicksburg, Mississippi; and,

For such other relief, either general or special, that its Honorable Court deems proper in the premises. Respectfully submitted,

FIRST PRESBYTERIAN CHURCH OF VICKSBURG, MISSISSIPPI

BY: M. JAMES CHANEY, JR
B. BLAKE TELLER

M. JAMES CHANEY, JR

ATTORNEY FOR PETITIONER

B. BLAKE TELLER
ATTORNEY FOR PETITIONER

OF COUNSEL

M. JAMES CHANEY, JR.

B. BLAKE TELLER

TELLER, CHANEY, HASSELL & HOPSON, LLP

1201 Cherry Street

Vicksburg, MS 39183

Telephone (601) 636-6565

Facsimile (601) 631-0114

e-mail: jchaney@tellerlaw.com

e-mail: bteller@tellerlaw.com