

1 ROBERT H. JOHNSON (SBN 048067)
LEHOA NGUYEN (SBN 232980)
2 JOHNSON SCHACHTER & LEWIS
A Professional Law Corporation
3 California Plaza
2180 Harvard Street, Suite 560
4 Sacramento, CA 95815
Telephone: (916) 921-5800
5 Facsimile: (916) 921-0247
6 Attorneys for Defendant PRESBYTERY OF SACRAMENTO

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF PLACER**
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12 FIRST PRESBYTERIAN CHURCH OF) Case No. SCV 20758
ROSEVILLE, CALIFORNIA, a California)
13 Nonprofit Religious Corporation) **DEFENDANT PRESBYTERY OF**
Plaintiff) **SACRAMENTO’S ANSWER TO**
14) **FIRST PRESBYTERIAN CHURCH**
v.) **OF ROSEVILLE, CALIFORNIA’S**
15) **COMPLAINT**
PRESBYTERY OF SACRAMENTO, a)
16 California Nonprofit Religious Corporation,)
and DOES 1 through 20, inclusive,)
17)
18 Defendants.)
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20 Defendant PRESBYTERY OF SACRAMENTO answers Plaintiff FIRST PRESBYTERIAN
21 CHURCH OF ROSEVILLE, CALIFORNIA’s Verified Complaint as follows:

22 **I. GENERAL ALLEGATIONS**

23 **A. The Parties**

- 24 1. Defendant admits the allegations contained in paragraph 1.
25 2. Defendant admits that it is a nonprofit religious corporation organized under the laws
26 of California, with its principal place of business in the County of Sacramento. Defendant denies
27 that the role of the Presbytery is simply that of “a local administrative unit of the Presbyterian
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1 Church (USA)". Defendant admits that the Presbyterian Church (USA)(hereinafter, PCUSA)
2 was formed as a result of reunion between the Presbyterian Church in the U.S. (PCUS),and the
3 United Presbyterian Church in the U.S.A. (UPCUSA)in 1983 and on that basis, admits that
4 PCUSA was formed in1983. Defendants also admits that PCUSA currently has approximately
5 11,000 churches throughout the United States, including the County of Placer.

6 3. No response is required because the allegations contained in paragraph 3 do not
7 constitute factual allegations capable of admission or denial.

8 4. Defendant denies the allegations contained in paragraph 4 to the extent they constitute
9 factual allegations capable of admission or denial.

10 **B. Jurisdiction and Venue.**

11 5. Based solely on its present information and belief, Defendant admits that the real
12 property which is the subject of the complaint is generally known as 515 Sunrise Avenue, and
13 1260 Coloma Way, but is without knowledge or information sufficient to form a belief as to the
14 accuracy of the metes and bounds described in said paragraph and accordingly denies each and
15 every remaining allegation in said paragraph.

16 6. Based solely on its present information and belief, Defendant admits the Plaintiff took
17 title to those parcels mentioned in the first sentence of paragraph 6; however, Defendant alleges
18 that any such title was, at all times relevant hereto, and is subject to a property trust clause in
19 favor of the denomination(s) of which Plaintiff was/is a congregation, most recently the
20 Presbyterian Church (U.S.A.) (PCUSA). Defendant denies the remaining allegations found in
21 paragraph 6.

22 7. Based solely on its present information and belief, Defendant admits the allegations
23 contained in paragraph 7 solely insofar as they pertain strictly to the language contained within
24 the four corners of the deeds themselves. However, a trust in favor of PCUSA is imposed by
25 operation of law, and therefore, to the extent that the allegations in this paragraph are intended to
26 diminish, limit, negate or deny that trust, Defendant denies the allegations found in paragraph 7.

27 8. Defendant denies the allegations contained in paragraph 8.
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C. Relevant Provisions From Plaintiff’s Governing Documents.

9. Based solely on its present information and belief, Defendant admits the allegations in paragraph 9 that Plaintiff was originally incorporated on or about April 11, 1910, and that at a meeting in March 2006, some members of the congregation attempted to pass amendments to the Plaintiff’s bylaws which, to the extent they purport to diminish, limit, negate or deny the trust referred to above are null and void. Accordingly the remaining allegations in paragraph 9 are denied.

10. Based solely on its present information and belief, Defendant admits the allegations in paragraph 10 which imply that some members of the congregation attempted to pass similar null and void provisions of Plaintiff’s bylaws, but deny the remaining allegations in said paragraph.

D. Present Dispute Between the Parties

11. Defendant admits that the constitution of the PCUSA consists of the *Book of Confessions* and *Book of Order*. Defendant denies the remainder of the allegations in paragraph 11 to the extent that Plaintiff incorrectly contends that the *Book of Confessions* contains statements of church governance (polity).

12. Defendant admits the allegations contained in paragraph 12.

13. Defendant denies the allegations contained in paragraph 13.

14. Based solely on its present information and belief, Defendant admits that a resolution was reportedly passed in February purporting to revoke the trust imposed on the property which is the subject of this litigation. Defendant denies that (a) Plaintiff or any of its members had authority under California law or the PCUSA Constitution to adopt such a resolution, (b) that this was the legal effect of the document referred to, or (c) that those who voted on said document had the authority to adopt it, and further denies the remaining allegations contained in paragraph 14.

1 for Constitutional reasons and/or the Court should abstain from deciding same pending
2 exhaustion of the PCUSA's internal judicial process.

3 21. Defendant is informed and believes that the allegations contained in paragraph 21 are
4 false and based thereon deny said allegations.

5 22. Defendant lacks knowledge or information sufficient to form a belief that any
6 uncertainty over Plaintiff's obligations to PCUSA is thwarting efforts to engage in any capital
7 contribution campaign or fund-raising activity, and based thereon denies each and every
8 allegation in paragraph 22.

10 **III. SECOND CAUSE OF ACTION**

11 **Quiet Title**

12 23. Defendant incorporates by reference as though fully set forth herein, its answer to
13 each and every preceding paragraph in this Complaint.

14 24. Plaintiff's title to the property described in the complaint is subject to a property trust
15 clause in favor of the denominations of which Plaintiff was/is a member congregation, most
16 recently the Presbyterian Church (U.S.A.) (PCUSA). Therefore Defendant denies the allegations
17 found in paragraph 24.

18 25. Based solely on its present information and belief, Defendant admits that the real
19 property title to which Plaintiff ostensibly seeks to quiet was conveyed in the two grant deeds
20 referred to in paragraph 25 but denies each and every remaining allegation in said paragraph

21 26. This answering Defendant claims no interest in the property referred to in paragraphs
22 5 and 25 for itself, although as a component of the PCUSA it has the right, power and duty under
23 certain circumstances (which have yet to and may never arise) to enforce the trust interest in that
24 property imposed on it, not for benefit of this Defendant, but for the benefit of the PCUSA.
25 Otherwise, this Defendant denies each and every allegation in said paragraph.

26 27. Insofar as the allegations in paragraph 27 constitute contentions of law, no response
27 is required. Respondent denies the remaining allegations in paragraph 27.

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IV. THIRD CAUSE OF ACTION

Injunctive Relief

28. Defendant incorporates by reference as though fully set forth herein, its answer to each and every preceding paragraph in this Complaint.

29. Defendant denies the allegations contained in paragraph 29.

30. Defendant denies the allegations contained in paragraph 30.

31. Defendant denies the allegations contained in paragraph 31 to the extent they imply any harm attributable to this Defendant. Furthermore, since neither the Synod nor the General Assembly have sought to or have threatened to disrupt Plaintiff's customary and normal operations, those allegations of this paragraph are denied.

32. Defendant denies the allegations contained in paragraph 32.

AFFIRMATIVE DEFENSES

1. AS AND FOR A SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO THE COMPLAINT ON FILE HEREIN, this answering Defendant alleges that the complaint and each cause of action therein fails to state facts sufficient to constitute a cause of action against this answering Defendant.

2. AS AND FOR A FURTHER, SEPARATE AND DISTINCT, AFFIRMATIVE DEFENSE TO THE COMPLAINT ON FILE HEREIN, this answering Defendant alleges that the Plaintiff had failed to join all necessary parties to this action.

3. AS AND FOR A FURTHER, SEPARATE AND DISTINCT, AFFIRMATIVE DEFENSE TO THE COMPLAINT ON FILE HEREIN, this answering Defendant alleges that at all times relevant hereto, Plaintiff consented, either expressly or impliedly, to any such acts or conduct as may be shown on the part of this answering Defendant.

4. AS AND FOR A FURTHER, SEPARATE AND DISTINCT, AFFIRMATIVE DEFENSE TO THE COMPLAINT ON FILE HEREIN that , this complaint and every cause of action therein is premature and not yet ripe for judicial determination.

1 5. AS AND FOR A FURTHER, SEPARATE AND DISTINCT AFFIRMATIVE
2 DEFENSE TO THE COMPLAINT ON FILE HEREIN, this answering Defendant alleges that
3 Plaintiff's complaint, and/or each cause of action therein, is barred because Plaintiff has failed to
4 exhaust the internal ecclesiastical remedies available to it prior to bringing this action, including,
5 but not limited to, established procedures for those congregations seeking to leave the PCUSA and
6 appeals to the Permanent Judicial Commissions of the Synod and General Assembly of any actions
7 taken subsequently hereto with respect to Plaintiff with which Plaintiff may disagree.

8 6. AS AND FOR A FURTHER, SEPARATE AND DISTINCT, AFFIRMATIVE
9 DEFENSE TO THE COMPLAINT ON FILE HEREIN , this answering defendant alleges that
10 Plaintiff's complaint, and each and every cause of action therein consists of ecclesiastical
11 controversy. Accordingly, there exists no justiciable controversy properly brought before this Court
12 and this Court is therefore barred from hearing this case by the First Amendment to the United States
13 Constitution and Article One, Section Four of the California Constitution.

14 7. AS AND FOR A FURTHER, SEPARATE AND DISTINCT AFFIRMATIVE
15 DEFENSE TO THE COMPLAINT ON FILE HEREIN, this answering Defendant alleges that
16 Plaintiff's complaint, and each and every cause of action therein, is barred by the doctrines of laches
17 and unclean hands.

18 8. AS AND FOR A FURTHER, SEPARATE AND DISTINCT AFFIRMATIVE
19 DEFENSE TO THE COMPLAINT ON FILE HEREIN, this answering Defendant alleges that any
20 and all acts alleged in Plaintiff's complaint, has been ratified by the conduct of Plaintiff.

21 9. AS AND FOR A FURTHER, SEPARATE AND DISTINCT, AFFIRMATIVE
22 DEFENSE TO THE COMPLAINT ON FILE HEREIN, this answering Defendant alleges that they
23 are entitled to recover reasonable expenses, including attorney's fees, from the Plaintiff in that
24 Plaintiff's complaint on file herein is frivolous and was brought and maintained in bad faith and
25 without reasonable cause, and is totally and completely without merit and was brought for the sole
26 purpose of harassing this Defendant. [Code of Civil Procedure Sections 128.7 and 1038.]
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1 10. AS AND FOR A FURTHER, SEPARATE AND DISTINCT AFFIRMATIVE
2 DEFENSE TO THE COMPLAINT ON FILE HEREIN, this answering Defendant alleges that, at
3 all times, it acted in good faith.

4 11. AS AND FOR A FURTHER, SEPARATE AND DISTINCT AFFIRMATIVE
5 DEFENSE TO THE COMPLAINT ON FILE HEREIN, this answering Defendant alleges that
6 because the complaint is couched in conclusory terms, this answering Defendant cannot fully
7 anticipate all affirmative defenses that may be applicable to the within action. Accordingly, the right
8 to assert additional affirmative defenses, if any and to the extent that such affirmative defenses are
9 applicable, is hereby reserved.

10 WHEREFORE, this answering Defendant prays that Plaintiff take nothing by reason of his
11 complaint; that this answering Defendant be awarded costs of suit incurred herein; and for such other
12 and further relief as this Court may deem just and proper.

15 Date: April 19, 2007

JOHNSON SCHACHTER & LEWIS
A Professional Law Corporation

18 _____
19 ROBERT H. JOHNSON
LEHOA NGUYEN, Attorneys for
20 Defendant, PRESBYTERY OF SACRAMENTO

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VERIFICATION

I, Rev. Jeff Chapman,, declare:

I am the Chair of the Presbytery Council for the Presbytery of Sacramento, Defendant in the within-entitled action.

I have read the foregoing DEFENDANT PRESBYTERY OF SACRAMENTO’S ANSWER TO FIRST PRESBYTERIAN CHURCH OF ROSEVILLE, CALIFORNIA’S COMPLAINT, and know the contents thereof.

I am informed and believe and thereon allege that the matters stated therein are true and correct.

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

Executed this 19th day of April, 2007 at _____, California.

Rev. Jeff Chapman, Chair of the Presbytery
Council, Presbytery of Sacramento

PROOF OF SERVICE

CASE NAME: First Presbyterian Church of Roseville v. Presbytery of Sacramento
CASE NO.: SCV 20758

I am employed in the County of Sacramento. I am over the age of eighteen years and not a party to the within above-entitled action. My business address is 2180 Harvard Street, Suite 560, Sacramento, CA 95815.

I am familiar with this office's practice whereby the mail is sealed, given the appropriate postage and placed in a designated mail collection area. Each day's mail is collected and deposited in a United States mailbox after the close of each day's business.

On the date below, I served the following:**DEFENDANT PRESBYTERY OF SACRAMENTO'S ANSWER TO FIRST PRESBYTERIAN CHURCH OF ROSEVILLE, CALIFORNIA'S COMPLAINT**

- United States Mail - on all parties in said action by placing a true copy of the above-described document(s) enclosed in a sealed envelope in the designated area for outgoing mail addressed as set forth below.
- By FACSIMILE (telecopier) - by personally sending to the addressee's facsimile number a true copy of the above-described document(s).
- Federal Express - on all parties in said action by placing a true copy of the above-described document(s) in an authorized area for pick-up by an authorized express service courier the same day it is collected and processed in the ordinary course of business as set forth below.
- Personal Service - By personally delivering or causing to be delivered a true copy of the above-described document to the person(s) and at the address(es) set forth as shown below.

David W. Tyra
Kronick, Moskovitz, Tiedemann & Girard
A Professional Corporation
400 Capitol Mall, 27th Floor
Sacramento, CA 95814

FEDERAL: I declare that I am employed in the office of a member of the bar of this Court at whose direction service was made.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on April 19, 2007, at Sacramento, California.

Cheneen Hubert