

NEWS FROM ST. JAMES ANGLICAN CHURCH

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SUPERIOR COURT DENIES EPISCOPAL DIOCESE'S MOTION FOR ATTORNEYS' FEES BROUGHT AGAINST ST. JAMES CHURCH AND ITS VOLUNTEER BOARD IN CHURCH PROPERTY CASE

SANTA ANA, Calif. – May 15, 2009 – Orange County Superior Court Judge Thierry P. Colaw today denied a motion by the Episcopal Diocese of Los Angeles which would have forced St. James Church and its volunteer board of directors to pay the Diocese's attorneys' fees in this ongoing property dispute.

The case began when St. James Church disaffiliated from the Episcopal Diocese of Los Angeles and the Episcopal Church over theological differences in August 2004. The Diocese then sued St. James Church, All Saints Church in Long Beach, and St. David's Church in North Hollywood, and each of their volunteer board members in September 2004. Subsequently, the national Episcopal Church intervened in the lawsuit with its own claims. The three local churches brought special motions to strike the Diocese's suit under a unique California statute providing for early evaluation of cases involving free speech rights.

The Superior Court initially granted St. James Church's motion, but the case made its way to the California Supreme Court, which reversed and reinstated the Diocese's suit. St. James Church recently announced that it will file a petition for writ of certiorari with the United States Supreme Court to seek further appellate review. Even as St. James Church prepares its bid to the United States Supreme Court, the case continues to proceed in the Superior Court.

Today's motion was a heavy-handed attempt by the Diocese, which has engaged in "scorched earth" litigation tactics against St. James Church for years, to recoup its attorneys' fees. The Diocese claimed that St. James Church's earlier special motion to strike was "frivolous" and warranted the sanction of a fees award.

The Superior Court considered briefs filed by both sides and heard oral argument. While the special motion procedure had never before been used in a church property dispute, the Court ruled that it was not frivolous, and had been brought in good faith by experienced and well-qualified defense counsel. As a result, the Court denied the Diocese's motion for attorneys' fees and set the case for a further status conference in September.

St. James Church continues to hold services and to operate in its property at 3209 Via Lido in Newport Beach, and remains committed to spreading the Gospel and the traditional Faith.

For more information about the court case: www.steadfastinfaith.org

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A Brief Recap: St. James Anglican Church's Fight to Keep its Property

In August 2004 St. James Church ended its affiliation with the Episcopal Diocese of Los Angeles and the Episcopal Church over theological differences involving the authority of

Holy Scripture and the Lordship of Jesus Christ. The Episcopal Diocese of Los Angeles brought lawsuits against St. James Church, All Saints Church, Long Beach, CA, and St. David's Church, No. Hollywood, CA, and their volunteer board members in September of 2004. Subsequently, the national Episcopal Church intervened into the lawsuits against the three local church corporations and their volunteer board members.

In August 2005 the Honorable David C. Velasquez of the Orange County Superior Court ruled in favor of St. James Church and struck the complaint brought by the Diocese of Los Angeles. In October 2005 Judge Velasquez issued a similar ruling in favor of All Saints and St. David's Churches. These early victories arose from early challenges to the two complaints filed by the Diocese and the Episcopal Church, and as a result, no trial ever occurred. The Episcopalians then appealed to the California Court of Appeal sitting in Orange County on this very limited court record, arguing that under neutral principles of law they had a probability of prevailing and had alleged legally viable claims.

In July 2007 the Court of Appeal rejected nearly thirty years of California church property law by ruling that a secular court must defer to the determinations of the highest level of the church hierarchy regarding ownership of local church property, regardless of any agreements between the parties, the corporate documents, who paid for the property, or who held the deed. The Court of Appeal reversed the trial court judgment in favor of St. James, and ordered the case back to the trial court.

In August 2007 St. James filed a petition with the California Supreme Court, which the Court unanimously and quickly accepted under the name of *Episcopal Church Cases*. The Court heard oral argument in the case in October 2008.

In January 2009 the California Supreme Court ruled in *Episcopal Church Cases* that church property disputes in California must be resolved by neutral or non-religious principles of law, not by civil courts merely deferring to the decrees of church "hierarchies" or larger church bodies. As a result, every church property dispute in California now will be resolved based on non-religious factors that are unique to the dispute. While adopting this non-religious method of resolving property disputes between churches, however, the Court seemed to defer to the Episcopal Church's alleged "trust canon," which purports to create a trust interest in church property owned by local congregations. The Court made its ruling despite the fact that St. James purchased and maintained its property with its own funds and has held clear record title to its property for over fifty years. St. James believes that this ruling overlooked decades of trust law in California that only allows the owner of property to create a trust in favor of someone else, and will as a result have wide impact for local church property owners throughout California that seek to change their religious affiliation.

In late January 2009 St. James formally asked the California Supreme Court to modify its January decision.

In February 2009 the California Supreme Court granted the St. James request, and modified its decision to confirm both that the suit against St. James is not over and that no decision on the merits of the case has yet been made. Instead, the Court clarified that its decision was only based on the limited record before it, which will now be augmented through the normal discovery and trial process.

In late February 2009, the case against St. James Church corporation, the volunteer board members, and clergy returned to the trial court in Orange County where St. James can assert factual and legal arguments that were not addressed on appeal through discovery, depositions, motions, and trial. Using the legal standard set forth by the

California Supreme Court, the Orange County Superior Court will eventually decide the merits of this dispute. For example, St. James has brought a complaint against the Diocese of Los Angeles based on a 1991 written promise that it would not claim a trust over the property of St. James on 32nd Street in Newport Beach.

In May 2009, Judge Thierry P. Colaw of Orange County Superior Court dismissed as "frivolous" a motion to collect attorney fees filed by the Episcopal Diocese of Los Angeles against St. James Church's volunteer governing board.

Also in May 2009, St. James will file a petition for a writ of certiorari with the United States Supreme Court. A response from the Court regarding its decision to hear St. James' petition can be expected by October 2009. The Justices could render by mid-2010.

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