

## **NEWS FROM ST. JAMES ANGLICAN CHURCH**

### **FOR IMMEDIATE RELEASE**

#### **ST. JAMES CHURCH'S LEGAL BATTLE OVER ITS PROPERTY MOVING TO UNITED STATES SUPREME COURT: PETITION FOR WRIT OF CERTIORARI WILL BE FILED TODAY**

**NEWPORT BEACH, Calif. – June 24, 2009** – St. James Anglican Church, which is at the center of a nationally publicized church property dispute with The Episcopal Church, today will file a petition for writ of certiorari with the Supreme Court of the United States. St. James is asking the Court to overturn a prior decision of the California Supreme Court, which conferred a special power on certain religious denominations to take property they do not own simply by passing an internal “rule.” The petition asks the Supreme Court to decide whether, under the U.S. Constitution, certain religious denominations can disregard the normal rules of property ownership that apply to everyone else.

Dr. John Eastman, a nationally recognized constitutional law scholar, has joined the legal team to pursue the appeal to the U.S. Supreme Court. A response from the Court regarding the St. James petition can be expected as early as October 2009. A decision could be reached as early as mid-2010.

“We will be arguing to the U.S. Supreme Court that the California Supreme Court’s interpretation of state law has violated the First Amendment of the United States Constitution. The First Amendment says Congress shall pass no law respecting the establishment of religion or prohibiting the free exercise thereof. Even though it says Congress, that Amendment has been interpreted as applicable to the states as well.” Eastman said. “The California Supreme Court has given a preference to certain kinds of churches that claim to be hierarchical, that other churches and non-religious associations are not entitled to, and that violates the establishment clause. We will also be arguing that denying the local church community their ability to organize and hold title to their own building and conduct their religious services in a manner they see fit, this California decision violates their right to the free exercise of religion,” Eastman added.

Under longstanding law, no one can unilaterally impose a trust over someone else’s property without their permission. Yet, in the decision titled *Episcopal Church Cases*, the California Supreme Court ruled that certain denominations – those that claim to be a “superior religious body or general church” – can unilaterally impose a trust on the property of spiritually affiliated but separately incorporated local churches, resulting in the local church forfeiting its property if it ever chooses to leave the denomination. St. James will argue before the U.S. Supreme Court that this preferential treatment for certain denominations violates the U.S. Constitution.

The constitutional issues St. James is raising before the U.S. Supreme Court go far beyond the Episcopal Church. Every local church, temple, synagogue, parish, spiritual center, congregation or religious group which owns its own property through a religious corporation, and has some affiliation with a larger religious group, is at risk of losing its own property under the California Supreme Court’s ruling. As a result, religious freedom is suppressed, as those who have sacrificed to build their local religious communities are now at risk of having their properties taken based on some past, current or future spiritual affiliation. A United States Supreme Court decision in favor of St. James would benefit local church property owners throughout the country because it would allow them the ability to freely exercise their religion without risk of losing their property.

While petitions for review with the U.S. Supreme Court are never assured, there are compelling arguments for the Justices to grant this petition, including these facts:

- Dozens of church property cases are percolating in the court system, lacking clear constitutional direction.
- States are in conflict regarding the handling of church property cases.
- These issues have garnered widespread national attention and involve important questions of federal constitutional law.

The people of St. James Church have owned, and sacrificed to build and acquire their church properties for many decades without any financial support from the Episcopal Church. St. James Church never agreed to relinquish its property to the Episcopal Church upon a change of religious affiliation, and has consistently maintained that it has the right to use and possess its own property.

Even as St. James seeks a place on the Supreme Court calendar, the church's legal battle has returned to the Orange County Superior Court. "While we are surprised that the California Supreme Court would prefer certain religions over others when it comes to property ownership, the battle in this case is far from over," said Eric C. Sohlgren, lead attorney and spokesperson for St. James. "The case has already returned to the Orange County Superior Court. Because St. James had an early victory in 2005 by legally attacking the Episcopal allegations, we now look forward to presenting evidence and additional legal arguments on behalf of St. James. For example, St. James has brought a complaint against the Episcopal Diocese of Los Angeles based on a 1991 written promise that it would not claim a trust over the property of St. James on 32<sup>nd</sup> Street in Newport Beach. We had hoped Episcopal leaders would abide by this promise, but they sued St. James and its volunteer directors anyway."

Click here for a copy of the writ of certiorari which will be filed today with the U.S. Supreme Court: <http://steadfastinfaith.org/content/st-james-ussc-petition>

For more information, please visit the website: [www.steadfastinfaith.org](http://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 32<sup>nd</sup> Street in Newport Beach.

**On June 24, 2009**, St. James filed 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’s petition can be expected by October 2009. If the Court takes the case, a decision would be rendered by mid-2010.

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