

STATE OF SOUTH CAROLINA )  
COUNTY OF DORCHESTER )  
THE PROTESTANT EPISCOPAL )  
CHURCH IN THE DIOCESE OF )  
SOUTH CAROLINA, ET AL., )  
  
PLAINTIFFS, )  
  
vs. )  
  
THE EPISCOPAL CHURCH, ET AL., )  
  
DEFENDANTS. )

IN THE COURT OF COMMON PLEAS  
FOR THE FIRST JUDICIAL CIRCUIT  
CASE No. 2013-CP-18-00013

**ORDER DENYING MOTION FOR RECONSIDERATION**

2015 FEB 23 PM 5:07  
CHERYL BROWN  
CLERK OF COURT  
DORCHESTER COUNTY  
FILED-RECORDED

This matter is before the Court by way of Defendants’ motion for reconsideration brought forth pursuant to South Carolina Rules of Civil Procedure 59(e). The Court has studied Defendant’s lengthy motion extensively and oral argument would not be of assistance to the Court. The Court finds that the motion raised no novel issues for the Court’s consideration with the exception of the doctrine of judicial estoppel raised on pages 47 and 48 of Defendants’ Motion. Large portions of the motion are simply the proposed orders previously submitted to the Court or reiterations of the Defendants’ positions at trial.


The Court finds that the Judicial Estoppel argument is without merit. The South Carolina Supreme Court defined Judicial Estoppel as “(1) two inconsistent positions taken by the same party or parties in privity with one another; (2) the positions must be taken in the same or related proceedings involving the same party or parties in privity with each other; (3) the party taking the position must have been successful in maintaining that position and have received some benefit; (4) the inconsistency must be part of an intentional effort to mislead the court; and (5) the two positions must be totally inconsistent.” Cothran v. Brown, 357 S.C. 210, 215-16, 592 S.E.2d 629, 632 (2004).

Defendants' motion asserts that the Plaintiff Diocese took the following positions in this proceeding that are inconsistent with the positions in All Saints (All Saints Parish Waccamaw, et al. v. The Protestant Episcopal Church in the Diocese of South Carolina, et. al., 285 S.C. 428, 685 S.E.2d 163 (2009)) : (1) the nature and existence as part of a hierarchical church; (2) governance under the Constitution and Canons of the Church; (3) limited authority of the Bishop and his duty to fully adhere to that governance; (4) the unlawful, fraudulent, and null and void nature of any attempt to do away with governance by amending the corporate charter; (5) the enforceability of the Diocese's trust interest in parish property; and (6) the great value of benefits conferred in the Diocese and its parishes by The Episcopal Church over many years.

The All Saints matter is a separate and distinct matter from the current litigation. Further, the positions of the Diocese in All Saints were found to be incorrect. If the Defendants' argument in the instant action was correct no party previously adjudicated to be wrong would be able to correct their conduct in compliance with a court's holding. Such a result would be contrary to all sense of justice and order. Further, there is no evidence that the inconsistent positions were part of an intentional effort to mislead the court. The Doctrine of Judicial Estoppel does not apply.

With regards all other matters presented in Defendants' Motion for Reconsideration, they are hereby **DENIED**.

**AND IT IS SO ORDERED!**

  
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Judge Diane S. Goodstein  
First Judicial Circuit

February 23, 2015  
Summerville, South Carolina