

SUPREME COURT OF THE STATE  
OF WASHINGTON

THE PRESBYTERY OF SEATTLE, a Washington nonprofit corporation; THE FIRST PRESBYTERIAN CHURCH OF SEATTLE, a Washington nonprofit corporation; ROBERT WALLACE, President of the First Presbyterian Church of Seattle, a Washington nonprofit corporation; WILLIAM LONGBRAKE, on behalf of himself and similarly situated members of First Presbyterian Church of Seattle,

Respondents,

v.

JEFF SCHULZ and ELLEN SCHULZ, as individuals and as the marital community composed thereof; and LIZ CEDERGREEN, DAVID MARTIN, LINDSEY MCDOWELL, GEORGE NORRIS, NATHAN ORONA, and KATHRYN OSTROM, as trustees of the First Presbyterian Church of Seattle, a Washington nonprofit corporation,

Petitioners.

DECLARATION OF  
ROBERT B. MITCHELL  
IN OPPOSITION TO  
PETITIONERS' EMERGENCY  
MOTION FOR STAY

I, Robert B. Mitchell, pursuant to RCW 9A.72.085, declare as follows:

1. I am one of the attorneys for the plaintiffs (respondents before this Court). I have personal knowledge of the matters set forth in

this declaration and am competent to testify about them. I submit this declaration in opposition to petitioners' emergency motion for stay.

2. Randall P. Beighle states in paragraph 3 of his declaration that an email from my co-counsel, David Swartling, dated July 1, 2016, "was the first time that the Presbytery gave an ultimatum or demand that First Presbyterian vacate its historical downtown Seattle church property by a date certain." Mr. Beighle is wrong.

3. On February 16, 2016, I sent Mr. Beighle and his partner, Bruce W. Leaverton, courtesy copies of the Administrative Commission's report and a letter of the same date from the Administrative Commission to their clients. Attached as **Exhibit 1** are true copies of my letter and the enclosed letter from the Administrative Commission. (The Administrative Commission's report is not attached here; it can be found in Plaintiffs' Appendix at 31-49 and is also an exhibit to the complaint.)

4. The Administrative Commission's letter directed the attention of the former session members, including David Martin, to actions with which they were now required to comply, including this: the "former members of session and former co-pastors must vacate church premises and turn over the keys within 48 hours."

5. Paragraph 21 of the Administrative Commission's report provided additional detail:

Acting as the session, the Administrative Commission directs the individuals who previously constituted the FPCS session and any persons acting under their direction and control, including the former co-pastors, to vacate the church premises and turn over the keys, electronic door openers, and all other means of egress/ingress to Scott Lumsden by 10:00 a.m. on February 18, 2016. The

Administrative Commission, acting as the session, will provide for the continuation of the ministries of the church.

6. Mr. Martin and the other former session members were also informed specifically on February 16, 2016, that “all property is subject to the direction and control of the Administrative Commission”; that “all funds held in the name or under the control of the FPCS corporation must be turned over, now”; that there must be “no further expenditure of church or corporate funds without the Administrative Commission’s prior approval”; that “all books and records must be turned over within five calendar days”; and that within the same five-day period, “persons responsible for any financial transactions since 12/31/14 must provide a full accounting.” **Exhibit 1**, p. 2. Mr. Martin’s statements in paragraph 7 of his declaration are false.

7. After Mr. Leaverton informed me that his clients rejected the jurisdiction of the Administrative Commission and would not comply with its directions, we filed our complaint. On March 15, we moved for partial summary judgment and a declaratory judgment, and on May 27, 2016, that motion was granted.

8. On June 1, 2016, David Swartling and I spoke to Messrs. Leaverton and Beighle about implementation of the court’s orders. The first thing that they told us was that their clients were “unbowed” and expected ultimately to be vindicated. I told them that our clients were eager to sustain and grow the ministries at the church. Given the defendants’ attitude, however, it did not seem to me that discussing when the facilities would be handed over to our clients would be productive.

9. On June 30, 2016, the day that Judge Roberts denied the defendants' motion for reconsideration, Mr. Swartling broached that subject directly with Messrs. Leaverton and Beighle. As Mr. Beighle describes, the defendants responded on July 6, but not as we had hoped.

10. On July 8, 2016, I wrote to Messrs. Leaverton and Beighle, reminding them of my letter dated February 16, 2016, and its request for their cooperation in accomplishing the steps required by the Administrative Commission. I asked them to let me know "when the books and records of [FPCS] will be turned over . . . and the premises relinquished to our clients." A true copy of this letter is attached as **Exhibit 2**. It elicited no response.

11. Also on July 8, 2016, I spoke with Marc Winters, an attorney at McNaul Ebel Nawrot & Helgren PLLC who represents bcIMC (USA) Realty, Inc. I explained who I was and whom I represented. Mr. Winters was already familiar with the litigation between my clients and the defendants. I brought him up to date on the trial court's orders. He asked that I put this information in a letter, and I did so. Attached as **Exhibit 3** is a true copy of my letter to Mr. Winters and its attachments.


12. On July 11, 2016, I received a call from Daniel Weiskopf, Mr. Winters's partner. Mr. Weiskopf expressed interest in avoiding the risk to his client of incurring liability to multiple claimants, and we discussed two potential solutions: filing an interpleader action and having his client pay funds into the registry of the court until the litigation is concluded. I followed up with an email on the mechanics of paying into the court registry, to which I attached a copy of a recent letter regarding

the pending interpleader action filed by Riddell Williams. True copies of this email and its enclosure are attached as **Exhibit 4**.

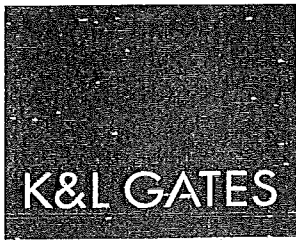
13. In our July 11 conversation, Mr. Weiskopf stated that he would follow up with defendants' counsel to determine their position on future payments by bcIMC. On July 14, 2016, Mr. Weiskopf reported having spoken with Mr. Beighle. Mr. Beighle, he said, had told him that the court-registry option was "not ideal" and that defendants would like to find another way forward. Mr. Beighle did not, however, propose any alternative approach.

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

DATED this 21<sup>st</sup> day of July, 2016, at Seattle, Washington.

  
\_\_\_\_\_  
Robert B. Mitchell

# EXHIBIT 1



K&L GATES LLP  
925 FOURTH AVENUE  
SUITE 2900,  
SEATTLE, WA 98104-1158  
T +1 206 623 7580 F +1 206 623 7022 klgates.com

February 16, 2016

Robert B. Mitchell  
rob.mitchell@klgates.com

T 206-370-7640

**By Email and US Mail**

Bruce W. Leaverton  
Lane Powell PC  
1420 Fifth Ave., Suite 4200  
P.O. Box 91302  
Seattle, WA 98111-9402

Randall P. Beighle  
Lane Powell PC  
1420 Fifth Ave, Suite 4200  
P.O. Box 91302  
Seattle, WA 98111-9402

Re: The First Presbyterian Church of Seattle

Dear Bruce and Randy:

We write to advise you that the Administrative Commission has completed its ecclesiastical investigation and has issued its report, a copy of which is enclosed. The Administrative Commission has just written to your clients about its findings and decisions, including the assumption of original jurisdiction. We enclose a courtesy copy of that letter.

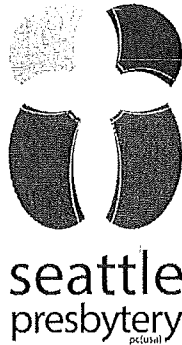
The Administrative Commission's decisions require a number of steps, including the transfer of records and return of funds, and we hope to solicit your cooperation in accomplishing these steps. We invite you and your clients to confer with us about an orderly transition and any other issues that you would like to address. Please let us know whether you are interested in such a conference no later than the end of the day today. If you are, we are prepared to meet with you tomorrow morning.

Very truly yours,

K&L GATES LLP

Robert B. Mitchell

RBM/drp  
Enclosure  
Cc: David Swartling



February 16, 2016

Dear former members of the FPCS session:

The Administrative Commission has completed its investigation. On February 16, the Administrative Commission assumed original jurisdiction, and it is now the session of First Presbyterian Church of Seattle. The findings that underlie this decision are set forth in the Administrative Commission's report, a copy of which is enclosed.

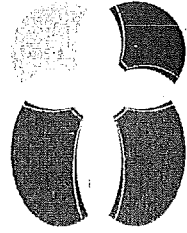
Although it is important that you review the complete report, we direct your attention specifically to the following actions by the Administrative Commission, which are set forth more fully on pages 14-17:

- Action 1: assumption of original jurisdiction with the full power of the session
- Action 8: notice to former ruling elders and opportunity for consultation regarding renunciation of jurisdiction
- Action 9: current members of session will act as corporate officers and directors
- Action 10: former members of session are no longer trustees of the FPCS corporation
- Action 11: current members of session are now trustees
- Action 12: former members of session disqualified from serving as trustees
- Action 13: anyone claiming the status of corporate trustee is subject to and accountable to the Administrative Commission acting as the session
- Action 14: all property is subject to the direction and control of the Administrative Commission
- Action 15: all funds transferred to Lane Powell trust account must be returned, and all funds held in the name or under the control of the FPCS corporation must be turned over, now
- Action 16: no further expenditure of church or corporate funds without the Administrative Commission's prior approval
- Action 17: all books and records must be turned over within five calendar days
- Action 19: persons responsible for any financial transactions since 12/31/14 must provide a full accounting within five calendar days
- Action 21: former members of session and former co-pastors must vacate church premises and turn over the keys within 48 hours.

As this list of Administrative Commission actions makes clear, you no longer are, and you no longer may act as, either ruling elders or trustees of the church. If you have any questions, please let us know.

Seattle Presbytery  
1544 South Snoqualmie Street, Seattle, WA 98108  
206.762.1991 / [www.seattlepresbytery.org](http://www.seattlepresbytery.org)





seattle  
presbytery

Grace and peace, the Administrative Commission

Steve Aeschbacher

Shelley Dahl

J.P. Kang

Bill Longbrake

Heidi Husted Armstrong

Kathy Smith

Bob Wallace

Jonathan Siehl

Seattle Presbytery

1544 South Snoqualmie Street, Seattle, WA 98108  
206.762.1991 / [www.seattlepresbytery.org](http://www.seattlepresbytery.org)

# EXHIBIT 2

July 8, 2016

Robert B. Mitchell  
rob.mitchell@kigates.com

T 206-370-7640

**By Email ([leavertonb@lanepowell.com](mailto:leavertonb@lanepowell.com);  
[beighler@lanepowell.com](mailto:beighler@lanepowell.com)) and U.S. Mail**

Bruce W. Leaverton  
Lane Powell PC  
1420 Fifth Ave., Suite 4200  
P.O. Box 91302  
Seattle, WA 98111-9402

Randall P. Beighle  
Lane Powell  
1420 Fifth Ave., Suite 4200  
P.O. Box 91302  
Seattle, WA 98111-9402

**Re: Presbytery of Seattle v. Schulz  
King County Superior Court No. 16-2-03515-9 SEA**

Gentlemen:

On February 16, 2016, I advised you that the Administrative Commission had completed its ecclesiastical investigation and had issued its report. I provided a copy of that report as well as a courtesy copy of the letter that the Administrative Commission had just sent to your clients about its findings and decisions, including the assumption of original jurisdiction. Noting that these decisions required a number of steps, including the transfer of records and return of funds as well as the vacating of church premises, I invited your cooperation in accomplishing those steps in a prompt and orderly manner. Instead, we found ourselves in court.

Now that the King County Superior Court has entered a declaratory judgment confirming the actions of the Administrative Commission and recognizing its members as the leaders of First Presbyterian Church of Seattle, and the court has also denied your motion for reconsideration, please let us know when the books and records of First Presbyterian Church of Seattle will be turned over--not as a subject of discovery, but as a matter of right--and the premises relinquished to our clients. Thank you.

Very truly yours,

A handwritten signature in black ink that reads "Robert B. Mitchell". The signature is written in a cursive style with a large, prominent initial "R".

Robert B. Mitchell  
RBM/dp

cc: David D. Swartling  
Peter Talevich  
Daniel A. Kittle  
James B. Zack.

# EXHIBIT 3

July 8, 2016

Robert B. Mitchell  
rob.mitchell@klgates.com

T 206-370-7640

**By Email (mwinters@mcnaul.com) and U.S. Mail**

Marc O. Winters  
McNaul Ebel Nawrot & Helgren PLLC  
600 University Street, Suite 2700  
Seattle, WA 98101-3143

**Re: Promissory Note from bcIMC (USA) to The First Presbyterian Church of Seattle;**

Dear Mr. Winters:

Our firm represents the Presbytery of Seattle and First Presbyterian Church of Seattle, a Washington nonprofit corporation ("FPCS"). We understand that you represent bcIMC (USA) Realty Inc., a Delaware corporation. As you know, bcIMC (USA) Realty Inc. is the Borrower and FPCS is the Lender under a promissory note (the "Note") that requires monthly interest-only payments through the Phase I Note Maturity Date. Paragraph 5 of the Note sets forth the location at which payments are to be made. We write today to provide written instructions on where such payments should henceforth be made.

In November 2015 the then-leaders of FPCS purported to "disaffiliate" from the Presbyterian Church (U.S.A.), the denomination to which FPCS belongs. The denominational constitution does not permit "disaffiliation." The Presbytery of Seattle appointed an Administrative Commission to investigate the then-leaders and to take steps as appropriate in light of its findings. The Administrative Commission issued its report on February 16, 2016. That same day the Administrative Commission assumed original jurisdiction over FPCS and became its session (governing body). Scott Lumsden was appointed to be the business and property manager of FPCS with authority to oversee the financial affairs and property management of the church. Attached as **Exhibit A** are copies of the resolutions adopted by the Administrative Commission on February 16, 2016. Its report and the report appendix can be found at <http://seattlepresbytery.org/fpcs-ac/>.

When the former leaders refused to recognize the Administrative Commission's jurisdiction or to abide by its directions, we filed a lawsuit in King County Superior Court (*Presbytery of Seattle v.*

*Schulz*, King County Superior Court No. 16-2-03515-9 SEA). On May 27, 2016, the court in that case entered a declaratory judgment in which it held as follows:

1. The Presbyterian Church (U.S.A.) is a hierarchical church in which the determinations of Seattle Presbytery, through its Administrative Commission, are conclusive and binding on the session, trustees, and congregation of First Presbyterian Church of Seattle (FPCS).
2. The findings and rulings of the Administrative Commission adopted on February 16, 2016, are conclusive and binding in all determinations of church policy and governance related to FPCS.
3. The amendments to the bylaws that the defendants purported to adopt in October 2015 and to have the FPCS congregation ratify in November 2015, as well as the amendments to the articles of incorporation that the FPCS congregation purported to adopt in November 2015, are void and without effect. FPCS is governed by the Restated Articles of Incorporation of the First Presbyterian Church of Seattle dated June 18, 1985, and the Bylaws of the First Presbyterian Church of Seattle dated May 8, 2005.
4. Any interest that FPCS has in church property is held in trust for the benefit of the Presbyterian Church (U.S.A.).
5. The current governing body of FPCS is the Administrative Commission for First Presbyterian Church of Seattle. This Administrative Commission, appointed by Seattle Presbytery in November 2015, assumed original jurisdiction on February 16, 2016, and it now acts as the session of FPCS. The ruling elders and directors/trustees of FPCS are Steve Aeschbacher, Heidi Husted Armstrong, Shelley Dahl, J.P. Kang, William Longbrake, Jonathan Siehl, Kathy Smith, and Robert Wallace. The duly elected officers of FPCS are Robert Wallace (President), Shelley Dahl (Vice President), and William Longbrake (Secretary/Treasurer).

Attached as **Exhibit B** is a copy of the court's May 27 Order Granting Plaintiffs' Motion for Partial Summary Judgment and Declaratory Judgment.

Since May 27, the following actions have occurred:

1. The Washington Secretary of State marked the Articles of Amendment filed by the former leaders on November 16, 2015, as "void and without effect." See **Exhibit C**.
2. An amended annual report for FPCS was filed with the Secretary of State, replacing the former leaders with the officers and directors listed in paragraph 5 of the Court's declaratory judgment.
3. The defendants moved for reconsideration, but that motion was denied. See **Exhibit D**.
4. The defendants moved for a stay, but that motion was denied. See **Exhibit E**.
5. We moved for a motion striking the defendants' third-party complaint for indemnification. The Court granted that motion. See **Exhibit F**.

6. Third-party defendant Presbyterian Church (U.S.A.), A Corporation, moved to dismiss or strike the claims against it. The Court granted that motion. See **Exhibit G**.

In light of the Administrative Commission's decisions, supported by the court's orders, we are notifying you of a change in the payment location for monthly payments to FPCS as Lender. Effective immediately, please make all payments to FPCS by wire transfer in accordance with the following wire transfer instructions:

BENEFICIARY BANK INFORMATION  
BENEFICIARY BANK ABA: 323371076  
Telegraphic Name: Banner Bank Wal Wal  
Institution City: Walla Walla, WA

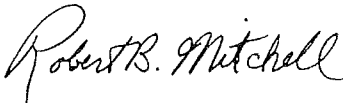
BENEFICIARY INFORMATION  
ACCOUNT NUMBER: 17706002914  
NAME: Seattle Presbytery AC for the First Presbyterian Church of Seattle  
ADDRESS: 1544 S. Snoqualmie, Seattle, WA. 98108 - 1900

If you have any questions regarding the wire transfer, you may contact Banner Bank:

BRANCH NAME: Seattle Downtown #177  
BRANCH PHONE NUMBER: 206 302 2100  
BRANCH ADDRESS: 1000 2nd Avenue, Suite 100, Seattle, WA. 98104

If you have any questions or wish to discuss this matter further, please let me know. Thank you.

Very truly yours,



Robert B. Mitchell  
RBM/dp

cc: Scott Lumsden  
David D. Swartling  
Peter Talevich



# EXHIBIT A

## Full Text of Adopted Resolutions

### 1. Resolution Assuming Original Jurisdiction of First Presbyterian Church Seattle

Whereas, Seattle Presbytery on November 17, 2015, responded to allegations and concerns regarding First Presbyterian Church of Seattle by appointing an Administrative Commission in accordance with G-3.0109b and G-3.0303 of the Constitution of the Presbyterian Church (U.S.A.); and

Whereas, Seattle Presbytery entrusted to the Administrative Commission the responsibility to conduct an ecclesiastical investigation of the allegations and concerns regarding First Presbyterian Church of Seattle and to take action, as appropriate, in light of the results of that investigation; and

Whereas, the Administrative Commission has conducted a thorough ecclesiastical investigation of the matters entrusted to it by the presbytery and has authored a report reflecting its findings and actions; now, therefore, be it

*Resolved*, That the Administrative Commission, based on the findings contained in its report of February 16, 2016, hereby assumes original jurisdiction with full power of the session of First Presbyterian Church of Seattle, effective 10:00 AM on February 16, 2016, in accordance with G-3.0303e in the Constitution of the Presbyterian Church (U.S.A.) and the authority entrusted to the Administrative Commission by resolution of the Presbytery of Seattle on November 17, 2015; and it is further

*Resolved*, That the individuals who previously constituted the session and the officers, directors, or board of trustees of First Presbyterian Church of Seattle no longer have any role in the governance of the church and have no authority with respect to its ministry, business dealings, or its property; and it is further

*Resolved*, That the Administrative Commission hereafter is authorized and empowered to perform all duties of the session of the First Presbyterian Church of Seattle and to take appropriate steps to preserve and protect the property and assets of the church in accordance with Chapter 4 of the Constitution of the Presbyterian Church (U.S.A.).

---

### 2. Resolution Appointing Co-Moderators of First Presbyterian Church of Seattle

Whereas, the Administrative Commission for First Presbyterian Church of Seattle has assumed original jurisdiction with full power of the session of First Presbyterian Church of Seattle; now, therefore, be it

*Resolved*, That the Administrative Commission, acting as the session of First Presbyterian Church of Seattle, in accordance with resolutions previously adopted and pursuant to G-3.0104 and G-3.0201 of the Constitution of the Presbyterian Church (U.S.A.), hereby appoints Shelley Dahl and Steve Aeschbacher as co-moderators of the session; and it is further

*Resolved*, That Ms. Dahl and Mr. Aeschbacher hereby are appointed to act as co-moderators at any meetings of the congregation of First Presbyterian Church of Seattle pursuant to G-1.0504 of the Constitution of the Presbyterian Church (U.S.A.).

---

### 3. Resolution Electing Clerk of Session of First Presbyterian Church of Seattle

Whereas, the Administrative Commission for First Presbyterian Church of Seattle has assumed original jurisdiction with full power of the session of First Presbyterian Church of Seattle; now, therefore, be it

*Resolved*, That the Administrative Commission, acting as the session of First Presbyterian Church of Seattle, in accordance with resolutions previously adopted and pursuant to G-3.0104 of the Constitution of the Presbyterian Church (U.S.A.), hereby elects Kathy Smith as the clerk of session.

---

**4. Resolution Appointing Temporary Pastor of First Presbyterian Church of Seattle**

Whereas, the Administrative Commission for First Presbyterian Church of Seattle has assumed original jurisdiction with full power of the session of First Presbyterian Church of Seattle; now, therefore, be it

*Resolved*, That the Administrative Commission, acting as the session of First Presbyterian Church of Seattle, in accordance with resolutions previously adopted and pursuant to G-2.0504.b of the Constitution of the Presbyterian Church (U.S.A.), hereby appoints the Rev. Dr. Heidi Husted Armstrong as temporary pastor to serve the First Presbyterian Church of Seattle.

---

**5. Resolution Appointing the Rev. Scott Lumsden as Business and Property Manager of First Presbyterian Church of Seattle**

Whereas, the Administrative Commission for First Presbyterian Church of Seattle has assumed original jurisdiction with full power of the session of First Presbyterian Church of Seattle; now, therefore, be it

*Resolved*, That the Administrative Commission, acting as the session of First Presbyterian Church of Seattle, in accordance with resolutions previously adopted, hereby appoints the Rev. Scott Lumsden as business and property manager of First Presbyterian Church of Seattle, with authority to oversee the financial affairs and property management of the church. Such authority includes, but is not limited to, employment and personnel matters, administrative issues, policy implementation, budget management, supervision of financial transactions including banking and investment decisions, insurance matters, and property management. All such management actions are subject to Section G-4.02 and all other applicable provisions of the Constitution of the Presbyterian Church (U.S.A.); and it is further

*Resolved*, That the Administrative Commission, acting as the session of First Presbyterian Church of Seattle, directs all persons doing business with FPCS to do so through the Rev. Scott Lumsden.

---

**6. Resolution Regarding Property and Assets of First Presbyterian Church of Seattle**

Whereas, the Administrative Commission for First Presbyterian Church of Seattle has assumed original jurisdiction with full power of the session of First Presbyterian Church of Seattle; now, therefore, be it

*Resolved*, That the Administrative Commission, acting as the session of First Presbyterian Church of Seattle, in accordance with resolutions previously adopted and pursuant to Section G-4.02 of the Constitution of the Presbyterian Church (U.S.A.), hereby directs that all property (whether real property, personal property, or intangible property) owned or held by or on behalf of First Presbyterian Church of Seattle is subject to the direction and control of the Administrative Commission acting as the session and may not be sold, transferred, encumbered, or used without the approval of the presbytery.

---

**7. Resolution Electing and Empowering Officers of The First Presbyterian Church of Seattle**

Whereas, the Administrative Commission for First Presbyterian Church of Seattle has assumed original jurisdiction with full power of the session of First Presbyterian Church of Seattle; now, therefore, be it

*Resolved*, That the Administrative Commission, acting as the session of First Presbyterian Church of Seattle, in accordance with resolutions previously adopted and the church's bylaws and pursuant to G-3.0104 and G-3.0205 of the Constitution of the Presbyterian Church (U.S.A.), hereby elects the following officers of The First Presbyterian Church of Seattle, a Washington nonprofit corporation: Robert Wallace as President; Shelley Dahl as Vice President; and William Longbrake as Secretary/Treasurer; and it is further.

*Resolved*, That said officers shall serve terms of one year or until their successors are elected, if sooner; and it is further

*Resolved*, That said officers are instructed and directed to take appropriate steps and to pursue appropriate remedies to implement the Report of the Administrative Commission dated

February 16, 2016, and the resolutions of the Administrative Commission acting as the session of First Presbyterian Church of Seattle.

---

**8. Resolution Approving and Adopting Administrative Commission Report**

Whereas, Seattle Presbytery on November 17, 2015, responded to allegations and concerns regarding First Presbyterian Church of Seattle by appointing an Administrative Commission in accordance with G-3.0109b and G-3.0303 of the Constitution of the Presbyterian Church (U.S.A.); and

Whereas, Seattle Presbytery entrusted to the Administrative Commission the responsibility to conduct an ecclesiastical investigation of the allegations and concerns regarding First Presbyterian Church of Seattle and to take action, as appropriate, in light of the results of that investigation; and

Whereas, the Administrative Commission has conducted a thorough ecclesiastical investigation of the matters entrusted to it by the presbytery and has authored a report reflecting its findings and actions; now, therefore, be it

*Resolved*, That the Report of the Administrative Commission for First Presbyterian Church of Seattle, dated February 16, 2016, is hereby approved and adopted; and it is further

*Resolved*, That all decisions, declarations, and actions set forth in the Report, except those specifically addressed in other resolutions, are hereby formally adopted and announced.

---

**9. Resolution Authorizing Additional Steps to Implement the Report of the Administrative Commission**

Whereas, the Administrative Commission for First Presbyterian Church of Seattle has assumed original jurisdiction with full power of the session of First Presbyterian Church of Seattle; now, therefore, be it

*Resolved*, That the Administrative Commission, acting as the session of First Presbyterian Church of Seattle, in accordance with resolutions previously adopted, hereby authorizes staff and legal counsel to take actions deemed necessary and/or appropriate to implement the actions contained in the Report of the Administrative Commission dated February 16, 2016, and the resolutions of the Administrative Commission acting as the session of First Presbyterian Church of Seattle.

---

**10. Resolution Regarding Dissemination of the Report of the Administrative Commission**

Whereas, the Administrative Commission for First Presbyterian Church of Seattle has assumed original jurisdiction with full power of the session of First Presbyterian Church of Seattle; now, therefore, be it

*Resolved*, That the Administrative Commission, acting as the session of First Presbyterian Church of Seattle, in accordance with resolutions previously adopted, hereby approves and authorizes the dissemination to appropriate audiences of the Report of the Administrative Commission dated February 16, 2016, and its appendix, as well as the Executive Summary of the Report of the Administrative Commission dated February 16, 2016; the press release; the pastoral letter to the congregation; and the letter to the presbytery (copies of which are attached to this resolution); and it is further

*Resolved*, That any questions or issues regarding dissemination of these materials will be resolved by the co-moderators in consultation with the Rev. Scott Lumsden and, if appropriate, legal counsel.

Steve Aeschbacher

Shelley Dahl

J.P. Kang

Bill Longbrake

Heidi Husted Armstrong

Kathy Smith

Bob Wallace

Jonathan Siehl

# EXHIBIT B

ORIGINAL

FILED  
KING COUNTY WASHINGTON  
MAY 27 2016

SUPERIOR COURT CLERK  
BY JOSEPH MASON  
DEPUT

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

THE PRESBYTERY OF SEATTLE, a  
Washington nonprofit corporation; THE  
FIRST PRESBYTERIAN CHURCH OF  
SEATTLE, a Washington nonprofit  
corporation; ROBERT WALLACE, President  
of The First Presbyterian Church of Seattle, a  
Washington nonprofit corporation; and  
WILLIAM LONGBRAKE, on behalf of  
himself and similarly situated members of  
First Presbyterian Church of Seattle,

Plaintiffs,

v.

JEFF SCHULZ and ELLEN SCHULZ, as  
individuals and as the marital community  
comprised thereof; and LIZ CEDERGREEN,  
DAVID MARTIN, LINDSEY McDOWELL,  
GEORGE NORRIS, NATHAN ORONA, and  
KATHRYN OSTROM, as trustees of The  
First Presbyterian Church of Seattle, a  
Washington nonprofit corporation,

Defendants.

JEFF SCHULZ and ELLEN SCHULZ, as  
individuals and as the marital community  
comprised thereof; and LIZ CEDERGREEN,  
DAVID MARTIN, LINDSEY McDOWELL,  
GEORGE NORRIS, NATHAN ORONA, and  
KATHRYN OSTROM, as trustees of The

No. 16-2-03515-9 SEA

ORDER GRANTING PLAINTIFFS'  
MOTION FOR PARTIAL  
SUMMARY JUDGMENT;  
DECLARATORY JUDGMENT

~~PROPOSED~~

1 First Presbyterian Church of Seattle, a  
2 Washington nonprofit corporation,

3 Third-Party Plaintiffs and  
4 Counterclaimants,

5 v.

6 THE PRESBYTERY OF SEATTLE, a  
7 Washington nonprofit corporation; SCOTT  
8 LUMSDEN, Executive Presbyter of the  
9 Presbytery of Seattle, an individual; and THE  
10 FIRST PRESBYTERIAN CHURCH OF  
11 SEATTLE, a Washington nonprofit  
12 corporation, as recognized by the State of  
13 Washington under Washington's Nonprofit  
14 Corporations Act, by and through the  
15 corporation's duly elected Board of Trustees,

16 Counterclaim Defendant and  
17 Third-Party Defendants.

18 THE FIRST PRESBYTERIAN CHURCH  
19 OF SEATTLE, a Washington nonprofit  
20 corporation, as recognized by the State of  
21 Washington under Washington's Nonprofit  
22 Corporations Act, by and through the  
23 corporation's duly elected Board of Trustees,

24 Cross-Claimant and Third-  
25 Party Plaintiff,

26 v.

THE PRESBYTERY OF SEATTLE, a  
Washington nonprofit corporation; ROBERT  
WALLACE, an individual; WILLIAM  
LONGBRAKE, an individual; and  
PRESBYTERIAN CHURCH (U.S.A.), A  
Corporation, a Pennsylvania nonprofit  
corporation,

Cross-Claim Defendants and  
Third-Party Defendants.

1 This matter came before the Court on Plaintiffs' Motion for Partial Summary  
2 Judgment (the "motion"). Plaintiffs requested summary judgment on the first cause of action  
3 in the complaint that they filed on February 17, 2016, which seeks a declaratory judgment.

4 The Court has considered the motion and the following materials submitted with the  
5 motion:

6 Declaration of Heidi Husted Armstrong in Support of Plaintiffs' Motion for Partial  
7 Summary Judgment;

8 Declaration of Shelley M. Dahl in Support of Plaintiffs' Motion for Partial Summary  
9 Judgment, with exhibits;

10 Declaration of Doug Kelly in Support of Plaintiffs' Motion for Partial Summary  
11 Judgment, with its exhibit;

12 Declaration of William A. Longbrake in Support of Plaintiffs' Motion for Partial  
13 Summary Judgment, with exhibits;

14 Declaration of Scott Lumsden in Support of Plaintiffs' Motion for Partial Summary  
15 Judgment, with exhibits;

16 Second Declaration of Scott Lumsden in Support of Plaintiffs' Motion for Partial  
17 Summary Judgment, with exhibits;

18 Declaration of Robert B. Mitchell (filed with Plaintiffs' Motion for Partial Summary  
19 Judgment); and

20 Declaration of Peter A. Talevich in Support of Plaintiffs' Motion for Partial Summary  
21 Judgment, with exhibits.

22 The Court has also considered defendants' opposition to the motion and the following  
23 materials submitted with defendants' opposition:

24 Declaration of Richard B. Head (filed with Defendants' Opposition to Plaintiffs'  
25 Motion for Partial Summary Judgment), with exhibits;  
26



1 Declaration of Daniel Kittle in Support of Opposition to Plaintiffs' Motion for Partial  
2 Summary Judgment, with exhibits;

3 Declaration of David Martin in Support of Opposition to Plaintiffs' Motion for Partial  
4 Summary Judgment, with exhibits; and

5 Declaration of Parker T. Williamson in Support of Opposition to Plaintiffs' Motion  
6 for Partial Summary Judgment, with exhibits.

7 The Court has considered as well plaintiffs' reply in support of the motion and the  
8 following materials submitted with plaintiffs' reply:

9 Second Declaration of William A. Longbrake in Support of Plaintiffs' Motion for  
10 Partial Summary Judgment, with exhibits;

11 Third Declaration of Scott Lumsden in Support of Plaintiffs' Motion for Partial  
12 Summary Judgment, with exhibits; and

13 Second Declaration of Peter A. Talevich in Support of Plaintiffs' Motion for Partial  
14 Summary Judgment.

15 The Court has considered the following additional materials:

16 First Presbyterian Church of Seattle's Motion for Preliminary Injunction to Preserve  
17 the Status Quo;

18 Declaration of Richard Head in Support of Motion for Preliminary Injunction, with its  
19 exhibit;

20 Declaration of Bruce Leaverton in Support of Motion for Preliminary Injunction, with  
21 exhibits;

22 Declaration of Lloyd Lunceford in Support of Motion for Preliminary Injunction;

23 Declaration of David Martin in Support of Motion for Preliminary Injunction, with  
24 exhibits;  
25

1 Declaration of Parker Williamson in Support of Motion for Preliminary Injunction,  
2 with its exhibit;

3 Plaintiffs' Opposition to Motion for Preliminary Injunction;

4 Declaration of Heidi Husted Armstrong in Opposition to Motion for Preliminary  
5 Injunction;

6 Declaration of Laurie Griffith, with exhibits;

7 Declaration of Neal Lampi in Opposition to Motion for Preliminary Injunction, with  
8 exhibits;

9 Declaration of Scott Lumsden in Opposition to Motion for Preliminary Injunction,  
10 with its exhibit;

11 Declaration of Robert B. Mitchell in Opposition to Motion for Preliminary Injunction,  
12 with exhibits;

13 Defendants' Reply in Support of Motion for Preliminary Injunction to Preserve the  
14 Status Quo;

15 Supplemental Declaration of Bruce Leaverton in Support of Motion for Preliminary  
16 Injunction, with its exhibit;

17 Defendants' CR 56(f) Motion for Continuance;

18 Declaration of Daniel Kittle in Support of Defendants' CR 56(f) Motion for  
19 Continuance, with exhibits;

20 Plaintiffs' Opposition to Defendants' Motion for Continuance;

21 Declaration of Robert B. Mitchell in Opposition to Defendants' Motion for  
22 Continuance, with exhibits; and

23 \_\_\_\_\_  
24 \_\_\_\_\_  
25  
26 The Court held oral argument in open court on May 27, 2016.

1           Based upon the foregoing, the Court GRANTS the motion. There exists no genuine  
2 issue of fact that is material to the first cause of action, which seeks a declaratory judgment,  
3 and plaintiffs are entitled to judgment as a matter of law. The Court therefore enters the  
4 following declaratory judgment:

5           1.       The Presbyterian Church (U.S.A.) is a hierarchical church in which the  
6 determinations of Seattle Presbytery, through its Administrative Commission, are conclusive  
7 and binding on the session, trustees, and congregation of First Presbyterian Church of Seattle  
8 (FPCS).

9           2.       The findings and rulings of the Administrative Commission adopted on  
10 February 16, 2016, are conclusive and binding in all determinations of church policy and  
11 governance related to FPCS.

12           3.       The amendments to the bylaws that the defendants purported to adopt in  
13 October 2015 and to have the FPCS congregation ratify in November 2015, as well as the  
14 amendments to the articles of incorporation that the FPCS congregation purported to adopt in  
15 November 2015, are void and without effect. FPCS is governed by the Restated Articles of  
16 Incorporation of the First Presbyterian Church of Seattle dated June 18, 1985, and the Bylaws  
17 of the First Presbyterian Church of Seattle dated May 8, 2005.

18           4.       Any interest that FPCS has in church property is held in trust for the benefit of  
19 the Presbyterian Church (U.S.A.).

20           5.       The current governing body of FPCS is the Administrative Commission for  
21 First Presbyterian Church of Seattle. This Administrative Commission, appointed by Seattle  
22 Presbytery in November 2015, assumed original jurisdiction on February 16, 2016, and it  
23 now acts as the session of FPCS. The ruling elders and directors/trustees of FPCS are Steve  
24 Aeschbacher, Heidi Husted Armstrong, Shelley Dahl, J.P. Kang, William Longbrake,  
25 Jonathan Siehl, Kathy Smith, and Robert Wallace. The duly elected officers of FPCS are  
26

1 Robert Wallace (President), Shelley Dahl (Vice President), and William Longbrake  
2 (Secretary/Treasurer).

3 SO ORDERED this 27th day of May, 2016.

4   
5 \_\_\_\_\_  
6 Mary E. Roberts  
7 KING COUNTY SUPERIOR COURT JUDGE

8 Presented by:  
9 K&L GATES LLP

10  
11 By \_\_\_\_\_  
12 Robert B. Mitchell, WSBA #10874  
13 Peter A. Talevich, WSBA #42644  
14 Attorneys for Plaintiffs

15 MILLS MEYERS SWARTLING

16 By \_\_\_\_\_  
17 David D. Swartling, WSBA #6972  
18 Attorneys for Plaintiffs

19 Approved to form; notice of presentation  
20 waived;

21 LANE POWELL PC

22 By \_\_\_\_\_  
23 Bruce W. Leaverton, WSBA #15329  
24 John R. Neeleman, WSBA #19752  
25 Randall P. Beighle, WSBA #13421  
26 Daniel A. Kittle, WSBA #43340  
James B. Zack, WSBA #48122  
Attorneys for Defendants

# EXHIBIT C

Per Declaration filed May 27, 2016, this amendment is void and without effect. This entity is governed by the Restated Articles of Incorporation dated June 18, 1985.

Page 1 of 1



Office of the Secretary of State  
Corporations & Charities Division

**Washington Nonprofit Corporation**  
See attached detailed instructions

- Standard Filing Fee \$20.00
- Filing Fee with Expedited Service \$70.00

This Box For Office Use Only

**FILED**

**NOV 16 2015**

**Void and without effect**

**WA SECRETARY OF STATE**

11/16/15 3041279-002  
\$70.00 R  
#: 3118120

UBI Number: 601144420

## ARTICLES OF AMENDMENT

Chapter 24.03 RCW

### SECTION 1

NAME OF CORPORATION: (as currently recorded with the Office of the Secretary of State)

THE FIRST PRESBYTERIAN CHURCH OF SEATTLE

### SECTION 2

ARTICLES OF AMENDMENT WERE ADOPTED BY: (please check and complete one of the following)

- The amendment was adopted by a meeting of members held: (Date) November 15, 2015  
A quorum was present at the meeting and the amendment received at least two-thirds of the votes which members present or represented by proxy were entitled to cast.
- The amendment was adopted by a consent in writing and signed by all members entitled to vote.
- There are no members that have voting rights. The amendment received a majority vote of the directors at a board meeting held: (Date) \_\_\_\_\_

### SECTION 3

AMENDMENTS TO ARTICLES ON FILE: (if necessary, attach additional information)

See Attached Amendments

### SECTION 4

EFFECTIVE DATE OF ARTICLES OF AMENDMENT: (please check one of the following)

- Upon filing by the Secretary of State
- Specific Date: \_\_\_\_\_ (Specified effective date must be within 30 days AFTER the Articles of Amendment have been filed by the Office of the Secretary of State)

### SECTION 5

SIGNATURE: (see instructions page)

*This document is hereby executed under penalties of perjury, and is, to the best of my knowledge, true and correct.*

X <u>Kathryn St. Ostrom</u>	Kathryn Ostrom, President	11/15/2015	206.223.7948
Signature	Printed Name and Title	Date	Phone

Nonprofit Corporation - Amendment

Washington Secretary of State

Revised 07/10

AMENDMENTS TO RESTATED ARTICLES OF INCORPORATION  
OF  
THE FIRST PRESBYTERIAN CHURCH OF SEATTLE

1. The third paragraph is deleted in its entirety and replaced with:

The objects and purposes of the said association shall be to promote the worship of Almighty God and the belief in the extension of the Christian Religion.

2. The second sentence of the fourth paragraph is deleted in its entirety and replaced with:

All persons who shall heretofore have been or who hereafter may be, by the Session of the Congregation received and admitted upon confession of their faith, reaffirmation of faith, or transfer of letter from other churches shall be "members" of the church.

3. The first sentence of sixth paragraph is deleted in its entirety and replaced with:

The Minister or Ministers, Elders and Deacons shall be called and chosen by the members of this church under the regulations prescribed in the bylaws.

4. Immediately following the sixth paragraph, the following text is inserted as a new seventh paragraph:

A trustee shall have no liability to the corporation or its members for monetary damages for conduct as a trustee, except for acts or omissions that involve intentional misconduct by the trustee, or a knowing violation of law by the trustee, or for conduct violating RCW 23B.08.310, or for any transaction from which the trustee will personally receive a benefit in money, property or services to which the trustee is not legally entitled. If the Washington Nonprofit Corporation Act or the Washington Business Corporation Act (the "Act") is hereafter amended to authorize corporate action further eliminating or limiting the personal liability of directors of a nonprofit corporation, then the liability of a trustee shall be eliminated or limited to the full extent permitted as so amended. Any repeal or modification of this paragraph shall not adversely affect any right or protection of a trustee existing at the time of such repeal or modification for or with respect to an act or omission of such director occurring prior to such repeal or modification.

# EXHIBIT D



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

THE PRESBYTERY OF SEATTLE, a  
Washington nonprofit corporation; THE  
FIRST PRESBYTERIAN CHURCH OF  
SEATTLE, a Washington nonprofit  
corporation; ROBERT WALLACE, President  
of The First Presbyterian Church of Seattle, a  
Washington nonprofit corporation; and  
WILLIAM LONGBRAKE, on behalf of  
himself and similarly situated members of  
First Presbyterian Church of Seattle,

Plaintiffs,

v.

JEFF SCHULZ and ELLEN SCHULZ, as  
individuals and as the marital community  
comprised thereof; and LIZ CEDERGREEN,  
DAVID MARTIN, LINDSEY McDOWELL,  
GEORGE NORRIS, NATHAN ORONA, and  
KATHRYN OSTROM, as trustees of The  
First Presbyterian Church of Seattle, a  
Washington nonprofit corporation,


Defendants.

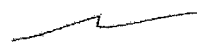
---

JEFF SCHULZ and ELLEN SCHULZ, as  
individuals and as the marital community  
comprised thereof; and LIZ CEDERGREEN,  
DAVID MARTIN, LINDSEY McDOWELL,  
GEORGE NORRIS, NATHAN ORONA, and  
KATHRYN OSTROM, as trustees of The

No. 16-2-03515-9 SEA

ORDER DENYING MOTION FOR  
RECONSIDERATION BY  
DEFENDANTS JEFF SCHULZ,  
ELLEN SCHULZ, LIZ  
CEDERGREEN, DAVID MARTIN,  
LINDSAY MCDOWELL, NATHAN  
ORONA, AND KATHRYN  
OSTROM

[PROPOSED] 



1 First Presbyterian Church of Seattle, a  
2 Washington nonprofit corporation,

3 Third-Party Plaintiffs and  
4 Counterclaimants,

5 v.

6 THE PRESBYTERY OF SEATTLE, a  
7 Washington nonprofit corporation; SCOTT  
8 LUMSDEN, Executive Presbyter of the  
9 Presbytery of Seattle, an individual; and THE  
10 FIRST PRESBYTERIAN CHURCH OF  
11 SEATTLE, a Washington nonprofit  
12 corporation, as recognized by the State of  
13 Washington under Washington's Nonprofit  
14 Corporations Act, by and through the  
15 corporation's duly elected Board of Trustees,

16 Counterclaim Defendant and  
17 Third-Party Defendants.

18  
19  
20  
21  
22  
23  
24  
25  
26  
THE FIRST PRESBYTERIAN CHURCH  
OF SEATTLE, a Washington nonprofit  
corporation, as recognized by the State of  
Washington under Washington's Nonprofit  
Corporations Act, by and through the  
corporation's duly elected Board of Trustees,

Cross-Claimant and Third-  
Party Plaintiff,

v.

THE PRESBYTERY OF SEATTLE, a  
Washington nonprofit corporation; ROBERT  
WALLACE, an individual; WILLIAM  
LONGBRAKE, an individual; and  
PRESBYTERIAN CHURCH (U.S.A.), A  
Corporation; a Pennsylvania nonprofit  
corporation,

Cross-Claim Defendants and  
Third-Party Defendants.

1 This matter came before the Court on the Motion for Reconsideration (the "motion")  
2 by defendants Jeff Schulz, Ellen Schulz, Liz Cedergreen, David Martin, Lindsay McDowell,  
3 Nathan Orona, and Kathryn Ostrom ("defendants"). The motion requested reconsideration of  
4 the following orders entered on May 27, 2016:

- 5 1. Order Denying Defendants' CR 56(f) Motion for Continuance;
- 6 2. Order Granting Plaintiffs' Motion for Partial Summary Judgment; Declaratory  
7 Judgment; and
- 8 3. Findings of Fact, Conclusions of Law, and Order Denying Motion for Preliminary  
9 Injunction.

10 The Court entered an order on June 20, 2016, denying the motion insofar as it sought  
11 reconsideration of the Court's Order Denying Defendants' CR 56(f) Motion for Continuance.  
12 The Court requested a response from plaintiffs Presbytery of Seattle, First Presbyterian  
13 Church of Seattle, William Longbrake, and Robert Wallace ("plaintiffs") on "whether it is  
14 factually at issue that the Presbyterian Church (U.S.A) is a hierarchical church." The Court  
15 reserved any ruling on the request for reconsideration of the order denying a preliminary  
16 injunction.

17 The Court has considered the motion, plaintiffs' response, and defendants' reply, if  
18 any. The Court has also reviewed the documents identified in its Order Granting Summary  
19 Judgment; Declaratory Judgment.

20 Based upon the foregoing, the Court DENIES the motion insofar as it seeks  
21 reconsideration of the Order Granting Summary Judgment; Declaratory Judgment. The  
22 Court also denies reconsideration of its Findings of Fact, Conclusions of Law, and Order  
23 Denying Motion for Preliminary Injunction. The motion for reconsideration is therefore  
24 DENIED in all respects.

1  
2 SO ORDERED this 30<sup>th</sup> day of June, 2016.

3  
4   
5 Mary E. Roberts  
KING COUNTY SUPERIOR COURT JUDGE

6 Presented by:  
7 K&L GATES LLP

8  
9 By \_\_\_\_\_  
10 Robert B. Mitchell, WSBA #10874  
11 Peter A. Talevich, WSBA #42644  
Attorneys for Plaintiffs

12 MILLS MEYERS SWARTLING

13  
14 By \_\_\_\_\_  
15 David D. Swartling, WSBA #6972  
Attorneys for Plaintiffs

# EXHIBIT E

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

THE PRESBYTERY OF SEATTLE, a  
Washington nonprofit corporation; THE  
FIRST PRESBYTERIAN CHURCH OF  
SEATTLE, a Washington nonprofit  
corporation; ROBERT WALLACE, President  
of The First Presbyterian Church of Seattle, a  
Washington nonprofit corporation; and  
WILLIAM LONGBRAKE, on behalf of  
himself and similarly situated members of  
First Presbyterian Church of Seattle,

Plaintiffs,

v.

JEFF SCHULZ and ELLEN SCHULZ, as  
individuals and as the marital community  
comprised thereof; and LIZ CEDERGREEN,  
DAVID MARTIN, LINDSEY McDOWELL,  
GEORGE NORRIS, NATHAN ORONA, and  
KATHRYN OSTROM, as trustees of The  
First Presbyterian Church of Seattle, a  
Washington nonprofit corporation,

Defendants.

---

JEFF SCHULZ and ELLEN SCHULZ, as  
individuals and as the marital community  
comprised thereof; and LIZ CEDERGREEN,  
DAVID MARTIN, LINDSEY McDOWELL,  
GEORGE NORRIS, NATHAN ORONA, and  
KATHRYN OSTROM, as trustees of The

No. 16-2-03515-9 SEA  
~~ORDER GRANTING~~ **DENYING** MOTION FOR  
STAY OF PROCEEDINGS

~~PROPOSED~~

ORDER GRANTING MOTION FOR STAY OF PROCEEDINGS - i  
No. 16-2-03515-9 SEA

LANE POWELL PC  
1420 FIFTH AVENUE, SUITE 4200  
P.O. BOX 91302  
SEATTLE, WA 98111-9402  
.206.223.7000 FAX: 206.223.7107

1 First Presbyterian Church of Seattle, a  
2 Washington nonprofit corporation,

3 Third-Party Plaintiffs and  
4 Counterclaimants,

5 v.

6 THE PRESBYTERY OF SEATTLE, a  
7 Washington nonprofit corporation; SCOTT  
8 LUMSDEN, Executive Presbyter of the  
9 Presbytery of Seattle, an individual; and THE  
10 FIRST PRESBYTERIAN CHURCH OF  
11 SEATTLE, a Washington nonprofit  
12 corporation, as recognized by the State of  
13 Washington under Washington's Nonprofit  
14 Corporations Act, by and through the  
15 corporation's duly elected Board of Trustees,

16 Counterclaim Defendant and  
17 Third-Party Defendants.

18 THE FIRST PRESBYTERIAN CHURCH  
19 OF SEATTLE, a Washington nonprofit  
20 corporation, as recognized by the State of  
21 Washington under Washington's Nonprofit  
22 Corporations Act, by and through the  
23 corporation's duly elected Board of Trustees,

24 Cross-Claimant and Third-  
25 Party Plaintiff,

26 v.

27 THE PRESBYTERY OF SEATTLE, a  
Washington nonprofit corporation; ROBERT  
WALLACE, an individual; WILLIAM  
LONGBRAKE, an individual; and  
PRESBYTERIAN CHURCH (U.S.A.), A  
Corporation, a Pennsylvania nonprofit  
corporation,

Cross-Claim Defendants and  
Third-Party Defendants.

1 ORDER

2 THIS MATTER came before the Court on Defendants' and Third-Party Plaintiffs'  
3 (referred to herein as "First Presbyterian") Motion for Stay of Proceedings (the "Motion").  
4 The Court has reviewed the Motion and all related pleadings, records, and files in this matter,  
5 and considers itself fully advised.

6 **The Court therefore ORDERS as follows:**

7 1. First Presbyterian's Motion is GRANTED. DENIED

8 2. This matter is stayed pending resolution of First Presbyterian's Motion for  
9 Reconsideration of the Court's May 27, 2016 Orders;

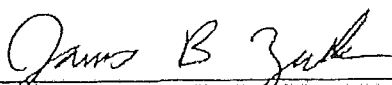
10 3. In the event this Court denies First Presbyterian's Motion for Reconsideration  
11 and First Presbyterian files a Notice of Discretionary Review of this Court's May 27, 2106  
12 Orders, this matter is stayed pending a decision on First Presbyterian's Motion for  
13 Discretionary Review to be filed with the appropriate appellate court.

14 DATED this 20<sup>th</sup> day of June, 2016.

15  
16   
17 HONORABLE MARY E. ROBERTS

18 Presented by:

19 LANE POWELL PC

20  
21 By:   
22 Bruce W. Leaverton, WSBA No. 15329  
23 John R. Neeleman, WSBA No. 19752  
24 Randall P. Beighle, WSBA No. 13421  
25 Daniel A. Kittle, WSBA No. 43340  
26 James B. Zack, WSBA No. 48122  
27 Attorneys for Defendants and The First Presbyterian  
Church of Seattle

ORDER GRANTING MOTION FOR STAY OF PROCEEDINGS - 1  
No. 16-2-03515-9 SEA

LANE POWELL PC  
1420 FIFTH AVENUE, SUITE 4200  
P.O. BOX 91302  
SEATTLE, WA 98111-9402  
206.223.7000 FAX: 206.223.7107



# EXHIBIT F

The Honorable Mary E. Roberts

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

THE PRESBYTERY OF SEATTLE, a  
Washington nonprofit corporation, et al.,

Plaintiffs,

v.

JEFF SCHULZ and ELLEN SCHULZ,  
et al.,

Defendants.

No. 16-2-03515-9 SEA

ORDER GRANTING PLAINTIFFS'  
MOTION TO STRIKE DEFENDANTS'  
THIRD-PARTY COMPLAINT  
FOR INDEMNIFICATION

~~PROPOSED~~

This matter came before the Court on Plaintiffs' Motion to Strike Defendants' Third-Party Complaint for Indemnification (the "motion"). The Court has considered the motion and its exhibit as well as any opposition and reply papers, in addition to the papers and pleadings in the file. Based upon the foregoing, the Court GRANTS the motion and strikes defendants' third-party complaint for indemnification.

SO ORDERED this 21<sup>st</sup> day of June, 2016.

  
Mary E. Roberts  
KING COUNTY SUPERIOR COURT JUDGE

ORDER GRANTING PLAINTIFFS' MOTION TO  
STRIKE DEFENDANTS' THIRD-PARTY  
COMPLAINT FOR INDEMNIFICATION- 1

K&L GATES LLP  
925 FOURTH AVENUE  
SUITE 2900  
SEATTLE, WASHINGTON 98104-1158  
TELEPHONE (206) 623-7580  
FACSIMILE (206) 623-7022

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

Presented by:

K&L GATES LLP

By \_\_\_\_\_  
Robert B. Mitchell, WSBA #10874  
Peter A. Talevich, WSBA #42644  
Attorneys for Plaintiffs

MILLS MEYERS SWARTLING

By \_\_\_\_\_  
David D. Swartling, WSBA #6972  
Attorneys for Plaintiffs

Approved to form; notice of presentation  
waived:

LANE POWELL PC

By \_\_\_\_\_  
Bruce W. Leaverton, WSBA #15329  
John R. Neeleman, WSBA #19752  
Randall P. Beighle, WSBA #13421  
Daniel A. Kittle, WSBA #43340  
James B. Zack, WSBA #48122  
Attorneys for Defendants

# EXHIBIT G

HONORABLE MARY ROBERTS

Hearing Date: July 5, 2016  
Without Oral Argument

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR COUNTY OF KING

THE PRESBYTERY OF SEATTLE, a  
Washington nonprofit corporation; THE FIRST  
PRESBYTERIAN CHURCH OF SEATTLE, a  
Washington nonprofit corporation; ROBERT  
WALLACE, President of The First Presbyterian  
Church of Seattle, a Washington nonprofit  
corporation; and WILLIAM LONGBRAKE, on  
behalf of himself and similarly situated  
members of First Presbyterian Church of  
Seattle,

Plaintiffs,

v.

JEFF SCHULZ and ELLEN SCHULZ, as  
individuals and as the martial community  
comprised thereof; and LIZ CEDERGREEN,  
DAVID MARTIN, LINDSEY McDOWELL,  
GEORGE NORRIS, NATHAN ORONA, and  
KATHRYN OSTROM, as trustees of The First  
Presbyterian Church of Seattle, a Washington  
nonprofit corporation,

Defendants.

JEFF SCHULZ and ELLEN SCHULZ, as  
individuals and as the martial community  
comprised thereof; and LIZ CEDERGREEN,  
DAVID MARTIN, LINDSEY McDOWELL,  
GEORGE NORRIS, NATHAN ORONA, and  
KATHRYN OSTROM, as trustees of The First  
Presbyterian Church of Seattle, a Washington  
nonprofit corporation,

NO. 16-2-03515-9 SEA

~~PROPOSED~~ ORDER GRANTING  
MOTION TO STRIKE OR DISMISS  
THIRD-PARTY COMPLAINT AND  
MOTION FOR PROTECTIVE ORDER

GARVEY SCHUBERT BARER  
A PARTNERSHIP OF PROFESSIONAL CORPORATIONS  
eighteenth floor  
1197 second avenue  
seattle, washington 98101-2939  
(206) 464-3939

1 Third-Party Plaintiffs and  
2 Counterclaimants,

3 v.

4 THE PRESBYTERY OF SEATTLE, a  
5 Washington nonprofit corporation; SCOTT  
6 LUMSDEN, Executive Presbyter of the  
7 Presbytery of Seattle, an individual; and THE  
8 FIRST PRESBYTERIAN CHURCH OF  
9 SEATTLE, a Washington nonprofit  
10 corporation, as recognized by the State of  
11 Washington under Washington's Nonprofit  
12 Corporations Act, by and through the  
13 corporation's duly elected Board of Trustees,

14 Counterclaim Defendant and  
15 Third-Party Defendant

16 THE FIRST PRESBYTERIAN CHURCH OF  
17 SEATTLE, a Washington nonprofit  
18 corporation, as recognized by the State of  
19 Washington under Washington's Nonprofit  
20 Corporations Act, by and through the  
21 corporation's duly elected Board of Trustees,

22 Cross-Claimant and Third-Party  
23 Plaintiff,

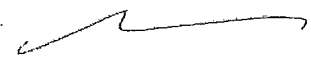
24 v.

25 THE PRESBYTERY OF SEATTLE, a  
26 Washington nonprofit corporation; ROBERT  
WALLACE, an individual; WILLIAM  
LONGBRAKE, an individual; and  
PRESBYTERIAN CHURCH (USA), A  
Corporation, a Pennsylvania nonprofit  
corporation

Cross-Claim Defendants and  
Third-Party Defendants.

1 This matter came before the Court on the Motion to Strike or Dismiss Third-Party  
2 Complaint and Motion for Protective Order of Third-Party Defendant Presbyterian Church  
3 (USA), A Corporation ("A Corp.").

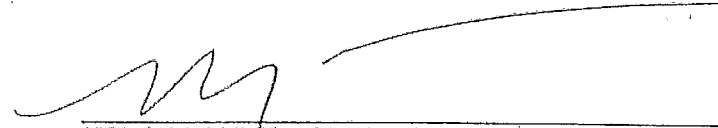
4 The Court, having considered the motion, responses, reply, any supporting documents,  
5 and the record, it is therefore

6 ORDERED AND ADJUDGED that A Corporation's motion is GRANTED and the  
7 Third-Party Complaint is stricken and dismissed with prejudice. 

8 or

9 ORDERED AND ADJUDGED that A Corporation's motion is DENIED IN PART  
10 AND GRANTED IN PART and a Protective Order is granted to A Corp., and discovery may  
11 not be had of A Corp. in this proceeding, without further order of this court.

12  
13 DATED: June 6<sup>th</sup>, 2016

14  
15   
16 JUDGE MARY ROBERTS

17  
18 Presented by:

19 GARVEY SCHUBERT BARER

20  
21 By: s/Judith A. Endejan  
22 Judith A. Endejan, WSBA #11016  
23 Emily DeBow Garcia, WSBA #47874  
24 Garvey Schubert Barer  
25 1191 Second Avenue, Suite 1800  
26 Seattle, Washington 98101  
(206) 464-3939  
[jendejan@gsblaw.com](mailto:jendejan@gsblaw.com)  
[egarcia@gsblaw.com](mailto:egarcia@gsblaw.com)

Attorneys for Defendant Presbyterian Church (USA), A Corporation

[PROPOSED] ORDER GRANTING MOTION TO STRIKE OR  
DISMISS THIRD-PARTY COMPLAINT AND MOTION FOR  
PROTECTIVE ORDER - 1

GARVEY SCHUBERT BARER  
A PARTNERSHIP OF PROFESSIONAL CORPORATIONS  
eighteenth floor  
1191 second avenue  
seattle, washington 98101-2939  
(206) 464-3939

# EXHIBIT 4



## Mitchell, Robert

---

**From:** Mitchell, Robert  
**Sent:** Monday, July 11, 2016 2:18 PM  
**To:** 'Daniel M. Weiskopf'  
**Cc:** Marc Winters; David D. Swartling (dswartling@millsmeyers.com); Talevich, Peter A.  
**Subject:** RE: First Presbyterian Church of Seattle  
**Attachments:** 20160707160046929.PDF

Thank you, Dan.

Attached is a copy of my letter to the Lane Powell lawyers regarding the interpleader action brought by Riddell Williams. I have not received any response to this letter.

As I read Civil Rule 67 and RCW 4.44.480, your client would need leave of court to pay monies into the court registry. The most straightforward way to obtain court authorization would be by stipulation of the parties. If Lane Powell is amenable, we can prepare a stipulated order. The stipulation would recite that (1) payments by bclMC to First Presbyterian Church of Seattle should be directed to the registry of the court, which will decide (if the parties cannot) how the funds should be distributed, and (2) payment in accordance with these instructions will satisfy bclMC's payment obligation under the terms of the promissory note that it executed in favor of First Presbyterian Church of Seattle.

Payments should then be directed to King County Superior Court, 516 Third Avenue, Room E609, Seattle, WA 98104, Attention: Cashiers. The payments must refer to the case number (i.e., 16-2-03515-9 SEA). We understand that the court accepts money orders and cashier's checks but not personal checks.

If you have any questions or concerns, please let us know. Best regards, Rob



**Robert B. Mitchell**  
K&L Gates LLP  
925 Fourth Avenue, Suite 2900  
Seattle, WA 98104-1158  
Phone: (206) 370-7640  
Fax: (206) 370-6133  
[rob.mitchell@klgates.com](mailto:rob.mitchell@klgates.com)  
[www.klgates.com](http://www.klgates.com)

**From:** Daniel M. Weiskopf [<mailto:DWeiskopf@mcnaul.com>]  
**Sent:** Monday, July 11, 2016 12:37 PM  
**To:** Mitchell, Robert  
**Cc:** Marc Winters  
**Subject:** First Presbyterian Church of Seattle

Rob,

Nice speaking with you. Below is my contact information. I look forward to receiving your research on mechanisms to get this issue in front of the Court, if necessary.

As discussed, I will reach out to Lane Powell and let you know if there is a way to get them on board with providing bclMC with joint instructions for how to proceed during the pendency of this action.

Thank you.

Dan

**Dan Weiskopf | Attorney**

McNaul Ebel Nawrot & Helgren PLLC

600 University St., Suite 2700 | Seattle, WA 98101

Tel 206.467.1816 | Direct 206.389.9372 | Cell 646.326.3274

July 7, 2016

Robert B. Mitchell  
rob.mitchell@klgates.com

T 206-370-7640

**By Email (leavertonb@lanepowell.com);**  
**beighler@lanepowell.com)**

Bruce W. Leaverton  
Lane Powell PC  
1420 Fifth Ave., Suite 4200  
P.O. Box 91302  
Seattle, WA 98111-9402

Randall P. Beighle  
Lane Powell  
1420 Fifth Ave., Suite 4200  
P.O. Box 91302  
Seattle, WA 98111-9402

**Re: Riddell Williams P.S. v. The First Presbyterian Church of Seattle**  
**King County Superior Court No. 16-2-08630-6 SEA**

Gentlemen:

As you know, the above-captioned case seeks a judicial determination regarding the rights of the parties claiming ownership of files in the possession of Riddell Williams. The declaratory judgment entered by Judge Roberts on May 27, 2016, in *Presbytery of Seattle v. Schulz*, King County Superior Court No. 16-2-03515-9 SEA, resolved that issue in favor of our clients. Judge Roberts reaffirmed her declaratory judgment when, on June 30, 2016, she entered the Order Denying Motion for Reconsideration by Defendants Jeff Schulz, Ellen Schulz, Liz Cedergreen, David Martin, Lindsay McDowell, Nathan Orona, and Kathryn Ostrom.

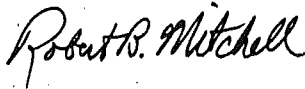
The declaratory judgment entered in *Presbytery of Seattle v. Schulz* has preclusive effect in the *Riddell Williams* case. The issue is identical; the parties are the same; and application of collateral estoppel will not work any injustice. Although a final judgment on the merits is also generally required for collateral estoppel, that requirement is satisfied by a non-final decision that was adequately deliberated and is firm. *See, e.g., Cunningham v. State*, 61 Wn. App. 562, 564-70, 811 P.2d 255 (1991) (partial summary judgment; written decision; reconsideration denied); *Pacific Boring, Inc. v. Staheli Trenchless Consultants, Inc.*, 138 F. Supp.3d 1156, 1163-64 (W.D. Wash. 2015) (partial summary judgment); Restatement (Second) of Judgments § 13

cmt. g (1982). The partial summary judgment entered by Judge Roberts amply meets these tests: it was adequately deliberated, and it is firm--as reflected in the recent order that, after full briefing, rejected your motion for reconsideration.

I have spoken with Robert Amkraut and Kate Seabright at Riddell Williams about where things now stand. They are amenable to a stipulated order dismissing the interpleader based upon the entry of Judge Roberts's declaratory judgment in the main case. If you are as well, I will prepare and circulate a proposed order. If not, we will prepare a motion to dismiss. I anticipate that, if it is necessary to carry things that far, Riddell will seek an award of its fees and costs from the losing party.

Please let us know no later than Monday, July 11, whether you are willing to stipulate to dismissal of the interpleader. We look forward to your response.

Very truly yours,



Robert B. Mitchell  
RBM/dp

cc: Robert Amkraut  
Kate Seabright  
David D. Swartling  
Peter Talevich  
Daniel A. Kittle  
James B. Zack