

**THE PROTESTANT EPISCOPAL CHURCH  
IN THE UNITED STATES OF AMERICA**

**Before the Disciplinary Board for Bishops**

**Hearing Panel**

**In the Matter of the Rt. Rev. Samuel Johnson Howard  
(Financial Matter)**

**Motion to Compel Responses and for Other Discovery Relief**

The Church, by its Church Attorney, moves, pursuant to Section IV.13.5.f. of the Canons of The Episcopal Church (“Canons”), for the entry of a discovery order that addresses: (1) the Respondent’s failure to comply with written discovery requests timely served by the Church Attorney, and (2) the need to proceed with timely discovery in the absence of cooperation by the Respondent. The Hearing Panel is in receipt of the Church Attorney’s June 10, 2025, letter concerning the overall status of discovery, the content of which is incorporated into this motion, but not repeated here.

**Relevant Canonical Provisions**

Section IV.13.5 of the Canons governs the discovery process in Title IV matters. In this matter, the April 8, 2025, Order of the Hearing Panel (“Scheduling Order”), issued pursuant to Canon IV.13.5.c., set the deadlines by which specified discovery tasks must be completed.

Sanctions for failure to comply with a discovery order are authorized by Canon IV.13.5.f., which allows the Hearing Panel to “impose, after reasonable notice and an opportunity to be heard, reasonable sanctions on any party for failure to comply with any discovery order pursuant to Canon IV.13.9.”<sup>1</sup> Canon IV.13.11.b sets forth a range of options that may be exercised by a Hearing Panel as sanctions “for conduct

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<sup>1</sup> The cross-reference in Canon IV.13.5.f. to Canon IV.13.9 appears to be a typographical error. That provision addresses final pre-hearing disclosures. However, Canon IV.13.11 comprehensively addresses sanctions available to a Hearing Panel, including discovery sanctions, and is likely the reference the drafters intended.

that the Hearing Panel deems to be disruptive, dilatory, or otherwise contrary to the integrity of the proceedings.” The sanction imposed “must be proportionate to the underlying misconduct.” *Id.* Permitted sanctions include the amendment of a scheduling order, the refusal to allow the disobedient party to support or oppose claims or defenses, and the striking claims or defenses or responses. *Id.*

### **Relief Requested and Grounds for Requests**

The Church Attorney respectfully request the entry of an Order that provides the following relief.

#### **I. Respondent Should be Determined to Have Waived All Objections to the Church’s Written Discovery.**

In accordance with the Scheduling Order, the Church served written discovery on the Respondent on April 21, 2025. The written discovery consisted of two items: (1) a request for production of documents (copy attached as Exhibit 1), and (2) a set of interrogatories (copy attached as Exhibit 2). Both are specific in their requests for records and sworn answers, and each request is designed to produce responsive information that is material to the claims in the Statement of Alleged Offenses and the defenses in the written Response of Bishop Howard. They are designed to exclude requests for Privileged Communications as defined in Canon IV.2.

The Scheduling Order required that the Respondent answer these written requests on or before May 30, 2025. It is fifty-three (53) days since service of the written discovery; and two weeks past the deadline for a response. The Respondent has not contacted the Hearing Panel or the Church Attorney to offer any objection to the content of the discovery requests. Neither has he requested any extension of the deadline to respond (a response that would presumably include any objection).

Respondent’s conduct squarely challenges the Canonical admonition that a party’s conduct not be “dilatory.” *See* Canon IV.13.11.a.<sup>2</sup> There is no plausible reason to conclude that the Respondent is unaware

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<sup>2</sup> “Dilatory” means “1: tending or intended to cause delay” or “2: characterized by procrastination.” Merriam-Webster Dictionary, [merriam-webster.com/dictionary](https://www.merriam-webster.com/dictionary) (consulted June 13, 2025).

of the deadlines in the Scheduling Order. The task of requesting a time extension is not daunting, the Respondent has demonstrated his ability to communicate with a Hearing Panel when he chooses, and it is likely that his failure to make such a request is anything but unintentional.

Thus, the Hearing Panel should decline to consider any objection by the Respondent to the content of the interrogatories and requests for production of documents, or to the burden he will bear by simply answering them. Permitting objections at some later date will do nothing but invite further delay and increase the overall burden and expense of conducting the proceedings.

## **II. Respondent Should be Compelled to Respond to Written Discovery.**

Respondent advised the Hearing Panel that he decided to disengage from this and the other pending Title IV proceeding until August 10, 2025. He has not signaled his intentions after that date. The Church Attorney is unaware of the Hearing Panel's views on this announcement. However, given the President of the Hearing Panel's stated intention to schedule the hearing on the merits as late as November 2025, there is no reason to generate an immediate crisis or to establish deadlines that delay the hearing. The Respondent should be ordered to serve a written response to the April 21, 2025, interrogatories and requests for production of documents no later than August 29, 2025. Again, the Response should not include any objections.

## **III. Respondent Should be Ordered to Cooperate in the Church's Production of Documents.**

The Church Attorney has advised the Respondent and the Hearing Panel that the Church has in its possession electronic records that should be produced to the Respondent. This can be accomplished promptly after the Respondent or his representative confirms the manner in which the documents can be securely delivered. Respondent should be ordered to contact the Church Attorney with the necessary information about transfer protocols. Should Respondent fail to do so by a date certain, he should be estopped from making any argument that he was prejudiced by the failure to obtain the documents and also

estopped from seeking any further delay in the proceedings based on his inability to timely review the documents.

**IV. The Scheduling Order Should be Modified to Accommodate the New Response Deadline.**

Should the Hearing Panel grant the motion to extend the Respondent's deadline for making his written responses, it must consider the effect of the extension on other deadlines. Expert witnesses, for example, may not be able to evaluate evidence in time to meet the deadlines in the current Scheduling Order. Follow-up inquiries to non-party Members of the Church, or to the Diocese of Florida and the Diocesan Foundation will likely be affected by the Respondent's answers to written discovery. Thus, the Church Attorney will be prepared at the upcoming Scheduling Conference to address the provisions of the Scheduling Order that will require adjustment to ensure that pre-hearing gathering of evidence and disclosure of witnesses will proceed in an orderly fashion and not be impaired by Respondent's delay.<sup>3</sup>

**V. The Church Should be Permitted to Take Depositions Prior to August 10, 2025.**

The Scheduling Order requires that the depositions of fact witnesses be concluded on or before July 25, 2025. The Church Attorney is entitled under the Canons and the Scheduling Order to conduct two (2) fact witness depositions. In the normal course, the time, place, and manner of taking a deposition is negotiated and confirmed by the parties, acting through their respective counsel. With a counter-party who is not represented by counsel, and is not participating in pre-hearing proceedings, the Church Attorney is unable to engage in these routine courtesies. The Church does not want to be caught in a trap, whereby the Respondent, having withdrawn from the process, returns only to claim that actions taken in his absence were somehow unfair.

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<sup>3</sup> The President of the Hearing Panel requested on June 4, 2025, that the parties submit available dates for the conduct of a scheduling conference in July. The date has not been set.

Fact witness depositions will play an important role in verifying what key individuals knew or did not know about the Respondent's financial activities. The assessment of certain documents, and of the Respondent's defenses, requires the development of this evidence. The Church Attorney asks that the Hearing Panel order either: (1) a firm deadline for the taking of all fact witness depositions that is no later than August 29, 2025, or (2) no extension of the current fact witness deposition deadline, with the understanding that the Church Attorney must give notice to the Respondent and an opportunity to participate, but may proceed in the absence of Respondent should he decline to participate.<sup>4</sup>

### **Conclusion**

The Church, by its Church Attorney, respectfully asks that an order be entered granting the relief requested in this motion. To simplify proceedings, the Church Attorney asks that this motion be taken up at the upcoming July Scheduling Conference, and that service of this motion on the Respondent be deemed to constitute notice to Respondent of the Church Attorney's intention to address these discovery matters at the conference.

Respectfully submitted,

*Craig T. Merritt*

Craig T. Merritt  
Church Attorney

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<sup>4</sup> The Church Attorney will not object to remote participation using electronic means by the Respondent or his counsel.

**Certificate of Service**

I hereby certify that a true copy of the foregoing was served by electronic and certified mail this  
13<sup>th</sup> day of June 2025, on:

The Rt. Rev. Samuel J. Howard  
3138 Waltham Square  
Jacksonville, FL 32207  
*sjhoward1@protonmail.com*

*Craig T. Merritt*

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Craig T. Merritt