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*Attorneys for Non-Party Hardin Congregation*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

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TRACY CAERKAERT and	)	Cause No. CV 20-52-BLG-SPW
CAMILLIA MAPLEY,	)	
	)	
Plaintiffs,	)	<b>HARDIN CONGREGATION’S</b>
	)	<b>REQUEST FOR CLARIFICATION</b>
vs.	)	<b>OF COURT’S Order Re: Motion To</b>
WATCHTOWER BIBLE AND	)	<b>Compel Hardin Congregation’s</b>
TRACT SOCIETY OF NEW YORK,	)	<b>Subpoena</b>
INC. and WATCHTOWER BIBLE	)	
AND TRACT SOCIETY OF	)	
PENNSYLVANIA,	)	
	)	
Defendants.	)	
	)	
<hr/> WATCHTOWER BIBLE AND	)	
TRACT SOCIETY OF NEW YORK,	)	
	)	
Cross Claimant,	)	
	)	
vs.	)	
BRUCE MAPLEY, SR.,	)	
	)	
Cross Defendant.	)	

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The Hardin Congregation hereby files this request for clarification of the Court's recent order which granted in part and denied in part *Plaintiffs' Motion To Compel Re: The Hardin Congregations Subpoena*. This request is necessitated by the fact that there is a clear disagreement over the language contained within the Court's order permitting the redaction between the Hardin Congregation's understanding of the Court's order stating:

To the extent [the document at issue] contains the names of individuals not involved in the current litigation, those names may be redacted from the document.

Upon receiving the Court's order, the undersigned reviewed the Court's ruling from his phone as he was in Texas and in the process of relocating his son to Houston. Upon his return to his office, counsel promptly worked to produce those documents which were ordered to be produced to plaintiff pursuant to the Court's order. Hardin Congregation counsel understood the Court's language, allowing the redaction of the "names of those individuals not involved in the current litigation" to include all who were not parties to the litigation, with the exception of the author and recipient of each document. Redactions were applied to all documents accordingly, and the redacted documents were provided to plaintiffs' counsel by letter dated August 6, 2021.

On August 11, 2021, counsel received a letter from attorney Ryan Shaffer in which he sets forth issues with the redacted documents as produced by the Hardin Congregation. (See attached).

The main issue underlying attorney Shaffer's position is his disagreement over what the Court's intended in allowing the Hardin Congregation to redact the "names of those individuals not involved in the current litigation." Attorney Sheffer correctly notes the Hardin Congregation's interpretation of this language as permitting the redaction of those who are not a party to the case. Attorney Shaffer disagrees and argues that the term "involved" in the litigation is too broadly interpreted by the Hardin Congregation. He goes on to assert that some of the people whose names are then redacted "are clearly involved in the current litigation" if they possibly have knowledge of relevance to plaintiffs' claims. More specifically, attorney Sheffer asserts:

We disagree with such an interpretation because if that is what the Court meant she would have clearly said so. And more importantly, there would be no legal basis to permit such redactions which have the effect of hiding key, material witnesses from the plaintiffs.

The Court's clarification as to its actual intent as far as appropriate redactions is therefore required to address this issue.

The second issue has to do with redactions by the Hardin Congregation made to Document 5. Upon re-reading the Court's order, attorney Shaffer is technically correct that Court's order did not expressly provide for the redaction of the "names

of those individuals not involved in the current litigation” from this document. Again, counsel initially read the Court’s order while in Texas, understood what was ordered and applied the Court’s comment on redactions to all documents including Document 5. The application of the Court’s redaction language to Document 5 was an oversight on counsel’s part, but having now had this issue pointed out, Hardin Congregation counsel would also ask for the Court’s clarification as to whether it in fact intended to exclude the language allowing for the redaction of the names of those not involved in this litigation from applying to Document 5.

Attorney Shaffer has asserted that the Hardin Congregation is in violation of the Court’s order with respect to Document 5 and subject to sanctions. The Hardin Congregation respectfully disagrees. Further, clarification of the Court’s order is warranted before an unredacted copy of Document 5 is required to be produced. Obviously, any potential harm from disclosing the names of any non-parties contained within Document 5 -- names which the Court has allowed to be redacted from all other documents -- cannot then be undone after the fact if the Court did intend to allow for the redaction of the “names of those individuals not involved in the current litigation” with regard to Document 5.

RESPECTFULLY SUBMITTED the 12<sup>th</sup> day of August 2021.

STACEY & FUNYAK

By: /s/ Kevin M. Funyak  
Kevin M. Funyak  
*Attorneys for Non-Party Hardin  
Congregation*

**CERTIFICATE OF SERVICE**

Pursuant to Local Rule 24.1(b)(1)(C), I hereby certify that on the 12<sup>th</sup> day of August, 2021, a true and correct copy of the foregoing ***HARDIN CONGREGATION'S REQUEST FOR CLARIFICATION OF COURT'S Order Re: Motion To Compel Hardin Congregation's Subpoena*** was served upon the following person(s) by depositing the same in the U.S. Mail, postage prepaid, and by email addressed as follows:

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