

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

| | | |
|--------------------------|---|--------------------------------------|
| IVY HILL CONGREGATION OF | : | |
| JEHOVAH’S WITNESSES, | : | |
| Petitioner | : | |
| | : | |
| v. | : | No. 316 MD 2020 |
| | : | |
| DEP’T OF HUMAN SERVS., | : | |
| Respondent | : | <i>Electronically Filed Document</i> |

RESPONDENT’S ANSWER TO PETITIONER’S APPLICATION
FOR A CASE MANAGEMENT ORDER

Pursuant to Rule of Appellate Procedure 123(b), Respondent, the Pennsylvania Department of Human Services (hereinafter “Department” or “Respondent”), through counsel, respectfully files this answer to the Application for a Case Management Order filed by Petitioner Ivy Hill Congregation of Jehovah’s Witnesses (hereinafter “Ivy Hill” or “Petitioner”).

I. BACKGROUND¹

1. ADMITTED.
2. ADMITTED.
3. ADMITTED.
4. ADMITTED.

¹ Respondent is adopting the headings utilized by the Petitioner purely for organization and convenience of the reader. In using these headings, Respondent is not making any admission regarding their content and expressly denies any factual averments contained therein.

5. ADMITTED.

II. ARGUMENT

6. The allegations of Paragraph 6 of the Application are DENIED since they are conclusions of law to which no responsive pleading is required. By way of further answer, the Court has already addressed this argument by identifying the need for further discovery, pleadings, and possible trial. *See* Memorandum Opinion at n.11.

7. DENIED.

8. DENIED. On the contrary, as noted by the Respondent in opposition to Petitioner's Application for Summary Relief, publically available documents from the Governing Body of Jehovah's Witnesses contradict some of the averred facts presented by the Petitioner.

9. ADMITTED in part and DENIED in part. It is DENIED that the documentation that can be produced by Petitioner is the only relevant discovery necessary in this litigation. It is ADMITTED that Respondent welcomes the rapid production of discoverable materials in an effort to resolve this pending litigation as no materials have been voluntarily produced to date.

10. DENIED. As the Court noted, to answer the central question at issue in this litigation "requires an inquiry into whether Petitioner's elders fall within the ambit of 'clergy[m]en, priest[s], rabbi[s] or minister[s] of the gospel of any

regularly established church or religious organization,’ and yet are not ‘clergymen or ministers, who are self-ordained or who are members of religious organizations in which members other than the leader thereof are deemed clergymen or ministers.’” *See* Memorandum Opinion at 22. This inquiry will need to include, *intra alia*, the depositions of the seven elders at Ivy Hill to fully understand their ecclesiastical duties; and discovery to the Governing Body and separately to Ivy Hill Congregation to understand the perceived differences from publically available documents, in the position of the elders and of the organization itself. Respectfully, an abbreviated discovery schedule is not warranted in this matter.

11. ADMITTED.

WHEREFORE, Respondent respectfully requests that the Court deny the Application for an abbreviated discovery schedule. In lieu thereof, Respondent requests a minimum of six-months for discovery, which presumes the availability of witnesses to be deposed and the forthright production of discoverable materials.

Respectfully submitted,

JOSH SHAPIRO
Attorney General

By: *s/ Nicole R. DiTomo*

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Date: July 9, 2021

CONFIDENTIAL INFORMATION CERTIFICATION

I certify that this filing complies with applicable state and local rules and the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*, which require filing confidential information and documents differently than non-confidential information and documents.

s/ Nicole R. DiTomo
NICOLE R. DITOMO
Senior Deputy Attorney General

CERTIFICATE OF SERVICE

I, Nicole R. DiTomo, Senior Deputy Attorney General for the Commonwealth of Pennsylvania, Office of Attorney General, hereby certify that on July 9, 2021, I caused to be served a true and correct copy of the Respondent's Answer to the Application to the following:

VIA ELECTRONIC FILING

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ADDITIONAL COPIES SENT VIA REGULAR MAIL TO:

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s/ Nicole R. DiTomo
NICOLE R. DITOMO
Senior Deputy Attorney General

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CASE MANAGEMENT ORDER

AND NOW, this _____ day of _____, 2021, upon consideration of Petitioner's Application for a Case Management Order and the Response provided by the Respondent, it is hereby ORDERED that the Application is GRANTED in part and DENIED in part. The Application is GRANTED to the extent it seeks a case management order; however, it is DENIED to the extent that it seeks an expedited schedule. The parties are further ORDERED as follows:

1. All fact and expert discovery in the above matter shall be completed on or before January 21, 2022.
2. Petitioner shall identify and submit relevant materials of all expert witnesses it intends to have testify at trial to the Respondent no later than August 31, 2021.

3. Respondent shall identify and submit relevant materials of all expert witnesses it intends to have testify at trial to the Petitioner no later than October 29, 2021.

4. Any dispositive motions with supporting briefs shall be filed on or before February 25, 2022.

5. All remaining pre-trial scheduling shall be determined after the resolution of any dispositive motions. If no dispositive motions are filed by February 25, 2022 then the Court shall schedule a pre-trial conference with the parties at that time.

BY THE COURT:

Judge