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Attorneys for Plaintiff

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

N.D.,

Plaintiff,

vs.

MAKAHA, HAWAII CONGREGATION OF  
JEHOVAH'S WITNESSES, a Hawaii non-profit  
unincorporated religious organization, a.k.a.  
MAKAHA CONGREGATION OF  
JEHOVAH'S WITNESSES and KINGDOM  
HALL, MAKAHA CONGREGATION OF  
JEHOVAH'S WITNESSES; WATCHTOWER  
BIBLE AND TRACT SOCIETY OF NEW  
YORK, INC., a New York corporation;  
KENNETH L. APANA, Individually; and Does  
1 through 100, inclusive,

Defendants.

**Electronically Filed**  
**FIRST CIRCUIT**  
**1CCV-20-0000390**  
**14-JAN-2022**  
**03:20 PM**  
**Dkt. 265 MER**

CIVIL NO. 1CCV-20-0000390  
(Non-Motor Vehicle Tort)

**PLAINTIFF'S REPLY MEMORANDUM  
IN SUPPORT OF HER MOTION TO  
COMPEL DOCUMENTS FROM  
DEFENDANTS WATCHTOWER BIBLE  
AND TRACT SOCIETY OF NEW  
YORK, INC. AND MAKAHA, HAWAII  
CONGREGATION OF JEHOVAH'S  
WITNESSES., a.k.a. MAKAHA  
CONGREGATION OF JEHOVAH'S  
WITNESSES AND KINGDOM HALL,  
MAKAHA JEHOVAH'S WITNESSES;**  
*[caption continued on next page]*

**Hearing:**

DATE: January 19, 2022

TIME: 11:00 a.m.

JUDGE: Honorable Dean E. Ochiai

MAKAHA, HAWAII CONGREGATION OF JEHOVAH'S WITNESSES, a Hawaii non-profit unincorporated religious organization, a.k.a. MAKAHA CONGREGATION OF JEHOVAH'S WITNESSES and KINGDOM HALL, MAKAHA CONGREGATION OF JEHOVAH'S WITNESSES; and WATCHTOWER BIBLE AND TRACT SOCIETY OF NEW YORK, INC., a New York corporation,

Crossclaimants,

vs.

KENNETH L. APANA, Individually,

Crossclaim Defendant.

**SUPPLEMENTAL DECLARATION OF MATTHEW C. WINTER; EXHIBITS 12-14; and CERTIFICATE OF SERVICE**

Trial Date: June 20, 2022

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**PLAINTIFF'S REPLY MEMORANDUM IN SUPPORT OF HER MOTION TO COMPEL DOCUMENTS FROM DEFENDANTS WATCHTOWER BIBLE AND TRACT SOCIETY OF NEW YORK, INC. AND MAKAHA, HAWAII CONGREGATION OF JEHOVAH'S WITNESSES., a.k.a. MAKAHA CONGREGATION OF JEHOVAH'S WITNESSES AND KINGDOM HALL, MAKAHA CONGREGATION OF JEHOVAH'S WITNESSES**

**I. INTRODUCTION**

In what can only be described as a sinful and most unchristian distortion of the truth,<sup>1</sup> Defendants (hereafter referred to as Jehovah's Witness) seek the Court's sanction to their efforts to conceal and cover-up the actions of their own clergy who raped and molested multiple children in the congregation, including the Plaintiff. As is shown in this case, no privilege should protect such actions. Hawaii's Rule 506 protecting the clergy privilege (referred to by some as the Priest/Penitent Privilege) only protects confidential information received from a penitent seeking spiritual guidance to a member of the clergy. As will be further discussed below, the

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<sup>1</sup> It should be noted that Defendants' organization has promulgated policies that protect abusers and conceal the truth. Winter Decl., Ex. 12.

Jehovah's Witness' instant attempt to characterize its own "judicial" inquiry of one of its fellow clergy (referred to as an elder) as a confidential communication for spiritual guidance to a clergy must fail for the following reasons:

1. The evidence of the clergy member's sexual crime was **not** confidentially communicated by the rapist for spiritual counselling but was information received by the church from the victims and others. Thus, the information received by the Judicial Committee, redacted from the requested documents, on its face renders the privilege inapplicable.

2. The Church information contained in its redacted report included information about and obtained by other witnesses including the victims which alone mandates the inapplicability of the Clergy privilege.

3. On the face of the disputed document, the Jehovah's Witness openly rejected any expectation of confidentiality as the report was circulated to the entire Watchtower, Bible and Tract Society of New York with a specific referral to its "service department." Winter Decl., Ex. 5 (MAKAHA 000003-4 REV).

As will be further discussed below, Plaintiff is entitled to the records without the redactions because what is decipherable from the redacted documents does not invoke a clergy privilege. The internal documents, investigation, and statements do not meet this privilege because they were created by clergy investigating other clergy accused of criminal sexual misconduct. The investigation was not confidential, and the documents containing the facts were not created with spiritual intent.

Defendants rely upon cases that careful reading shows are distinguishable. The defense cites *Scott v. Hammock*<sup>2</sup>, *People v. Bragg*<sup>3</sup>, *Kruglikov v. Kruglikov*<sup>4</sup>, *Snyder v. Poplett*<sup>5</sup> which consider the communications between lay people and their clerics and the consideration of the confidentiality and spiritual guidance the parishioners receive. The current case does not have a lay person seeking advice in a confidential manner for spiritual guidance. Jehovah's Witness admits that clerical guidance is not essential to their privilege. (Opposition, p. 3). However, Jehovah's Witness cite cases speaking to the guidance function as an aspect of the clergy privilege. Jehovah's Witness further relies on the *Nunez*<sup>6</sup> case to go beyond its holding to be applied to clergy privilege beyond a Montana mandatory reporting statute. However, the holding of the *Nunez* court has been limited by a subsequent court by the *Caerkaert*<sup>7</sup> court. For all of these reasons, this Court should find that the privilege does not exist, and the documents should be unredacted and delivered to the Plaintiff.<sup>8</sup>

## **II. ELDERS, LIKE APANA, HOLD A POSITION OF AUTHORITY IN THE CONGREGATION**

Apana held the title of elder, the equivalent of clergy or a priest. The role is different than being a traditional member of the congregation, as is noted by the Declaration of Thomas Jefferson. Each congregation has a group of men called a "body of elders" that oversees the spiritual activities of the congregation." Jefferson Decl. ¶15. Before elders are appointed, they must meet the Scriptural qualifications outlined in the Bible. —1 Timothy 3:1-7; Titus 1:5-9. *Id.*

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<sup>2</sup> 870 P.2d 947 (Utah 1994).

<sup>3</sup> 296 Mich. App. 433, 824 N.W.2d 170, (2012).

<sup>4</sup> 29 Misc. 2d 17, 217 N.Y.S.2d 845 (N.Y. Sup. Ct. 1961).

<sup>5</sup> 98 Ill.App.3d 359, 424 N.E.2d 396 (1981).

<sup>6</sup> *Nunez v. Watchtower Bible & Tract Soc'y of New York, Inc.*, 2020 MT 3, 398 Mont. 261, 455 P.3d 829.

<sup>7</sup> *Caerkaert v. Watchtower Bible & Tract Soc'y of New York, Inc.*, No. CV 20-52-BLG-SPW, 2021 WL 2686440 (D. Mont. June 30, 2021).

<sup>8</sup> The Plaintiff maintains her position that the Court could also Order Defendants to produce unredacted versions of these documents for in camera review should it be necessary for a ruling.

at 16. “Congregations of Jehovah’s Witnesses are small so that elders can assist each congregation member to keep his or her faith in Jehovah God strong.” *Id.* at 11. The elders guide members of their congregation and at times “investigate” members of the congregation. *Id.* at 19. Apana, an elder, was investigated by other elders.

### **III. ARGUMENT**

#### **A. THE INFORMATION OBTAINED FROM THE JUDICIAL HEARINGS WAS NOT INTENDED TO BE KEPT CONFIDENTIAL**

Plaintiff is entitled to unredacted documents because the internal documents, investigations, and statements were not between a layperson and a cleric, confidential, or with spiritual intent. The redacted information and documents were prepared to memorialize the Congregation’s findings and for the purpose of investigating the reported sexual molestation of Plaintiff and other minor members by the Congregation’s elder which led to judicial hearings where witnesses consisting of minor victims and their parents, and eyewitnesses were also present. Any information disclosed or discovered during the hearings could and should have been disclosed to the victims and their parents. Moreover, Apana’s statements and admission of his sexual abuse were disclosed to Apana’s wife (**Ex. 2** to Winter Decl., MAKAHA 000006 REV), other congregations (*id.*, **Ex. 7**, WTNY-C000004-6, Ex. 13, WTNY 000004, 000149-000150), and potentially some “87 branches” of other Jehovah’s Witness organizations (Jefferson Decl., ¶6). Therefore, the redacted information was indeed *intended* to be disclosed to third parties, including circuit overseers and other Jehovah’s Witness organizations. Judicial hearings, as the words imply, are completely different from a more common situation where a confidential confession by a parishioner to a priest is privately made.

The claimed confidential information obtained from the judicial hearings was indeed disclosed to other local churches subsequently attended by Apana pursuant to Jehovah's Witnesses' policies and procedures. (Winter Decl., **Ex. 14**, WTNY 000399-WTNY 000400). One of these congregations also held a judicial hearing to investigate Apana's sexual abuse of minors and other misconduct. As part of this judicial hearing, the Kona English Congregation obtained the details of the communications and information disclosed by Apana during the 1992 judicial hearings. *Id.*, **Ex. 7**. . The Church should not be allowed to hide discoverable information behind a privilege that does not exist.

**B. THERE WAS NO SPIRITUAL INTENT OR CONFIDENTIALITY IN THE INVESTIGATION INTO DEFENDANT ELDER APANA**

As stated above, the investigative information obtained from Apana during the judicial hearings was not intended to be kept confidential as it was subject to dissemination to other local congregation elders, victims and their parents, circuit overseers, and other Jehovah's Witness organizations. *Id.*, **Exs. 13, 14**. The judicial hearing committee may have also intended to provide spiritual guidance to Apana but that was not the primary purpose of the hearings. As dictated by the Jehovah's Witnesses' policies, the primary purpose of the judicial hearings was to investigate and find facts and evidence that may prove or disprove the allegations of Apana's minor sexual abuse. The congregation had to do so to "protect other members of the congregation from" Apana's wrongdoing. *Id.*, **Ex. 13**. If the judicial committee held the hearings for the purpose of providing Apana with spiritual guidance, the documents produced lack such evidence. *Id.*, **Ex. 1** (MAKAHA 000001-2 REV). Apana was summoned to the hearings to prove or disprove himself of the allegations made by members of the congregation based on which the judicial committee could take certain actions pursuant to the Jehovah's Witnesses' policies and procedures. *See Id.* ¶2. The information from the hearings was

disseminated to Watchtower from the Makaha Congregation, and to the churches subsequently attended by Apana. As an ordained elder, Apana was aware of the possibility of subsequent disclosure of such information to Watchtower, circuit overseers, elders of other local congregations, and other Jehovah's Witness organizations. He was also aware of the presence of the victims and witnesses at the judicial hearings.

**C. THE COMMUNICATIONS BETWEEN THE JUDICIAL COMMITTEE AND APANA ARE NOT PRIVILEGED**

Defense incorrectly relies on *Scott v. Hammock* that the privilege should be construed broadly. 870 P.2d 947, 952 (Utah 1994). *Scott* however is inapplicable in this case for two reasons. First, *Scott* focuses on the relationship between a layperson and a cleric that were intended to be confidential. Apana as an appointed elder (a member of the church clergy) was not a layperson but in fact a cleric similar to the elders conducting the investigation. Here and in contrast to the case considered by the *Scott* court, Apana is being investigated and communicating in his role as a clerical figure. Apana was not just a parishioner seeking guidance of his cleric but a person of equal standing. Moreover, the investigation into Apana was not confidential.

Second, there was no purpose of seeking spiritual counseling by Apana. Apana was investigated after third parties disclosed the crime to the church. Moreover, an elder author of one of the requested documents noted that Apana was not truthful during the investigative process. See e.g., Winter Decl., Ex. 8 (WTNY000008-09 (“We found these statements of [Apana] inconsistent with being clearly forthright...”). If Apana was seeking spiritual guidance during the investigation it seems likely that he would have been truthful about the rape he had committed. How would it be possible to receive spiritual guidance without the truth for which

guidance was needed. Therefore, *Scott* is not applicable because it is a layperson with a cleric and the purpose was not for spiritual guidance.

The Defendant also turns to *People v. Bragg*, 296 Mich. App. 433, 824 N.W.2d 170, (2012). In *Bragg* the privilege was invoked when a boy confessed after being brought into the pastor's office two years after he had committed a sexual assault when he was 15. *Id.* at 436-439. However, like *Scott*, this case does not meet the requirements for clergy privilege. Apana's communication was not made in confidence. In contrast to *Bragg*, Apana was an elder -- not just another member of the congregation -- summoned for an investigation by co-elders. Here, once the committee met, the allegations had already been made, and there were witnesses present to speak against Apana. *Bragg* considered the confession of a much younger individual who was called into the office of the pastor for reasons unknown. In contrast, Apana was aware of why he was being investigated while having knowledge that information disclosed during the judicial hearings could be further disclosed to others. Unlike *Bragg*, Apana did not attend a meeting in confidence that it would be confidential.

*Kruglikov v. Kruglikov*, 29 Misc. 2d 17, 217 N.Y.S.2d 845 (N.Y. Sup. Ct. 1961) cited by the defense considered a situation where two lay people met with a cleric. Unlike *Kruglikov* where a confidential marital "consult[ation]" was sought from a rabbi, Apana was aware of the nature of the judicial hearings, one where the victims and their parents, as well as other witnesses, would be present; and that information he would communicate to the judicial committee could and would be subsequently communicated to other persons, including other members of the congregation. *Id.* at 846; (Apana "was informed that circumstances may require later public announcement." Winter Decl., **Ex. 1**, MAKAHA 000002 REV). Therefore, *Kruglikov* is not applicable to the current case.



In support of their opposition, the defendants also cite *Snyder v. Poplett*, 98 Ill.App.3d 359, 424 N.E.2d 396 (1981). The layperson in this case was in the hospital. *Id.* at 398. While in the hospital, the layperson had contact with a member of the clergy. *Id.* Ultimately, upon the layperson's death the communications to the member of the clergy were requested in a lawsuit concerning the decedent's will. *Id.* at 398-99. The court upheld the privilege but noted a caveat:

A CAVEAT: This court does not believe that all communications made to clergymen are necessarily protected from disclosure under the Illinois statute, and we do not so hold. But the reasonable scope of the statute does protect those communications that originate in a confidence that they will not be disclosed. In the case at hand, Reverend Meeker testified that the conversations he had with decedent during his pastoral calls were confidential.

*Id.* at 363–64.

The *Snyder* court considered the situation of a layperson communicating directly to a cleric. This situation is again in contrast to the current case because as an elder, Apana was not a layperson. Moreover, the *Snyder* court noted that the origination of the communication would be that it would stay in confidence. As discussed above, this was not the case with Apana's hearing. Apana left the investigation with no control of whether the investigation would remain confidential. In addition, Apana's decision to be less than forthcoming with the truth likely indicates that he was not seeking spiritual guidance, and unsure if what he said would be kept confidential. As is shown by the documents produced, it should have been known that the meeting may not remain confidential and that the results of the investigation would be, and were, reported to Watchtower.

Defendants point to *Pardie v. Pardie*, 158 N.W.2d 641, 645 (Iowa 1968). *Pardie* is distinguishable from the case at bar because the husband and wife church members "consulted their minister" regarding "family problems" and the minister "conferred with them as their

pastor.” The communication was intended to be kept confidential which does not exist here. Therefore, *Pardie* is distinguishable.

The defense cites *Nunez v. Watchtower Bible & Tract Soc'y of New York, Inc.*, 2020 MT 3, 398 Mont. 261, 455 P.3d 829. Defendants state that the present case “is on all fours with the decision of the Montana Supreme Court [in *Nunez*].” (Opposition p. 8). The *Nunez* case, however, considered if the church could claim a privilege to being mandatory reporters under Montana mandatory reporting statute. The *Nunez* court did not reach the issue of clergy privilege. That question was answered by a subsequent court. *Caekaert v. Watchtower Bible & Tract Soc'y of New York, Inc.*, No. CV 20-52-BLG-SPW, 2021 WL 2686440, at \*5 (D. Mont. June 30, 2021), considered if the ruling in the *Nunez* court on privilege to not be mandatory reporters under the Montana mandatory statute expanded the clergy-penitent privilege statute. The *Caekaert* court held it did not expand the privilege, holding that “the Montana Supreme Court's holding in *Nunez v. Watchtower* did not expand Montana's clergy-penitent privilege statute to include the additional privileges urged by the Hardin Congregation. The Court is further not convinced to expand the privilege here and shall apply the statute as strictly construed.” *Id.* This Court should find that the *Nunez* court ruling is limited in its application to the Montana mandatory reporting statute and does not expand to the consideration of privilege.

After finding that the privilege did not extend, the *Caekaert* court then considered if documents similar to the documents in the current case must be disclosed. The *Caekaert* court determined an *in camera* review must be done to determine if the documents were privileged. *Id.* at 8. The *Caerkaert* court planned to make the determination on the privilege of the documents by relying on *McFarland v. W. Congregation of Jehovah's Witnesses*, Lorain, OH, Inc., 2016-Ohio-5462, ¶¶ 25-27, 60 N.E.3d 39 (9th Dist.).

*McFarland* was cited in the Plaintiff's first motion. *Caerkaert* and *McFarland* should allow the Court to disregard defense reliance on *Nunez*. The *Caerkaert* court did not have enough information from the privilege log to determine if the documents that were redacted fell outside the privilege and therefore ordered review. Similarly, the *McFarland* court took an in camera review before turning over the documents to plaintiff.

#### IV. CONCLUSION

Defendants cannot meet their burden of establishing that the clergy privilege applies because Apana did not attend the judicial hearings to confidentially or privately confess his rape of Plaintiff and others to other co-elders of the church or to seek spiritual guidance from them. Apana knew his answers to the judicial committee would be disclosed to others, including Watchtower and other local churches. Because no privilege exists over the documents at issue, Defendants' attempt to conceal the rape of its church members by its own clergy, and to cover up its own misconduct, must fail. Accordingly, Plaintiff respectfully requests that the Court issue an order compelling Defendant Watchtower to produce documents bates numbered WTNY-C000004-C000009 and WTNY-C000012 without any redactions and compelling Defendant Makaha to produce the documents bates numbered MAKAHA #000001-0000011 REV without any redactions.

DATED: Honolulu, Hawai'i, January 14, 2022.

/s/ Matthew C. Winter  
MARK S. DAVIS  
LORETTA A. SHEEHAN  
MATTHEW C. WINTER  
JAMES S. ROGERS

Attorneys for Plaintiff

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

N.D.,

Plaintiff,

vs.

MAKAHA, HAWAII CONGREGATION OF JEHOVAH'S WITNESSES, a Hawaii non-profit unincorporated religious organization, a.k.a. MAKAHA CONGREGATION OF JEHOVAH'S WITNESSES and KINGDOM HALL, MAKAHA CONGREGATION OF JEHOVAH'S WITNESSES; WATCHTOWER BIBLE AND TRACT SOCIETY OF NEW YORK, INC., a New York corporation; KENNETH L. APANA, Individually; and Does 1 through 100, inclusive,

Defendants.

CIVIL NO. 1CCV-20-0000390  
(Non-Motor Vehicle Tort)

**SUPPLEMENTAL DECLARATION OF  
MATTHEW C. WINTER**

MAKAHA, HAWAII CONGREGATION OF JEHOVAH'S WITNESSES, a Hawaii non-profit unincorporated religious organization, a.k.a. MAKAHA CONGREGATION OF JEHOVAH'S WITNESSES and KINGDOM HALL, MAKAHA CONGREGATION OF JEHOVAH'S WITNESSES; and WATCHTOWER BIBLE AND TRACT SOCIETY OF NEW YORK, INC., a New York corporation,

Crossclaimants,

vs.

KENNETH L. APANA, Individually,

Crossclaim Defendant.

**SUPPLEMENTAL DECLARATION OF MATTHEW C. WINTER**

I, MATTHEW C. WINTER, do hereby declare and state under penalty of perjury that the following facts are true and correct:

1. I am an attorney at law licensed to practice in Hawaii and am one of the attorneys for Plaintiff in the above case.

2. Attached hereto as **Exhibit 12** is a true and correct copy of Jehovah's Witness' nationwide policies published in its document titled "The Watchtower" dated June 1, 1960.

3. Attached hereto as **Exhibit 13** is a true and correct copy of excerpts from Jehovah's Witness's document titled "Organized to Accomplish Our Ministry" produced by defendant Watchtower in this matter bearing bates numbers of WTNY 000004, 000149-000150.

4. Attached hereto as **Exhibit 14** is a true and correct copy of Jehovah's Witness' nationwide policies published in Watchtower's letter to "All Bodies of Elders in the United States" bearing bates numbers of WTNY 000399-WTNY 000400.

I declare under penalty of perjury that the foregoing statements are true and correct.

Executed in Honolulu, Hawai'i, on January 14, 2022.

/s/ Matthew C. Winter

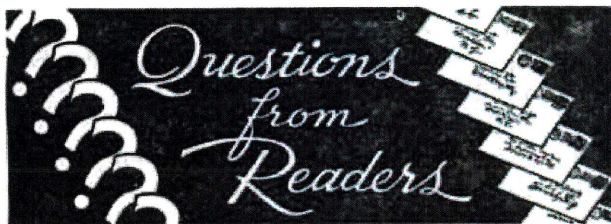
MATTHEW C. WINTER

True, it is not likely that Moses penned those words at the time he wrote the original record about the Israelites' receiving manna, but who could argue that he himself did not add these words at the end of the forty-year trek in the wilderness when he stood at the frontier of the land of Canaan, knowing that his people would thereafter no longer be eating manna? Whether he or another added these words, they of themselves certainly cannot be used to argue that the entire book of Exodus was not written by Moses.

The conclusions of the books of Deuteronomy and of Joshua have been called anachronisms because they tell about the deaths of their respective writers. But a far more reasonable position to take is that

these postscripts were providentially added to complete the record of their writers and do not at all prove that the books themselves were not written by Moses and Joshua. Such weak arguments merely show the lack of objectivity of the Bible critics.

If we read the Bible for the purpose of finding fault with it, to find some excuse for not accepting it as God's Word and our Guide, we will find apparently what we are looking for. But if we are looking for the truth with an open mind we will find that and we will not be stumbled by so-called anachronisms. Surely the wealth of evidence in support of the Bible's authenticity cannot be laid aside on the basis of such weak arguments as the so-called anachronisms.



● From time to time letters are received asking whether a certain circumstance would justify making an exception to the Christian's obligation to tell the truth. In reply to these the following is given:

God's Word commands: "Speak truth each of you with his neighbor." (Eph. 4:25) This command, however, does not mean that we should tell everyone who asks us all he wants to know. We must tell the truth to one who is entitled to know, but if one is not so entitled we may be evasive. But we may not tell a falsehood.

Thus a sister should tell the truth about her age for the purpose of having correct information on her publisher's record card, as that comes under the purview of right to know. Fear to do so is a sign of vanity and immaturity. Nor may this particular information be kept from a prospective mate if that one thinks it important enough to ask. Such a one would also have a right to know. So it would depend

upon the circumstances whether one may be evasive about one's age or not.

The same principle applies in the case of a patient suffering from some incurable disease. He has the right to know the verdict of a medical examination as to his life prospects. He may not be denied the knowledge that is so vital to him—just how precious his days are to him by reason of their being so few. It does not make for trust, understanding and love to deceive such a one, and the one practicing the deception will be continually plagued by a guilty conscience. If the patient is dedicated to Jehovah he certainly will appreciate that his times are in God's hands and therefore will not have a morbid fear of dying but will strengthen himself in the resurrection hope. Some who withheld such information, intending kindness, afterward found that it had been a mistaken kindness.

There is, of course, a right time and manner for divulging such information. The time should be opportune and the manner sympathetic yet not unduly sorrowful. It may not be amiss to observe that one may be hopeful about his condition in spite of such a prognosis, since medical knowledge is not infallible today. Love, wisdom and self-control will enable one to broach the subject properly and the result can be a far greater bond of affection than existed previously. At such a time the resurrection

hope, the blessings already enjoyed as a member of the New World society as well as those that still lie ahead might also be mentioned.

What about telling a prospective mate the unfavorable truth about one's past, such as before one became one of Jehovah's witnesses? If the subject comes up and one is asked, the rule would apply that the truth should be told as the other has a right to know. If one is not asked, then it would be up to one's discretion and conscience. However, if it appeared that the information was vital to the other, and the other did not ask simply because he did not think such a thing likely, then the information should be volunteered, trusting in love and understanding to cover over the matter. If there is to be any disillusionment, certainly it is far better that it take place before marriage than afterward. Here the well-known principle stated by Jesus would apply: "All things, therefore, that you want men to do to you, you also must likewise do to them; this, in fact, is what the Law and the Prophets mean."—Matt. 7:12.

There is one exception, however, that the Christian must ever bear in mind. As a soldier of Christ he is in theocratic warfare and he must exercise added caution when dealing with God's foes. Thus the Scriptures show that for the purpose of protecting the interests of God's cause, it is proper to hide the truth from God's enemies. A Scriptural example of this is that of Rahab the harlot. She hid the Israelite spies because of her faith in their God Jehovah. This she did both by her actions and by her lips. That she had Jehovah's approval in doing

so is seen from James' commendation of her faith.—Josh. 2:4, 5; Jas. 2:25.

This would come under the term "war strategy," as explained in *The Watchtower*, February 1, 1956, and is in keeping with Jesus' counsel that when among wolves we must be as "cautious as serpents." Should circumstances require a Christian to take the witness stand and swear to tell the truth, then, if he speaks at all, he must utter the truth. When faced with the alternative of speaking and betraying his brothers or not speaking and being held in contempt of court, the mature Christian will put the welfare of his brothers ahead of his own, remembering Jesus' words: "No one has greater love than this, that someone should surrender his [life] in behalf of his friends."—Matt. 10:16; John 15:13.

● At Daniel 10:13 Michael is referred to as "one of the chief princes." Are we to understand that there are other chief princes in heaven besides Michael?—M. P., U.S.A.

Yes, there is one other Chief Prince in heaven, Jehovah God himself. He is referred to as the "prince of princes" at Daniel 8:25, AS. See the book *Your Will Be Done on Earth*, pages 218, 219, 316.

However, while Jehovah is the only other Chief Prince in heaven, Satan the Devil also has his chief princes, who today are in the vicinity of the earth, having been cast down with Satan at the conclusion of the war in heaven described in Revelation, chapter 12. See the book *New Heavens and a New Earth*, page 29.

## ANNOUNCEMENTS

### FIELD MINISTRY

As workers together with the Right Shepherd Christ Jesus and his Great Shepherd Jehovah God, we know we must be 'tending our shepherd's flock skillfully.' (Ps. 78:72) Throughout June extend help to "other sheep" by presenting the book *From Paradise Lost to Paradise Regained* and a booklet, on a contribution of 75c.

### PEACE-PURSUING DISTRICT ASSEMBLIES

Have you made your final arrangements to attend one of the Peace-pursuing District As-

semblies this summer? The first ones are scheduled this month! Manchester, England, June 16-19; Nashville, Tennessee, and Fort Worth, Texas, June 23-26; Toronto, Ontario, Canada, June 30-July 3. For details of these or the one nearest you write the publishers of *The Watchtower* at once. Plan to be present for all four days of the assembly.

### "WATCHTOWER" STUDIES FOR THE WEEKS

July 10: Speak from a Good Heart. Page 329.  
July 17: Speech and Salvation. Page 335.

**ORGANIZED  
TO  
ACCOMPLISH  
OUR MINISTRY**

“You, though, keep your senses in all things, suffer evil, do the work of an evangelizer, fully accomplish your ministry.”—2 Tim. 4:5.



and Christ Jesus, who is destined to judge the living and the dead, and by his manifestation and his kingdom, preach the word, be at it urgently in favorable season, in troublesome season, reprove, reprimand, exhort, with all long-suffering and art of teaching." (2 Tim. 4:1, 2) Doing this may take much time and effort, but it is a part of the hard work of the elders that the congregation appreciates and for which they give the elders double honor.—1 Tim. 5:17.

In every situation where guilt is established, a primary endeavor of the overseers is to restore the wrongdoer if he is genuinely repentant, as indicated, for example, by his producing "works that befit repentance." (Acts 26:20) If they are able to help him and he is repentant, their administering reproof, either privately or before onlookers concerned in the case, serves to discipline him and instill a wholesome fear in any such onlookers. (1 Tim. 5:20; compare 2 Samuel 12:13.) Thus, the wrongdoer may be helped to 'make straight paths for his feet' thereafter.—Heb. 12:13.

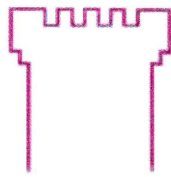
However, the wrongdoer may have become hardened in his course of wrong conduct and fail to respond to the efforts of his brothers to help him. Fruits, or works, befitting repentance may not be in evidence, nor may genuine repentance be apparent at the time of the hearing. What then? In such cases it would be necessary for the responsible overseers to expel the unrepentant wrongdoer from the congregation, thus denying him fellowship with Jehovah's clean congregation. This would be done to protect other members of the congregation from the bad influence of the wrongdoer, safeguarding the moral and spiritual cleanness of the congregation and protecting its

good name. (Compare Deuteronomy 21:20, 21; 22:23, 24.) This is what the apostle Paul did when he became aware of the shameful conduct of a member of the congregation in Corinth. (1 Cor. 5:11-13) Also, this same apostle reports on the disfellowshipping of others who rebelled against the truth in the first century.—1 Tim. 1:20.

#### IF THE DECISION IS TO DISFELLOWSHIP

When a judicial committee handling a case of wrongdoing reaches the conclusion that the unrepentant person should be disfellowshipped, how should they deal with him?

It is appropriate for the committee to speak with him and let him know of their decision to disfellowship him from the congregation. They clearly state the Scriptural reason(s) for the disfellowshipping action. When informing the wrongdoer of their decision, the judicial committee should tell him that if he believes that a serious error in judgment has been made and he wishes to appeal the decision of the committee, he may do so by writing a letter clearly stating his reasons for the appeal. He will be allowed seven days for doing this. If such written appeal is received, the body of elders should arrange for an appeal committee to rehear the case. They may use local elders or elders from nearby congregations; they should be men who are experienced and qualified. The body of elders should request one of the traveling overseers to suggest who might serve on the appeal committee. Every effort should be made to conduct the appeal within one week after the written appeal is received. If there is an appeal, announcement of the disfellowshipping will be held in abeyance. In the meantime the accused person will be restricted from commenting and



# WATCHTOWER

BIBLE AND TRACT SOCIETY OF NEW YORK, INC.

25 COLUMBIA HEIGHTS, BROOKLYN, NEW YORK 11201-2483, U.S.A. PHONE (718) 560-5000

August 1, 1995

TO ALL BODIES OF ELDERS IN THE UNITED STATES

Dear Brothers:

We are pleased to outline below some guidelines that we hope will be helpful to you in protecting victims of child abuse and in dealing with a brother or sister in the congregation who has been guilty of sexually abusing a child.

When a member of the congregation is accused of child molestation, the elders should contact the Society's Legal Department immediately. Many states make it mandatory that elders report an accusation to the proper authorities but other states do not. In those states where such is required, oftentimes the parent, the guardian, or the accused person himself can do the reporting. In this way the confidentiality protected by ecclesiastical privilege is not violated. Still, whether or not the accusation is reported to the authorities, when it is established that a member of the congregation is guilty of child abuse, appropriate steps should be taken in keeping with initial direction from the Society's Legal Department.

Additionally, steps should be taken to protect the child, or other children, from further sexual abuse. Obviously, parents would be keenly interested in taking adequate precautions in this regard. Helpful information along these lines can be reviewed in the January 22, 1985, and October 8, 1993, issues of *Awake!* Loving elders, too, will want to act in a way that demonstrates their protective care, since the word "overseer" carries the thought of one who watches over, a guardian, a shepherd of the flock. (See "*Pay Attention to Yourselves and to All the Flock,*" pages 90 and 93.) Thus, they would want to take steps to protect a child abuse victim when a judicial committee determines that the child molester is repentant and will remain a member of the Christian congregation. The same concern would be shown when a pedophile is disfellowshipped and later cleans up his life and is reinstated.

It would be appropriate to talk very frankly to a former child abuser, strongly cautioning him as to the dangers of hugging or holding children on his lap and that he should never be in the presence of a child without another adult being present. This may prevent putting that one in the way of temptation or unfounded accusation. At the same time, it is good to remember that the Bible, at Matthew 12:31 and 1 Corinthians 6:9-11, shows it is possible for a person to stop his or her wrongful course, repent, and thereafter live in harmony with God's righteous standards. This is true of all wrongdoers—even a former child abuser.

EXHIBIT 14

WTNY000499

TO ALL BODIES OF ELDERS IN THE UNITED STATES

August 1, 1995

Page 2

While it is unscriptural to say that a former child abuser could never enjoy exemplary privileges of service in the congregation, certainly the elders will want to be very cautious, especially when one had repeatedly engaged in this kind of wrongdoing or had been disfellowshipped for such an offense. Before extending privileges, therefore, it is necessary that one would meet the qualification of having a fine testimony from individuals inside and outside the congregation. This means that he must have lived down the reproach which resulted from his wrongdoing. Generally, it will take a considerable number of years to achieve such irreprehensibility depending on the notoriety involved. So it would be up to the elders to determine whether such a one is extended privileges, taking into account all factors in each individual case. (1 Tim. 3:7) At any rate, this should never be done hastily. Considerable time should always pass before a former child abuser is used, if ever.

What if a former child abuser moves to another congregation? The Congregation's Publisher Record card(s) for that person should be sent to the new congregation, along with a letter of introduction. If he is under judicial restrictions, the committee in his former congregation should clearly and discreetly inform the elders in the new congregation about the problem, outlining the counsel given and the restrictions imposed and pointing out what they have been doing to monitor and assist him. Even if years have passed and the individual is no longer restricted but there is still some concern (as outlined in the preceding paragraph), the elders in the new congregation should be informed.

It is hoped that the above direction will help you brothers in handling matters in the congregation so as to protect victims and potential victims from child abuse, and at the same time, balance justice with mercy. With this letter we send our warm Christian love and greetings.

Your brothers,

*Watchtower B. & F. Society*  
OF NEW YORK, INC.

WTNY000406

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

N.D.,

Plaintiff,

vs.

MAKAHA, HAWAII CONGREGATION OF  
JEHOVAH'S WITNESSES, a Hawaii non-profit  
unincorporated religious organization, a.k.a.  
MAKAHA CONGREGATION OF  
JEHOVAH'S WITNESSES and KINGDOM  
HALL, MAKAHA CONGREGATION OF  
JEHOVAH'S WITNESSES; WATCHTOWER  
BIBLE AND TRACT SOCIETY OF NEW  
YORK, INC., a New York corporation;  
KENNETH L. APANA, Individually; and Does  
1 through 100, inclusive,

Defendants.

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MAKAHA, HAWAII CONGREGATION OF  
JEHOVAH'S WITNESSES, a Hawaii non-profit  
unincorporated religious organization, a.k.a.  
MAKAHA CONGREGATION OF  
JEHOVAH'S WITNESSES and KINGDOM  
HALL, MAKAHA CONGREGATION OF  
JEHOVAH'S WITNESSES; and  
WATCHTOWER BIBLE AND TRACT  
SOCIETY OF NEW YORK, INC., a New York  
corporation,

Crossclaimants,

vs.

KENNETH L. APANA, Individually,

Crossclaim Defendant.

CIVIL NO. 1CCV-20-0000390  
(Non-Motor Vehicle Tort)

**CERTIFICATE OF SERVICE**

**CERTIFICATE OF SERVICE**

I hereby certify that, on the date below, a true and correct copy of the foregoing document was duly served on the following persons electronically through the Judiciary Electronic Filing and Service System (JEFS):

WILLIAM S. HUNT, ESQ.  
JENNY NAKAMOTO, ESQ.

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and

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Email: [jmtaylor@jw.org](mailto:jmtaylor@jw.org)

Attorneys for Defendants/Crossclaimants  
MAKAHA CONGREGATION OF JEHOVAH'S  
WITNESSES, HAWAII; and WATCHTOWER BIBLE  
AND TRACT SOCIETY OF NEW YORK, INC.

I further certify that, on the date below, a true and correct copy of the foregoing document was duly served on the following person by depositing same in the U.S. Mail, postage prepaid, addressed as follows:

KENNETH APANA  
P. O. Box 331  
Kailua-Kona, HI 96745

*Pro Se* Defendant/Crossclaim Defendant

DATED: Honolulu, Hawai'i. January 14, 2022.

\_\_\_\_\_  
*/s/ Matthew C. Winter*  
MARK S. DAVIS  
LORETTA A. SHEEHAN  
MATTHEW C. WINTER  
Attorneys for Plaintiff