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MAKAHA CONGREGATION OF JEHOVAH'S
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AND TRACT SOCIETY OF NEW YORK, INC.

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FIRST CIRCUIT
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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
STATE OF HAWAII

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 DEO
(OTHER NON-VEHICLE TORT)

**ORDER DENYING PLAINTIFF'S
RULE 37 MOTION TO HOLD THE
DEFENDANTS IN CONTEMPT FOR
FAILURE TO COMPLY WITH THE
COURT'S ORDER AND FOR THE
IMPOSITION OF SANCTIONS
INCLUDING THE ENTRY OF
JUDGMENT ON THE ISSUE OF
LIABILITY PURSUANT TO
RULE 37(b)(2)(B) AND FOR THE
ADDITIONAL SANCTION OF
REVOCATION OF PRO HAC VICE
STATUS OF JOEL TAYLOR FILED
APRIL 5, 2022 [DOC. 333]**

Hearing:

Date: April 26, 2022
Time: 9:00 a.m. (via Zoom)
Judge: Honorable Dean E. Ochiai
Trial: September 6, 2022
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.

ORDER DENYING PLAINTIFF'S RULE 37 MOTION TO HOLD THE DEFENDANTS IN CONTEMPT FOR FAILURE TO COMPLY WITH THE COURT'S ORDER AND FOR THE IMPOSITION OF SANCTIONS INCLUDING THE ENTRY OF JUDGMENT ON THE ISSUE OF LIABILITY PURSUANT TO RULE 37(b)(2)(B) AND FOR THE ADDITIONAL SANCTION OF REVOCATION OF PRO HAC VICE STATUS OF JOEL TAYLOR FILED APRIL 5, 2022 [DOC. 333]

Plaintiff's Rule 37 Motion to Hold the Defendants in Contempt for Failure to Comply with the Court's Order and for the Imposition of Sanctions Including the Entry of Judgment on the Issue of Liability Pursuant to Rule 37(B)(2)(B) and for the Additional Sanction of Revocation of *Pro Hac Vice* Status of Joel Taylor filed April 5, 2022 [Doc. 333] ("Motion") came on for hearing before the Honorable Dean E. Ochiai on April 26, 2022 at 9:00 a.m.

Mark S. Davis, Matthew C. Winter, Thomas M. Otake, Hannah H. Matsunaga, James S. Rogers, and Deborah Silberman appeared for Plaintiff via the Zoom virtual meeting platform. William S. Hunt, Joel M. Taylor, and Jenny J.N.A. Nakamoto appeared for Defendants/Crossclaimants Makaha Congregation of Jehovah's

Witnesses, Hawaii (“Makaha”) and Watchtower Bible and Tract Society of New York, Inc. (“WTNY”, together with Makaha, the “Religious Defendants”) via the Zoom virtual meeting platform. Defendant Kenneth L. Apana (“Defendant Apana”) *pro se* was also present via the Zoom virtual meeting platform.

The Court, having reviewed the Motion and opposition memorandum filed by the Religious Defendants, the records and files in this matter, and having heard oral argument of counsel, the Court having found good cause, and thereby being fully advised;

IT IS HEREBY ORDERED that:

1. Plaintiff’s Rule 37 Motion to Hold the Defendants in Contempt for Failure to Comply with the Court’s Order and for the Imposition of Sanctions Including the Entry of Judgment on the Issue of Liability Pursuant to Rule 37(B)(2)(B) and for the Additional Sanction of Revocation of *Pro Hac Vice* Status of Joel Taylor filed April 5, 2022 [Doc. 333] is DENIED.
2. Joel M. Taylor’s *pro hac vice* status in the State of Hawai‘i shall remain intact.
3. The attorney-client privilege redaction on the document identified as bates number WTNY-C000012 shall stand.
4. The Court does not recognize the existence of an attorney-client relationship between Defendant Apana and counsel for Watchtower. The attorney-client privilege would not protect communications, if any, between Defendant Apana and counsel for Watchtower.

<<<SIGNATURES ON FOLLOWING PAGE>>>

DATED: Honolulu, Hawai'i, May 23, 2022.

/s/ Dean E. Ochiai
JUDGE OF THE ABOVE-ENTITLED COURT



APPROVED AS TO FORM:

/s/ Matthew C. Winter
MARK S. DAVIS
MATTHEW C. WINTER
THOMAS M. OTAKE
HANNAH H. MATSUNAGA
JAMES S. ROGERS (*Pro Hac Vice*)
DEBORAH SILBERMAN (*Pro Hac Vice*)
Attorneys for Plaintiff


KENNETH L. APANA

Pro Se Defendant/Crossclaim Defendant

N.D. 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, et al.; Civil No. 1CCV-20-0000390 DEO; Circuit Court of the First Circuit, State of Hawai'i; **ORDER DENYING PLAINTIFF'S RULE 37 MOTION TO HOLD THE DEFENDANTS IN CONTEMPT FOR FAILURE TO COMPLY WITH THE COURT'S ORDER AND FOR THE IMPOSITION OF SANCTIONS INCLUDING THE ENTRY OF JUDGMENT ON THE ISSUE OF LIABILITY PURSUANT TO RULE 37(b)(2)(B) AND FOR THE ADDITIONAL SANCTION OF REVOCATION OF *PRO HAC VICE* STATUS OF JOEL TAYLOR FILED APRIL 5, 2022 [DOC. 333]**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date the foregoing document was served on the following parties listed below by electronic service through the JEFS E-Filing System:

| | |
|--------------------------|---------------------------|
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The undersigned further certifies that on this date the foregoing document was served on the following parties listed below by U.S. mail, postage prepaid:

KENNETH L. APANA
P.O. BOX 331
KONA, HI 96745

Pro Se Defendant/Crossclaim Defendant

DATED: Honolulu, Hawai`i, May 17, 2022.

 /s/ Jenny J.N.A. Nakamoto
WILLIAM S. HUNT
JENNY J.N.A. NAKAMOTO
Attorneys for Defendants/Crossclaimants
MAKAHA CONGREGATION OF
JEHOVAH’S WITNESSES, HAWAII and
WATCHTOWER BIBLE AND TRACT
SOCIETY OF NEW YORK, INC.