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

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| <p>TRACY CAEKAERT, and CAMILLIA MAPLEY,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">vs.</p> <p>WATCHTOWER BIBLE AND TRACT SOCIETY OF NEW YORK, INC., WATCH TOWER BIBLE AND TRACT SOCIETY OF PENNSYLVANIA, and BRUCE MAPLEY SR.,</p> <p style="text-align: center;">Defendants.</p> | <p>) Cause No. CV 20-52-BLG-SPW</p> <p>)</p> <p>) DEFENDANT WATCHTOWER</p> <p>) BIBLE AND TRACT SOCIETY OF</p> <p>) NEW YORK, INC.’S RESPONSE</p> <p>) TO PLAINTIFFS’ MOTION TO</p> <p>) DISMISS DEFENDANTS’</p> <p>) CROSSCLAIMS AGAINST BRUCE</p> <p>) MAPLEY, SR (DOC. 343)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> |
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COMES NOW, Defendant Watchtower Bible and Tract Society of New York, Inc. (“WTNY”), and submits its Response to Plaintiffs’ Motion to Dismiss Defendants’ Crossclaims against Bruce Mapley, Sr. (Doc. 343).

This Motion is nothing more than Plaintiffs running to the Court for relief over an irrelevant issue that can and will be cleared up administratively by the parties in the due course of litigation. WTNY does not dispute that its crossclaim against Bruce Mapley, Sr., was extinguished by operation of law consistent with the reasoning in *Durden v. Hydro Flame Corp.*, 1999 MT 186, 295 Mont. 318, 893 P.2d 943, at the time Plaintiffs dismissed Mr. Mapley from this litigation, regardless of whether Plaintiffs settled with Mr. Mapley or otherwise released him from liability. WTNY is aware of no authority, and Plaintiffs have provided none, requiring it to voluntarily dismiss its Crossclaim that was validly pled.

WTNY already moved to amend its Answer to assert the settled party defense under Mont. Code Ann. § 27-1-703(6) (Doc. 177), which is the relief it is entitled to now that Plaintiffs either settled with Mr. Mapley or otherwise released him from liability. Co-Defendant Watchtower Bible and Tract Society of Pennsylvania (hereinafter “WTPA”) moved for the same relief (Doc. 178). The Court agreed with WTNY in its Order dated April 14, 2023 (Doc. 220), that Plaintiffs’ dismissal of Mr. Mapley was akin to a release of liability since Plaintiffs’ claims against Mr. Mapley were abandoned. WTNY and WTPA followed the Court’s Order and the procedural

requirements of the statute when they amended their Answers on April 26, 2023 (Doc. 225), and April 27, 2023 (Doc. 226), respectively, to assert the settled party defense.

To be clear, WTNY did not, nor has it ever, disputed that its Crossclaim as to Mr. Mapley is extinguished by operation of law so long as it is entitled to the settled party defense. Plaintiffs now concede WTNY is so entitled. Assuming plaintiffs even have standing to move to dismiss a claim that is not asserted against them but instead is asserted against Mr. Mapley, Plaintiffs' Motion serves no functional purpose, except to distract from the merits of this case.

Plaintiffs' motion also requests relief that directly contradicts the settled party defense, which was asserted by WTNY and WTPA with Court approval. Part of plaintiffs' request for relief is an order from the Court that precludes Mr. Mapley from participating in this case. "As a result, Plaintiffs now move for an order expressly dismissing the alleged crossclaims clarifying that Mapley is no longer a party to the case and has no right to participate." (Doc. 344, p. 2). Under Mont. Code Ann. § 27-1-703(6), when a defendant asserts the settled party defense as WTNY and WTPA have done against Mr. Mapley, Mr. Mapley is entitled to "an opportunity to intervene in the action to defend against claims affirmatively asserted, including the opportunity to be represented by an attorney, present a defense, participate in discovery, cross-examine witnesses, and appear as a witness of either party."

Plaintiffs' request that the Court rule that Mr. Mapley has no right to participate in this case is directly contrary to that statute and should not be granted.

DATED this 25th day of April, 2024.

By: /s/ Brett C. Jensen
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By: /s/ Joel M. Taylor
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CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1(d)(2)(E), the undersigned hereby certifies this brief complies with L.R. 7.1(d)(2)(A). According to the word-processing unit used to prepare this brief, the word count is 532 words excluding caption, table of contents and authorities, exhibit index, and certificates of service and compliance.

DATED this 25th day of April, 2024.

By: /s/ Brett C. Jensen
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CERTIFICATE OF SERVICE

I hereby certify that, on April 25, 2024, a copy of the foregoing was served on the following person(s):

1. U.S. District Court, Billings Division
2. Robert L. Stepan/Ryan R. Shaffer/James C. Murnion
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by the following means:

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|-----------------|---------------|-----------------|-----------------------------|
| <u>1-4</u> | CM/ECF | <u> </u> | Fax |
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