

Kathleen L. DeSoto
Tessa A. Keller
GARLINGTON, LOHN & ROBINSON, PLLP
350 Ryman Street • P. O. Box 7909
Missoula, MT 59807-7909
Telephone (406) 523-2500
Telefax (406) 523-2595
kldesoto@garlington.com
takeller@garlington.com

FILED Aug. 21 2018
Candace Fisher
SANDERS COUNTY CLERK OF DISTRICT COURT
BY [Signature]
DEPUTY

Joel M. Taylor (*Pro Hac Vice*)
Associate General Counsel
Watchtower Bible and Tract Society of New York, Inc.
100 Watchtower Drive
Patterson, NY 12563
Telephone (845) 306-1000
jmtaylor@jw.org

Attorneys for Defendants/Third-Party Plaintiffs Watchtower Bible and Tract Society of New York, Inc., Christian Congregation of Jehovah's Witnesses, and Thompson Falls Congregation of Jehovah's Witnesses

MONTANA TWENTIETH JUDICIAL DISTRICT COURT, SANDERS COUNTY

ALEXIS NUNEZ and HOLLY
McGOWAN,

Plaintiffs,

v.

WATCHTOWER BIBLE AND TRACT
SOCIETY OF NEW YORK, INC.;
WATCHTOWER BIBLE AND TRACT
SOCIETY OF PENNSYLVANIA, INC.;
CHRISTIAN CONGREGATION OF
JEHOVAH'S WITNESSES and
THOMPSON FALLS CONGREGATION
OF JEHOVAH'S WITNESSES,

Defendants.

Hon. James A. Manley
Cause No. DV 16-84

RESPONSE TO PLAINTIFFS'
MOTION TO ENFORCE
STIPULATION AND CHALLENGE
TO CONFIDENTIAL DESIGNATION,
BY DEFENDANTS WATCHTOWER
BIBLE AND TRACT SOCIETY OF
NEW YORK, INC. AND CHRISTIAN
CONGREGATION OF JEHOVAH'S
WITNESSES

WATCHTOWER BIBLE AND TRACT
SOCIETY OF NEW YORK, INC.;
CHRISTIAN CONGREGATION OF
JEHOVAH'S WITNESSES and
THOMPSON FALLS CONGREGATION
OF JEHOVAH'S WITNESSES,

Third-Party Plaintiffs,

v.

MAXIMO NAVA REYES, MARCO
NUNEZ, IVY McGOWAN-
CASTLEBERRY,

Third-Party Defendants.

Defendants/Third-Party Plaintiffs Watchtower Bible and Tract Society of New York, Inc. ("Watchtower NY"), Christian Congregation of Jehovah's Witnesses ("CCJW") and the Thompson Falls Congregation of Jehovah's Witnesses ("Thompson Falls Congregation") (collectively "Religious Defendants") respectfully provide their Response to Plaintiffs' Motion to Enforce Stipulation and Challenge to Confidential Designation.

Plaintiffs' counsel wants to un-designate some documents that the Defendants produced during discovery pursuant to an order protecting the confidentiality of those documents, to give them to other lawyers, the press, and the public.

The Court's Stipulated Protective Order was entered November 14, 2017 (the "Protective Order"). It requires parties who receive documents produced subject to the Protective Order to restrict use of those documents to this litigation.

Request for Production No. 9 sought all affidavits, declarations, [and] stipulations submitted by Watchtower Defendants in lawsuits to which [they] were a party. The request said: "To the extent Defendants consider documents responsive to this request as confidential, they may be produced under the protective order in this case."

On June 3, 2018, the Court specifically ordered that the materials responsive to Request for Production No. 9 be produced subject to the Protective Order. The responsive documents were thereafter marked as confidential and produced.

After production of the documents, Plaintiffs' counsel and defense counsel did discuss removal of the confidential mark on the documents produced pursuant to Request for Production No. 9, but they did so without the benefit of having the Protective Order in front of them for review. However, after review of the Protective Order, in particular paragraph 6, which says:

Materials subject to this Order may not be used in any other claim or case, and may not be disseminated after final resolution of this action. The parties agree to maintain the confidentiality of all materials subject to this Order upon termination of this action by settlement and/or final judgment **unless subject to court order superseding this Order.** (Emphasis added.)

Defense counsel promptly informed Plaintiffs' counsel of their express lack of authority to alter the terms of the Protective Order.

To the extent Plaintiffs' counsel believes that the confidential designation will inhibit his ability to zealously represent these Plaintiffs; the Defendants remain willing to work with the Court to address those concerns. What the Defendants do not consent to is Plaintiffs' counsel's express intent to use these documents in connection with matters unrelated to these Plaintiffs.

The names and details about abuse contained in the documents that Plaintiffs' counsel now wants made public are matters that deserve protection under Article II, section 10 of the Montana Constitution: "The right of individual privacy is essential to the well-being of a free society and shall not be infringed without the showing of a compelling state interest." The matters and persons discussed in the affidavits have no bearing on the issues present in this case, and there is no compelling interest in making them public.

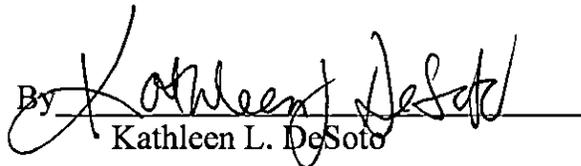
CONCLUSION

For the reasons expressed herein, Defendants respectfully request that the Court deny Plaintiffs' motion.

DATED this 20th day of August, 2018.

Attorneys for Religious Defendants/Third-Party
Plaintiffs:

GARLINGTON, LOHN & ROBINSON, PLLP

By 
Kathleen L. DeSoto

CERTIFICATE OF SERVICE

I hereby certify that on August 20, 2018, a copy of the foregoing document was served on the following persons by the following means:

_____	Hand Delivery
<u>3, 5</u>	Mail
_____	Overnight Delivery Service
_____	Fax (include fax number in address)
<u>1-2, 4</u>	E-Mail (include email in address)

1. James P. Molloy
Gallik, Bremer & Molloy, P.C.
P.O. Box 70
Bozeman, MT 59771-0070
jim@galliklawfirm.com
Corrie@galliklawfirm.com
Attorneys for Plaintiffs

2. D. Neil Smith
Nix, Patterson & Roach, LLP
1845 Woodall Rodgers Fwy., Ste. 1050
Dallas, TX 75201
dneilsmith@me.com

Ross Leonoudakis
Nix, Patterson & Roach, LLP
3600 N. Capital of Texas Hwy, Ste. B350
Austin, TX 78746
rossl@nixlaw.com
Attorneys for Plaintiffs

3. **PERSONAL & CONFIDENTIAL**
Maximo Reyes
P.O. Box 566
Plains, MT 59859

4. Matthew A. McKeon
McKeon Law Firm, PLLC
257 W. Front St., Ste. A
Missoula, MT 59802
matthew@mckeonlawoffice.com
Attorneys for Third-Party Defendant Ivy McGowan-Castleberry

5. **COURTESY COPY TO:**
Hon. James A. Manley
20th Judicial District Court
106 Fourth Ave. E.
Polson, MT 59860