



## **MOTION**

Pursuant to Rule 37 of the Montana Rules of Civil Procedure, Plaintiffs hereby move the Court for an order compelling Defendants to produce documents and testimony related to the Jehovah's Witnesses investigation into reports of child sexual abuse against Max Nava Reyes.

This motion is made on the grounds that neither the clergy-penitent privilege nor the First Amendment apply to related communications between the alleged abusers and the Judicial Committee or to communications between the Elders of the local congregation and Elders in the Service Department at the Jehovah's Witness headquarters, as addressed in the following Memorandum in Support, and the records and files in this action. A proposed Order accompanies this Motion.

## **MEMORANDUM**

### **I. INTRODUCTION**

Plaintiffs seek an order compelling the Watchtower and Jehovah's Witnesses Defendants to respond fully to Plaintiffs' discovery requests by producing unredacted copies of all relevant and discoverable documents. Additionally, Plaintiffs seek an order compelling Defendants' witnesses to testify fully to the circumstances giving rise to this lawsuit.<sup>1</sup>

This case results from the sexual molestation of the Plaintiffs by Maximo Nava Reyes ("Reyes") while Plaintiffs were young girls. Reyes is a member of the Thompson Falls Congregation of Jehovah's Witnesses in Thompson Falls, Montana and the step-father to Plaintiff Holly McGowan and the step-grandfather to Plaintiff Alexis Nunez. In March 2004, Plaintiff McGowan and her younger brother Peter reported their abuse to the Elders at Thompson

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<sup>1</sup> A description of all documents and testimony in dispute is attached as Appendix A this Motion.

Falls Congregation.<sup>2</sup> Following an investigation by the Elders, Reyes was disfellowshipped (temporarily expelled from the congregation) on April 1, 2004. Fourteen months later, on June 16, 2005, Reyes was reinstated to the congregation. During the time he was disfellowshipped and into his subsequent reinstatement, Reyes continued to sexually abuse Plaintiff Alexis Nunez.

Plaintiffs have requested documents from that investigation. These documents exist because an adversarial proceeding was taken against the abuser. The documents and testimony at issue are relevant to the Defendants' notice of, and investigation into, allegations of child abuse, their findings, and the disfellowship and reinstatement of the perpetrator Reyes into the Thompson Falls congregation where he is still a member today. Further, this information is relevant to the policies, practices, and procedures of the Jehovah's Witnesses concerning the protection of minors, including Plaintiffs, from sexual abuse and the corporate policy of secrecy surrounding childhood sexual abuse. Information showing what the Watchtower Defendants knew before Plaintiffs were molested is very important evidence in this case.

However, Defendants refuse to produce the documents, and Defendants' witnesses have refused to respond to deposition questions concerning these matters, claiming that they are all protected by the clergy-penitent privilege and First Amendment. Defendants' argument is an absurd twisting of facts and law used to hide relevant documents and protect the church. This is not a situation in which the perpetrator went to his clergy member to confess and seek spiritual guidance. Rather, this is a situation in which Plaintiff McGowan notified church elders of sexual abuse perpetrated upon her and her brother, seeking help to protect herself and other potential

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<sup>2</sup> Defendants deny Plaintiff McGowan's allegation that she first reported her abuse to the Elders in 1998. However, Defendants do not dispute the March 2004 report that is the subject of this motion.

victims. Her church failed her, and now the church is withholding the documents created as a result of her report.

Defendants have a history of protecting pedophiles within the church, even in violation of Court orders.<sup>3</sup> The Jehovah's Witnesses policies and practices systematically shield sexual predators from authorities by instructing leaders to keep sexual abuse secret from law enforcement while deterring victims from contacting the authorities themselves.<sup>4</sup>

As discussed below, the documents at issue are not protected by the clergy penitent privilege because they 1) are not confidential; and 2) they were not made for the purpose of receiving religious guidance. Instead, these communications were made for the secular purpose of aiding an investigation and were widely disseminated throughout the church organization. Nor are they protected by the First Amendment. Plaintiffs respectfully request that the Court grant their motion.

## II. BACKGROUND

### A. Communications to Jehovah's Witness Elders Related to Child Molestation are Widely Disseminated.

Jehovah's Witnesses policies and practices for responding to child molestation allegations are adversarial in nature. The policies not only allow but require widespread dissemination of information. The Elders of the local congregations work together with the

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<sup>3</sup> In *Padron v. Watchtower Bible & Tract Society of New York, Inc.*, 16 Cal. App. 5th 1246) plaintiff brought an action against the Jehovah's Witnesses alleging that plaintiff was sexually molested as a child, Watchtower defendant informed the trial court that it would not comply with its discovery order, which required defendant to produce documents responsive to a specific request related to the identity of known child molesters. The trial court awarded plaintiff sanctions in the amount of \$4,000 per day for defendant's noncompliance.

<sup>4</sup> Exh. A, July 1, 1989 Letter to All Bodies of Elders explaining the importance of silence with respect to legal issues and that "[I]mproper use of the tongue by an elder can result in serious legal problems for the individual, the congregation, and even the [Watchtower] Society."

Service Department of the Jehovah's Witness Headquarters in New York to investigate allegations of child abuse.<sup>5</sup> Elders are instructed that upon receiving a complaint of childhood sexual abuse, they are to immediately contact the Watchtower Legal Department in New York. After the Elders receive instruction from the Legal Department, they consult with the Watchtower Service Department for further direction. After contacting Watchtower headquarters, the Elders have complete discretion to contact the authorities to report the abuse.

After these initial consultations with the Watchtower headquarters, the Elders investigate the allegations pursuant to the guidelines promulgated in their Jehovah's Witness Elder manuals to determine if the accusations have merit. Based on their findings, the Elders can choose whether to form a Judicial Committee. A Judicial Committee is a committee of multiple Elders that interview the victim, the perpetrator, witnesses, family members, and anyone else with relevant knowledge, to ultimately determine what punishment, if any, the accused deserves. Punishment can range from reprimand or "reproof" to disfellowship. Or, they may decide not to believe the child who is seeking help from the abuse. And, in doing so, no action is taken.

If the accused is disfellowshipped, the Elders must complete an "S-77 Form" titled "Notification of Disfellowshipping Or Disassociation" and send it to the Service Department. This report contains the facts surrounding the disfellowshipped member, a "detailed summation of the case, explaining exactly what took place" along with other administrative information. This along with any notes and other relevant documents are put in a "special blue envelope" and

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<sup>5</sup> The various activities of the United States Branch of Jehovah's Witnesses are carried out through corporations or departments. Watchtower Bible & Tract Society of New York is one of the corporations and the Service Department is one of the departments. The service department communicates with various Jehovah's Witnesses congregations and bodies of elders in the United States. Starting in March 2001, after the formation of Defendant Christian Congregation of Jehovah's Witnesses ("CCJW"), the Service Department began operating through CCJW.

sent to the Service Department. The Service Department determines if more information is needed and can request additional information from the Elders related to the case to which the Elders provide in letter form.

It is also the Jehovah's Witnesses policy to notify other congregations when a known child molester moves from one congregation to another. The secretary of the congregation will write a letter of introduction to the Elders of the new congregation and will disclose if the congregant has a history of sexually abusing children. Further, a disfellowshipped member can apply for reinstatement. Reinstatement requires a letter or application for reinstatement followed by a meeting with the Elders. The Elders considering reinstatement may be different than those Elders that handled the investigation that led to the disfellowship. Nevertheless, these Elders would be informed of all the details of the molestation and the original Judicial Committee that resulted in disfellowship. Finally, in March of 1997, the Service Department sent a letter to all bodies of Elders requiring that local congregations provide detailed reports concerning known child molesters to the headquarters. (Exh. B). This information is kept in a database at the Watchtower Headquarters in New York.

Thus, because information related to allegations and investigations into childhood sexual abuse is disseminated throughout the Jehovah's Witnesses organization, it is not confidential. Furthermore, because these investigations are adversarial in nature and not voluntary, the communications are not confessions and were not made for the purpose of receiving religious guidance.

**B. Communications Related to Plaintiffs' Sexual Abuse Were Widely Disseminated.**

It is undisputed that Plaintiff McGowan reported her abuse to the Elders at Thompson Falls Congregation in March of 2004. (Exh. C, March 19, 2004 Letter from Holly McGowan to

Elders at Thompson Falls). Immediately thereafter, the Thompson Falls Elders contacted both the Legal Department and the Service Department at Watchtower Headquarters in New York and informed them of the report. (Exh. D, September 13, 2017, Deposition of Don Herberger at 188:21-189:17; *see also* Exh. E, February 3, 1993 and August 1, 1995 Letters to All Bodies of Elders in the United States). Days later, on March 22, 2004, the Elders formed a Judicial Committee to further investigate Plaintiff McGowan's accusations.

The Elders called in Max Reyes, among others, for questioning and Reyes was ultimately disfellowshipped on April 1, 2004. (Exh. F, S-77 Notification of Disfellowshipping Form). Next, the Elders sent the S-77 form, along with their handwritten notes, in the "special blue envelope" to the Service Department in New York. (Exh. G, Glenn Wilson's Handwritten Notes; Exh. H, September 14, 2017 Deposition of Glenn Wilson at p. 70:12-71:6; Exh. F (instructions on reverse side)). After reviewing these documents, the Service Department responded in an April 12, 2004 letter requesting additional information from the Elders. (Exh. I, April 12, 2004 Letter from Defendant CCJW to Elders of Thompson Falls). The Elders worked together to gather that information, without any input from Max Reyes, and responded in an April 21, 2004 letter to the Service Department. (Exh. J, April 21, 2004 Handwritten response to Exh. I from Thompson Falls to Defendant CCJW; Exh. H, Wilson Depo at 70:12-73:22).

One year later, Max Reyes wrote a letter to the Elders of Thompson Falls asking to be reinstated to the congregation. (Exh. D, Herberger Depo at 155:25-157:22). After meeting with the Elders in person, Max was reinstated to the Thompson Falls congregation on June 16, 2005. (Exh. F, S-77 form; Exh. D, Herberger Depo at 155:25 – 157:22). This information was also shared with the Service Department. To this day, Max Reyes is still a member of the Thompson Falls Congregation.

The evidence shows that throughout the investigation and ultimate reinstatement, Elders at the Thompson Falls church communicated their findings continuously with the Service Department -- often at the direction and request of the Service Department. This is further evidenced by the fact that the CCJW Defendant in this case has its own file on Max Reyes and has produced its own copies of many of the redacted documents in dispute.

Defendants attempt to use the very information they claim is privileged as both a sword and shield by trying to hide the information from scrutiny while affirmatively relying on it to support its claim or defenses in this case. Here, Defendants claim that all information related to the investigations of Max Reyes is privileged and that Reyes has not consented to its disclosure. Nevertheless, Defendants allege in their third-party complaint against Max Reyes that “Max Reyes confessed to improper conduct with Holly McGowan’s brother but denied abusing Holly McGowan.” (Exh. K, Defs. Answer and Third-Party Complaint at 11, ¶ 8; Exh. D, Herberger Depo at 130:24 – 131:8). The clergy-penitent privilege requires that the clergy have consent of the penitent before disclosing otherwise privilege information. *See* Mont. Code. Ann. § 16-1-804. Thus, under Defendants’ interpretation of the privilege, either (1) Max Reyes has consented to the disclosure of his communications and Defendants are improperly withholding this information, or (2) Defendants have willfully violated the privilege themselves to point the finger at Max Reyes. This is just further evidence that the Defendants do not treat this information as privileged, but simply use it in whatever way—sword or shield— that best serves their own interests.

### III. APPLICABLE LAW

Under Montana law, the clergy-penitent privilege protects communications ““made in confidence”” and ““for the purpose of seeking or receiving religious guidance, admonishment, or

advice and that the cleric was acting in his or her religious role pursuant to the practice and discipline of the church.” *State v. MacKinnon*, 1998 MT 78, ¶ 23, 288 Mont. 329, 957 P.2d 23, 28 (citation omitted). The Montana Supreme Court has stated that testimonial privileges must be strictly construed because they contravene the fundamental principle that the public has the right to “everyone’s evidence.” *State v. Gooding*, 1999 MT 249, 296 Mont. 234, 989 P.2d 304, 307, following *State v. MacKinnon, supra* (citing *Trammel v. United States*, 445 U.S. 40, 50, (1980)).

The Montana clergy-penitent privilege is codified at Mont. Code. Ann. § 16-1-804 and provides: “A member of the clergy or priest may not, without the consent of the person making the confession, be examined as to any confession made to the individual in the individual’s professional character in the course of discipline enjoined by the church to which the individual belongs.” Thus, the privilege extends to communications with clergy, not with other employees, agents, or officials of the church who are not clergy. *In re Roman Catholic Archbishop of Portland*, 335 B.R. 815, 829 (Bankr. D. Or. 2005) (interpreting similar statutory language in Or. Rev. Stat. Ann. § 40.260 Rule 506(2)).

#### IV. ARGUMENT

Watchtower seeks to expand the clergy-penitent privilege to cover virtually all communication to which a Jehovah’s Witness was a party. With respect to child abuse investigations specifically, Watchtower even contends that the clergy-penitent privilege attaches the moment a *victim*<sup>6</sup> makes an allegation of sexual abuse to Elders and that the privilege cloaks all subsequent communications related to any report, investigation, judicial committee, and

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<sup>6</sup> Defendants initially withheld Plaintiff McGowan’s letter to the Elders (Exh. C) under the clergy-penitent privilege and only produced it after she consented. (Exh. L, Defendants’ answer to Interrogatory No. 4). Nevertheless, Defendants confirmed at deposition that they consider the victim report privileged and protected from disclosure under the clergy-penitent privilege. (Exh. H, Wilson Depo at 40:21-41:23).

reinstatement that follows -- no matter whom the communication is with or between or with whom it was subsequently shared.

Watchtower cannot meet their burden to show that these communications are privileged. As described above, Jehovah's Witnesses own policies and practices allow for, and often require, widespread dissemination of information related to these investigations. Furthermore, as discussed below, these communications are not "confessions" and were not made for the purpose of receiving religious guidance.

**A. Watchtower Cannot Show That the Documents and Testimony Related to Investigations of Childhood Sexual Abuse Are Protected by The Clergy Penitent Privilege.**

The documents and testimony at issue are related to the reports, proof, and investigation into the allegations of child abuse against Max Reyes. The disputed information is in two categories: 1) Communications between Max Reyes and the Judicial Committee; and 2) Communications between the Judicial Committee and the Service Department. Defendants contend that all the communications are covered by the clergy-penitent privilege because they are "part of the process." However, as shown below, because these communications 1) are not confidential; and 2) were not made for the purpose of seeking or receiving religious guidance, admonishment, or advice, Defendants cannot show that they are protected by the clergy-penitent privilege.

**1. Communications between Max Reyes and the Judicial Committee are not protected by the clergy-penitent privilege.**

Defendants are withholding or have redacted documents and testimony related to communications between Max Reyes and the Judicial Committee. Defendants have not, and cannot, meet their burden to show that these communications are protected by the clergy-penitent privilege.

First, these communications are not confidential. As described above, the nature of how Jehovah's Witnesses handle allegations and investigations into child sexual abuse demonstrates just how non-confidential these communications are. Indeed, in many instances, Elders are *required* to disclose information to third parties. (Exh. E, February 3, 1993 and August 1, 1995 Letters to All Bodies of Elders in the United States "If any allegations of such [child] abuse involve accusations against active or inactive members of the Christian Congregation, you are directed to contact the [Service Department] before initiation an investigation of the matter.") Here, the Elders were in regular communication with Service Department, sharing the results of the investigation via phone calls, letters, and reports. That information was then reviewed by members of the Service Department, copied, filed, and followed by additional requests for information. *See Charissa W., et al. v. Watchtower Bible and Tract Society of New York, et al.*, No. 26-22191, Cal. Super. Ct. Sept. 29, 2005 (ruling on submitted motion to compel production of documents that the penitential communication privilege "does not apply to communications between the alleged abusers and the Judicial Committee") (writ denied) (Order attached as Exh. O). The trial court added:

The evidence presented by both sides established that communications with the Judicial Committee do not fall within the scope of the privilege. First, it is clear that the Judicial Committee's purpose is to investigate sins for which disfellowship is a penalty. This is established not only by the deposition excerpts provided by plaintiffs, but by Watchtower publication provided by Defendant in connection with the objection to plaintiffs' evidence ("Judicial Action is necessary only if a gross sin has been committed that could lead to disfellowshipping" p.18) Second, the privilege does not apply because the Judicial Committee was under no duty to keep the communications private. In fact, evidence establishes that the Judicial Committee was required to communicate information it obtained regarding potential cases of child molestation to the Watchtower Society Headquarters. *Id.* (emphasis in original)

Second, Defendants cannot show that these communications were made for the purpose of receiving religious guidance. The clergy-penitent privilege stems from the penitent's desire to receive spiritual counsel, not the cleric's desire to give it. *See Trammel v. United States*, 445 U.S. 40, 51 (1980). As discussed above, Judicial Committees are adversarial in nature and the accused is compelled to attend or otherwise face expulsion from the church. (Exh. D, Herberger Depo at 98:3-100:14). Max Reyes did not voluntarily attend these hearings "to receive religious guidance." He was required to appear. Therefore, he was not a penitent and thus the privilege does not apply. *See State v. Laurel Del. Congregation of Jehovah's Witnesses*, No. N14C-05-122 MMJ, 2016 Del. Super. LEXIS 49, at \*10-11 (Super. Ct. 2016) (holding that since the conversation was demanded by the Elders as part of a disciplinary process and not initiated by the perpetrator, perpetrator may not be deemed a penitent).

**2. Communications between the Thompson Falls Elders and the Service Department are not protected by the clergy-penitent privilege.**

The second category of communications the Defendants are withholding relates to communications between the Elders of the Thompson Falls Congregation and the Watchtower Service Department. For many of the same reasons discussed above, Defendants' argument that this information is privileged fails.

As an initial matter, the clergy-penitent privilege does not apply to this information because there is no clergy-penitent relationship between the local congregation and the Service Department. As the title indicates, Mont. Code. 16-1-804 protects "Confessions Made to

Member of Clergy.” None of the subject documents or communications at issue are confessions. Nor were they made to members of the clergy.<sup>7</sup>

Even under the two-pronged analysis, Defendants cannot show that this information is protected for the same reasons discussed above. This information is not kept confidential; it is widely disclosed. Indeed, the very fact that multiple defendants produced their own copies of these documents speaks to how non-confidential these communications are.

Further, these communications were not made for the purpose of receiving religious guidance. Instead, they were created and sent for the secular purpose of aiding an investigation. *See McFarland v. W. Congregation of Jehovah's Witnesses, Lorain, OH, Inc.*, 2016-Ohio-5462, ¶ 27, 60 N.E.3d 39, 50 (Ohio Ct. App.) (confirming trial court’s ruling that clergy-penitent privilege does not apply to letters sent from local Elders to Service Department because letters were not request for spiritual guidance but were sent for the secular purposes of aiding an investigation).

**B. The First Amendment Does Not Preclude Discovery of Matters Related to Childhood Sexual Abuse.**

Defendants also contend that the documents and testimony in dispute are protected by the First Amendment to the U.S. Constitution and its Montana analog, relying on *Serbian Eastern Orthodox Dioceses v. Milivojevich*, 426 U.S. 696 (1976). That case does not involve issues of discovery regarding the sexual abuse of children. Defendants assert only that the discovery “seeks information and documents that are related to the religious beliefs, faith, customs, practices, and internal governance or discipline of Jehovah’s Witnesses’ religion because the

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<sup>7</sup> Defendants even contend in their discovery responses that “Defendants Watchtower and CCJW are not members of the clergy for reporting purposes.” (Exh. L, Defendants’ Answer to Interrogatory Nos. 6, 8; ).

First Amendment to the United States Constitution and its Montana analog bar civil courts from evaluating or interpreting such religious evidence in order to reach a decision.” This claim alone does not assert a cognizable privilege under the circumstances. *See United Methodist Church v. Superior Court*, 439 U.S. 1369, 1373 (1978) (principle of church autonomy not applicable to purely secular disputes between third parties and a particular defendant, albeit a religious affiliated organization, in which fraud, breach of contract, and *statutory violations* are alleged)(emphasis added); *see also Schreckengust v. Florence Baptist Church*, 1998 Mont. Dist. LEXIS 770, \*14-19.

The issues presented by this motion do not require this Court to interfere in theological matters. The sole issue is whether the Defendants may refrain from producing documents. Montana case law has clearly established that a Montana court has jurisdiction to determine tort issues involving a church. *Davis v. Church of Jesus Christ of Latter Day Saints*, 796 P.2d 181 (1990) (overruled on other grounds). Courts in other jurisdictions agree. *See, e.g., Hutchison v. Luddy*, 606 A.2d 905, 910 (Pa. Super. 1992)(“[W]here the only action required of a religious institution is the disclosure of relevant, nonprivileged documents to an adversary in civil litigation, such action, without more, poses no threat of governmental interference with the free exercise of religion . . . [T]he relevant inquiry is not whether the church gives a file a particular name, but whether disclosure of the information requested from that file interferes with the exercise of religious freedom.”)(internal quotation marks omitted); *see also The Roman Catholic Archbishop of Los Angeles v. Superior Court, supra*, 131 Cal.App.4th 440 (holding that the first amendment does not bar the disclosure of documents subpoenaed during a grand jury investigation); *Newport Church of the Nazarene v. Hensley*, 56 P.3d 386, 394 (Or. S.Ct. 2002) ([W]hile “the church autonomy doctrine might insulate the church from the dictates of a secular

court regarding liturgy and leadership, . . . it does not permit a church, as a general matter, to cloak its decisions and actions in secrecy when the law requires compliance with the requirements of civil law.”).

Here, this discovery dispute does not invoke religious doctrine and practice of the Jehovah’s Witness faith and its hierarchy. Moreover, Jehovah’s Witnesses’ own literature and testimony declare that they “abhor” child abuse. The contribution toward, condoning or causation of such activity does not comport with the professed tenets of the Jehovah’s Witnesses. Thus, government interference with the practices of the Jehovah’s Witness faith is not implicated in this discovery matter.

**C. Third Party Privacy Objection**

Watchtower has objected to certain requests, in whole or in part, on the basis of asserted third-party privacy rights. The parties have agreed to the protective order in this case and can evaluate the confidentiality concerns through a separate procedure. Defendants did not specifically identify what documents, or third parties were implicated by the discovery, so those issues are not addressed in this motion. If the parties cannot agree upon appropriate confidentiality provisions, these issues may be addresses in a separate motion.

**V. CONCLUSION**

Plaintiffs respectfully request that the Court find that the above discovery matters are not protected by the clergy-penitent privilege or the First Amendment. Plaintiffs further request that

the Court issue an order compelling the Defendants to provide documents and testimony in connection with the above categories of inquiry and document requests.

DATED: This 20<sup>th</sup> day of February, 2018.

Attorney for Plaintiffs:

A handwritten signature in black ink, appearing to read "Ross L.", with the name "Ross" written in a smaller font below the first part of the signature.

By: \_\_\_\_\_  
Ross Leonoudakis

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## CERTIFICATE OF CONFERENCE

Pursuant to Mont. R. Civ. P. 37(a)(1) counsel for Plaintiff certifies that counsel for Plaintiffs has in good faith conferred with counsel for Defendants in an effort to obtain the requested discovery without court action. The parties were unable to resolve their differences regarding the matters addressed herein and were at an impasse. Due to the impasse relating to these specific requests, Plaintiffs have chosen to file this Motion to Compel for consideration and resolution by the Court.

*s/ Ross E. Leonoudakis*  
Ross E. Leonoudakis (Pro Hac Vice)  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument has been served upon all attorneys of record via Email, pursuant to agreement of counsel, on this the 20th day of February, 2018.

A handwritten signature in black ink, appearing to read "Ross LA". The signature is written in a cursive style with a large "R" and "L".

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Ross Leonoudakis

## APPENDIX A

*Alexis Nunez, et al. v. Watchtower and Bible Society of New York, Inc., et al.*

Cause No. DV 16-84

Plaintiffs' Motion to Compel Documents and Testimony from Defendants

### SPECIFIC DOCUMENTS TO BE COMPELLED

#### Document No. 1 – S-77 Notification of Disfellowship Form (4/1/04)

**Description:** This is the form that the Elders are required to send to the Service Department to notify them that Max Reyes was disfellowshipped. Elders are instructed to send a copy of the S-77 in a “special blue envelope.” This required disclosure is not a confidential request for spiritual guidance. It is demanded by the Service Department to be made in connection with all reports of child molestation.

- Bates Nos. TF0004 & CCJW00001. Redacted version attached as Exh. F.

#### Document No. 2 - Glenn Wilson Handwritten Notes (3/22/04)

**Description:** Elder Glenn Wilson’s notes that he took after the judicial committee hearing. Glenn Wilson testified that he sent these notes to the Service Department along with the S-77 form. (Exh. H, Wilson Depo at 70:12-71:10). This disclosure is not a confidential request for spiritual guidance. It is demanded by the Service Department to be made in connection with all reports of child molestation.

- Bates No. TF00003. Redacted version attached as Exh. G.

#### Document No. 3 –Elders’ Response to Service Department Letter (4/21/2004)

**Description:** This letter is an answer to an inquiry from the Service Department for certain background information. (*See* Exh. I, Letter from Service Department requesting additional information from Elders.) The letter is not a request for spiritual guidance. Further, Elder Glenn Wilson confirmed that the information in this letter did not come from Max, but that the Elders answered from their own general knowledge. (Exh. H, Wilson Depo at (71:14 - 74:12) This required disclosure is not a confidential request for spiritual advice. It is demanded by the Service Department to be made in connection with all reports of child molestation.

- Bates Nos. TF000010-TF000011 & CCJW0003. Redacted version attached as Exh. J.

#### Document No. 4 – Letter to Elders Providing Instruction as to How to Manage Child Molesters in a Congregation (8/25/05)

**Description:** This is a letter from the Service Department confirming that Max Reyes had been reinstated to Jehovah’s Witnesses. This letter provides instruction to the Elders as to how they are to manage having a known child molester in their

congregation. This letter is not a confidential request for spiritual guidance. It is an unsolicited letter that explains the need to monitor child molesters.

- Bates Nos. TF0006-07 & CCJW0004-05. Redacted version attached as Exh. N.

**Document No. 5:** Max Reyes's Letter to the Elders Applying for Reinstatement.

**Description:** Don Herberger testified that Max Reyes wrote a letter asking to be reinstated to the congregation and had a meeting with the Elders before being reinstated. (Exh. D, Herberger Depo at 155:25-157:22). This required disclosure is not a voluntary confidential request for spiritual guidance. It is demanded by the Jehovah's Witness in order to be reinstated into the church.

**CATEGORIES OF DOCUMENTS TO BE COMPELLED**

**Document Category No. 1** – All documents and communications created, sent, received, or otherwise maintained, including all contents of any “special blue envelope(s)” related to the accusations, investigation, judicial committee, disfellowship, and reinstatement of Max Reyes related to the sexual abuse of children.

**Description:** Plaintiffs sent Requests for Production to all Defendants in this case. Each Defendant objected to numerous requests on the basis of the clergy-penitent privilege, First Amendment protection, and third-party privacy concerns. (Exh. M, Defendants Watchtower, CCJW, and Thompson Falls' Responses to Plaintiffs' First Set of Requests for Production;). For the reasons described in Plaintiffs' motion, documents and testimony related to Jehovah's Witnesses investigations of childhood sexual abuse are not protected by the clergy-penitent privilege. Further, these required disclosures are not a confidential request for spiritual advice. They are demanded by the Service Department to be made in connection with all reports of child molestation. Further, there is no clergy-penitent relationship between the local congregation and the Service Department related to the investigation of childhood sexual abuse.

**CATEGORIES OF TESTIMONY TO BE COMPELLED**

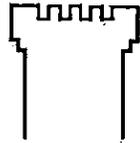
**Testimony Category No. 1** – Testimony related to communications between Max Reyes and the Elders of Thompson Falls Congregation related to the accusations, investigations, judicial committee, disfellowship, and reinstatement of Max Reyes related to the sexual abuse of children.

**Description:** Questions related to this area of testimony were all objected to on the ground of Clergy-Penitent Privilege and the witnesses were instructed not to answer. (Exh. B, Herberger Depo at 130:7-132:25; 142:4-143:9; 155:25-158:5); (Exh. D, Wilson Depo at 70:15-73:25).

**Testimony Category No. 2** – Testimony related to communications between the Thompson Falls Congregation and the Watchtower Service Department and/or Branch Office related to the accusations, investigations, judicial committee, disfellowship, and reinstatement of Max Reyes related to the sexual abuse of children.

**Description:** Questions related to this area of testimony were all objected to on the ground of Clergy-Penitent Privilege and the witnesses were instructed not to answer. (Exh. B, Herberger Depo at 130:7-132:25; 142:4-143:9; 155:25-158:5); (Exh. D, Wilson Depo at 70:15-73:25).

# **EXHIBIT A**



# WATCHTOWER

BIBLE AND TRACT SOCIETY OF NEW YORK, INC.

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

July 1, 1989

TO ALL BODIES OF ELDERS IN THE UNITED STATES

CONFIDENTIAL

Dear Brothers:

We are writing to help all of you as individual elders be aware of a growing concern regarding the handling of your duties that may involve legal issues or questions. **Due to its importance, the presiding overseer should arrange for a special meeting of the body of elders to read and consider this letter carefully.**

In spreading the Kingdom message, it is appropriate that we be bold and outspoken. Jesus commanded that "what you hear whispered, preach from the housetops." (Matthew 10:27) Even when worldly authorities demand that we keep silent, we reply as did the apostles: "We cannot stop speaking about the things we have seen and heard." (Acts 4:20) The Christian congregation will continue to declare the Kingdom message boldly until Jehovah says the work is done.

Elders share the obligation to shepherd the flock. However, they must be careful not to divulge information about personal matters to unauthorized persons. There is "a time to keep quiet," when "your words should prove to be few." (Ecclesiastes 3:7; 5:2) Proverbs 10:19 warns: "In the abundance of words there does not fail to be transgression, but the one keeping his lips in check is acting discreetly." Problems are created when elders unwisely reveal matters that should be kept confidential. Elders must give special heed to the counsel: "Do not reveal the confidential talk of another." (Proverbs 25:9) Often the peace, unity, and spiritual well-being of the congregation are at stake. Improper use of the tongue by an elder can result in serious legal problems for the individual, the congregation, and even the Society.

While we as Christians are ready to forgive others who may wrong us, those in the world are not so inclined. Worldly persons are quick to resort to lawsuits if they feel their "rights" have been violated. Some who oppose the Kingdom preaching work readily take advantage of any legal provisions to interfere with it or impede its progress. Thus, elders must especially guard the use of the tongue. Jesus faced opposers who tried to "catch him in speech, so as to turn him over to the government." (Luke 20:20) He instructed us to be "cautious as serpents and yet innocent as doves" in such situations. (Matthew 10:16) Where such a threat exists, our position as elders should be in line with David's words: "I will set a muzzle as a guard to my own mouth, as long as anyone wicked is in front of me."--Psalm 39:1.

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TO ALL BODIES OF ELDERS

July 1, 1989

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In recent years, this matter has come to be a cause for increasing concern. The spirit of the world has sensitized people regarding their legal "rights" and the legal means by which they can exact punishment if such "rights" are violated. Hence, a growing number of vindictive or disgruntled ones, as well as opposers, have initiated lawsuits to inflict financial penalties on the individual, the congregation, or the Society. **Many of these lawsuits are the result of the misuse of the tongue.** As elders; remember that ill-advised statements or actions on your part can sometimes be interpreted legally as violating others' "rights."

**The need for elders to maintain strict confidentiality has been repeatedly stressed.** Please see *The Watchtower* of April 1, 1971, pages 222-4, and September 1, 1987, pages 12-15. The September 1977 *Our Kingdom Service*, page 6, paragraph 36, and the *ks77* textbook, page 65, also provide helpful direction and counsel. That material strongly emphasized the elders' responsibility to avoid revealing confidential information to those not entitled to it.

The legal consequences of a breach of confidentiality by the elders can be substantial. If the elders fail to follow the Society's direction carefully in handling confidential matters, such mistakes could result in successful litigation by those offended. Substantial monetary damages could be assessed against the elders or congregation. In some cases where the authorities are involved, certain complications could lead to a fine or imprisonment. These possibilities underscore **the need for elders to be discerning and to follow carefully directions provided by the Society.**

#### I. WHAT TO DO IN SPECIFIC CASES

##### A. Judicial Committee Matters

Judicial committees must follow carefully the Society's instructions in carrying out their duties. (Note *ks77*, pages 66-70; *ks81*, pages 160-70.) Anything submitted in writing to the committee by the alleged wrongdoer or by witnesses should be kept in strict confidence. If it is necessary to continue at a later time a committee hearing, the members of the committee should submit to the chairman any personal notes they have taken. The chairman will keep these notes in a secure place to prevent breaches of confidentiality. The notes may be returned to the individual elders when the hearing resumes. Upon conclusion of the case, the chairman should place only necessary notes and documents, a summary of the case, and the S-77 forms in a sealed envelope for the congregation file. Nothing should be preserved outside of this sealed envelope (including unnecessary personal notes) by any elder on the committee. Obviously, no committee will ever allow judicial proceedings to be tape recorded or allow witnesses testifying before the committee to take notes.

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#### **B. Child Abuse**

Many states have child abuse reporting laws. When elders receive reports of physical or sexual abuse of a child, they should contact the Society's Legal Department immediately. Victims of such abuse need to be protected from further danger. See "If the Worst Should Happen," *Awake!* January 22, 1985, page 8.

#### **C. Search warrants and Subpoenas**

1. A search warrant is a court order authorizing the police to search premises to locate evidence that may be used in a criminal prosecution. No elder should ever consent to the search of a Kingdom Hall or any other place where confidential records are stored. However, armed with a search warrant the police do not need consent and may even use force to accomplish their task. Likely before obtaining a search warrant, the police or other governmental officials will make inquiries regarding confidential records, make request to obtain the records, or indicate that they will seek a search warrant if the elder(s) involved does not cooperate. In any such situation, the Society's Legal Department should be called immediately.

At any time an elder is confronted with a search warrant (whether given advance notice or not), the elder should first ask to read the warrant. After reading it he should ask if he can call for legal guidance and then call the Society's Legal Department. If for some reason the Legal Department cannot be contacted, the elders involved should make every effort to obtain the assistance of a local attorney for the purpose of protecting the confidentiality of the records. It may be impossible to stop determined officers from conducting the search authorized by the warrant. Conscientious elders will want to do all they reasonably and peaceably can to preserve the confidentiality of the congregation in harmony with the principle set out in Acts 5:29.

2. Subpoenas are demands for records or for the appearance of an individual at a trial or deposition to give testimony. Subpoenas may be issued by a court or in some cases by a governmental agency or an attorney. If an elder receives a subpoena, he should contact the Society's Legal Department immediately. Never turn over records, notes, documents, or reveal any confidential matter sought by subpoena without receiving direction from the Legal Department.

#### **D. Crimes and Criminal investigations**

In some cases the elders will form judicial committees to handle alleged wrongdoing that also could constitute a violation of Caesar's criminal laws (e.g., theft, assault, etc.). Generally, a secular investigation into a matter that is a concern to the congregation should not delay conducting a judicial hearing. To avoid entanglement with the secular authorities who may be investigating the same matter, the strictest confidentiality (even of the fact that there is a committee) must be maintained.

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TO ALL BODIES OF ELDERS

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If the alleged wrongdoer confesses to the sin (crime), no one else should be present besides the members of the committee. When evidence supports the accusation but genuine repentance is not displayed resulting in a decision to disfellowship, this should be handled in the normal course regarding advice of appeal rights and announcements to the congregation. In cases of serious criminal wrongdoing (e.g., murder, rape, etc.), or where the criminal conduct is widely known in the community, the body of elders should contact the Society before proceeding with the judicial committee process.

**E. When Servants and Publishers Move**

A considerable number of publishers, including elders and ministerial servants move from one congregation to another. Sometimes the circumstances surrounding their departure are unsettled. Some appointed brothers may be experiencing problems that have brought their qualifications into question. It is not uncommon for a body of elders to hold back in giving counsel, allowing a brother to move without discussing his problem. Thereafter, they decline to recommend his reappointment in his new congregation. Often such a brother protests, requiring extensive correspondence between the bodies of elders. Much personal, and sometimes embarrassing, information must then be passed on. Such mishandling of things greatly increases the potential for serious repercussions. Problems can be avoided by the body of elders assuming its responsibility to inform a brother that he will not be favorably recommended, fully explaining the reasons why. **Every effort should be made to resolve any difference before he leaves, eliminating any need for controversy involving his new congregation.** The body should assign two elders to meet with him before he moves, letting him know whether they are recommending him to the new congregation.

This would likewise apply to publishers who move at a time when their personal conduct requires investigation by the elders. **If serious accusations of wrongdoing have been made against an individual and he moves to another congregation before matters are finalized, usually it is best for the elders in the original congregation to follow through in handling matters, if possible and if distance permits.** They are acquainted with the individual and the circumstances surrounding the alleged wrongdoing; this ordinarily puts them in the best position to get the facts and to handle the case. Handling matters in this way will eliminate the need to reveal confidential information unnecessarily about the private lives of individuals.

**F. When Lawsuits Are Threatened**

If the congregation or the elders (in their capacity as elders) are threatened with a lawsuit, the Society's Legal Department should be contacted immediately. No statements should be made by any member of the body of elders about the merits or validity of an actual or threatened lawsuit without authorization from the Society.

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### **G. Child Custody**

Elders may learn that a publisher is facing a dispute over child custody in a divorce proceeding. If the parental rights of such is challenged on the basis of our Christian beliefs, or on the assertion that our beliefs are harmful to a child's best interests, the elders should immediately write to the Society's Legal Department. In a rare emergency, a telephone call may be necessary. The Legal Department will assess the facts and determine the degree of its involvement, if any. Elders have no authority to make any promises about the Society's paying legal fees or handling specific cases. There is no need to contact the Society if there is no indication that the beliefs and practices of Jehovah's Witnesses will be attacked in a child custody dispute.

When you write to the Society's Legal Department about a specific case, please provide the following information:

1. The names of the parents and their attorneys.
2. The number of children involved and their ages.
3. A brief description of the facts, including the presence of any apostates.
4. An assessment of the Christian parent's spiritual condition-Is he or she new in the truth? Active? Inactive? Balanced?
5. The status of the legal proceedings-Has the matter gone to trial? Has the trial date been set? If so, when?

## **II. POINTS TO REMEMBER**

### **A. Appreciate the Importance of Maintaining Confidentiality**

Elders must exercise extraordinary caution when it comes to handling confidential information about the private lives of others. Do not mistakenly minimize the gravity of a breach of confidentiality. Unauthorized disclosure of confidential information can result in costly lawsuits. Even if a lawsuit turns out favorably, valuable time and energy that could have been devoted to Kingdom interests will be lost.

### **B. Do Not Make Statements to Secular Authorities Until You Receive Legal Advice from the Society**

You are not legally required to make immediate responses to secular authorities about matters that could involve the disclosure of confidential information. Voluntarily allowing the Kingdom Hall or confidential records to be searched, where no search warrant is produced, could infringe on the legal rights of the congregation or of others. No statements should be made until you have an understanding of your legal position from the Society's Legal Department.

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TO ALL BODIES OF ELDERS  
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**C. Be Extremely Careful with Written Material**

All material related to judicial matters should be kept in a safe place, accessible only to elders. **Final reports on the handling of judicial matters should be placed in a sealed envelope in the congregation file.** A judicial committee should avoid sending to an individual any kind of correspondence that accuses him of specific wrongdoing. (Note ks77, pages 68-9.) **Nothing should be put in writing to any disfellowshipped person to advise him of his status or the reasons for it without specific direction from the Society.** The rules and procedures of Jehovah's Witnesses do not require such written disclosures. Anything in writing submitted to a judicial committee should be kept in strict confidence. If a judicial committee disfellowships an individual, he should be informed **orally** of the action taken and of the right to appeal. If the wrongdoer refuses to attend the hearing, two members of the judicial committee should attempt to contact the individual at his home and inform him orally of the decision. If this is not possible, the two elders may be able to inform him by telephone.

**D. Guard the Use of Your Tongue**

Think before you speak. Do not discuss private and judicial matters with members of your family, including your wives, or with other members of the congregation. Be extremely careful not to inadvertently disclose private information when others are present, such as when speaking on the telephone with others listening in or nearby. (Note ks77, page 65.) At times, complicated judicial cases may necessitate consultation with an experienced, mature elder in another congregation or with the circuit overseer. Unless the circuit overseer is the elder consulted, only the pertinent details should be discussed and names should not be used.

Elders bear a heavy responsibility in ministering to the needs of the Christian congregation, and observing confidentiality as they do so. (1 Corinthians 16:13) We trust that the information in this letter will help you carry this burden. Please be assured of our love and prayers, and may Jehovah continue to bless you as you shepherd his flock.-1 Peter 5:1-3.

Your brothers,

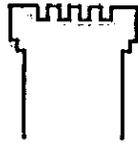
*Watchtower B. S. Society*

OF NEW YORK, INC.

P.S. Due to the importance of the information that is presented herein it is suggested that the body of elders jointly read and consider this letter as soon as possible after its receipt in the congregation. Please do not make any copies of this letter, nor should it be read by others. It should be kept in the congregation's confidential files for any future reference that may be required by the body of elders.

WTNY000091

# **EXHIBIT B**



# WATCHTOWER

BIBLE AND TRACT SOCIETY OF NEW YORK, INC.

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

March 14, 1997

CONFIDENTIAL

TO ALL BODIES OF ELDERS

Dear Brothers:

A matter of serious concern was addressed in the article "Let Us Abhor What Is Wicked," published in the January 1, 1997, issue of *The Watchtower*. This concern involves the purity of Jehovah's organization in these last days. It is our responsibility to protect the flock of God from these threatening influences. Isa. 32:1, 2.

We wish to take necessary steps that will help protect the congregation, especially our children, from the unwholesome practices that are constantly worsening in the world. We are grateful that the truth has limited the spread of child sexual abuse in Jehovah's organization.

## WHO IS A 'KNOWN CHILD MOLESTER'?

**What is child molestation?** *Webster's Ninth New Collegiate Dictionary* defines "pedophilia" as "sexual perversion in which children are the preferred sexual object." (See "Questions From Readers" in *The Watchtower* of February 1, 1997, page 29.) Deuteronomy 23:17, 18 condemns such practices as "detestable." (See the footnotes to verses 17 and 18 in the *Reference Bible*. Also, it would be helpful to see the footnote on page 10 of the October 8, 1993, issue of *Awake!*) In harmony with these references, we are herein discussing sexual perversion in which children are the object of sexual abuse, including fondling by an adult. We are not discussing a situation wherein a consenting minor, who is approaching adulthood, has sexual relations with an adult who is a few years older than the minor. Rather, we are referring, for example, to situations in which it is established by a congregation judicial committee that an adult brother or sister has been guilty of sexually abusing a young child or has been sexually involved with a non-consenting minor who is approaching adulthood.

**Who is a known child molester?** The January ], 1997, *Watchtower* article "Let Us Abhor What Is Wicked" mentions on page 29 that a man "known to have been a child molester" would not qualify for privileges in the congregation. An individual "known" to be a former child molester has reference to the perception of that one in the community and in the Christian congregation. In the eyes of the congregation, a man known to have been a child molester is not "free from accusation" and "irreprehensible," nor does he have "a fine testimony from those on the outside." (1 Tim. 3:1-7, 10; 5:22; Titus 1 :7) In view of his past, people in the community would not respect him, and the brothers might even stumble over his appointment.

WTNY000099

TO ALL BODIES OF ELDERS

March 14, 1997

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#### PROTECTING OUR CHILDREN

**What can we do to protect our children and preserve the cleanness of Jehovah's organization?** The primary responsibility for protecting our children rests upon the parents. Fine suggestions for parents can be found in the January 22, 1985, *Awake!* article "Child Molesting You Can Protect Your Child." Other articles that parents do well to consider are those in the October 8, 1993, *Awake!* entitled "How Can We Protect Our Children" and the December 1, 1996, *Watchtower* entitled "Parents, Find Pleasure in Your Children," specifically pages 13 and 14, paragraphs 18 and 19.

**What can the elders do to help protect our children?** The elders should be alert to the activity of any who are known to have molested children in the past. Individuals who have manifested a weakness in this regard should be sensitive to their need not to be alone with children. They should refrain from holding children or displaying other forms of affection for them. It would be appropriate for elders to give kindly cautions to any who are doing things that may be a temptation or a cause for concern to others in the congregation. 1 Cor. 10: 12, 32.

**What should elders do when a former child molester moves to another congregation?** As outlined in the February 1991 *Our Kingdom Ministry* "Question Box" and the August 1, 1995, letter to all Bodies of Elders, our policy is always to send a letter of introduction when a publisher moves to another congregation. It is *imperative that this be done when one who is known to have been a child molester moves*. The secretary should write on behalf of the elders to the new congregation's body of elders and outline this publisher's background and what the elders in the old congregation have been doing to assist him. Any needed cautions should be provided to the new congregation's body of elders. This letter should not be read to or discussed with the congregation. This information should be kept in the congregation's confidential files where it can be reviewed by any elder. The elders should send a copy of this letter to the Watchtower Bible and Tract Society in one of the "Special Blue" envelopes.

#### PRIVILEGES OF SERVICE IN THE CONGREGATION

In the January 1, 1997, issue of *The Watchtower*, the article "Let Us Abhor What Is Wicked" stated on page 29: "For the protection of our children, a man known to have been a child molester *does not qualify for a responsible position in the congregation. Moreover, he cannot be a pioneer or serve in any other special full time service.*" We have had a number of inquiries asking how this applies in the congregation, and this is being given consideration.

It may be possible that some who were guilty of child molestation were or are now serving as elders, ministerial servants, or regular or special pioneers. Others may have been guilty of child molestation before they were baptized. The bodies of elders should not query individuals. However, the body of elders should discuss this matter and give the Society a report on anyone who is currently serving or who formerly served in a Society-appointed position in your congregation who is known to have been guilty of child molestation in the past.

WTNY000100

TO ALL BODIES OF ELDERS

March 14, 1997

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In your report please answer the following questions: How long ago did he commit the sin? What was his age at the time? What was the age of his victim(s)? Was it a one-time occurrence or a practice? If it was a practice, to what extent? How is he viewed in the community and by the authorities? Has he lived down any notoriety in the community? Are members of the congregation aware of what took place? How do they and/or his victim(s) view him? Has he ever been disfellowshipped, reprovved, counseled, or otherwise dealt with? If he has moved to another congregation, please identify the congregation to which he has moved. Was that congregation advised of his past conduct of child molestation, and, if so, when? [If you have not advised them, this should be done now, and you should send a copy of your letter to the Society in a "Special Blue" envelope.] This information should be sent to the Society along with any other observations that the body of elders has. Please send this to the Society in the "Special Blue" envelope so that the factors involved may be given due consideration; this information is not to be made available to those not involved.

Jehovah has been blessing the efforts of his people to get the vital Kingdom-preaching and disciple-making work done. Isaiah 52:11 states: "Keep yourselves clean, you who are carrying the utensils of Jehovah." We must be ever vigilant to demonstrate to Jehovah that we want to keep the organization he uses in these last days fit for this all-essential trust. May Jehovah bless your efforts to that end.

Your brothers,

*Watchtower B. V. G. Society*  
OF NEW YORK, INC.

PS to body of elders:

A meeting of the body of elders should be arranged to read and discuss this letter together. **This letter is confidential and should not be copied but should be kept in the congregation's confidential file. Elders should not discuss this information with others.** It is provided so that you can appropriately apply the spirit of the Scriptural information in the January 1, 1997, *Watchtower* article "Let Us Abhor What Is Wicked."

WTNY000101

# **EXHIBIT C**

Holly J Benavides  
631 N. Colfax  
West Point, Ne 68788  
402-719-5830

3/19/04

To the body of elders of the Thompson Falls congregation,

As you are aware, I have recently disclosed information regarding the sexual abuse received from my stepfather Max, while under his and my mother's guardianship. This is my written testimony of some of the incidents.

Within weeks after their marriage in September of 1994, I would sometimes wake up to Max touching, fondling, and kissing me inappropriately, namely, the genitalia and breast regions. Being as I was too embarrassed to tell anyone, this only continued on until I was fifteen. Throughout that time, however, the touching and kissing had progressed to much more brazen acts. I believe it was the summer of 1995, we had taken a trip to Calgary, Canada for the District Convention. When we arrived at our friend's house, I had gone downstairs to take a nap on the air bed that was provided. Not long after I had fallen asleep, I was awakened by Max inserting his fingers to me, and then trying to force intercourse on me. I was able to squirm away and go upstairs. This instance however began a new threshold, as he became much more bold in his actions. From that time on he would not hesitate to try to force intercourse or oral sex on me. This would occur just about any time we at the house alone, and sometimes even with others around. About every evening Max would lie down for a nap. He would then call for me and sometimes Peter to come and cuddle with him. No matter how much we fought it, my mother would send us in there saying that we needed to show Max that we loved him and make him feel accepted. Many times extensive fights would break out over such matters and we would be reprimanded for being disrespectful and insensitive until we would give in and go cuddle with him. During this time, I was unaware that Max was fondling Peter as well, but he would do even with Peter lying right next to him.

Other times Max would say he needed to run some errands in town and would ask that I go with him. While in the car, would again fondle me, sometimes pulling over and trying to undo my pants, place my hand on his parts, and force me to perform oral sex. Many times I would get out of the car and move to the back seat. He would show disgust swearing in Spanish to me and then apologize for what he had done. However he never hesitated from doing it again.

Many times I had try to tell my mother of what was happening, but she was so quick to defend him when we would try to discuss other things that were bothering us, I

TF000001

knew she would never believe anything like this. As with less significant grievances we had, telling her would just make it worse. She would first say that we were lying and only trying to stir up problems because we had never liked Max in the first place. This is why I had waited until I moved away to tell her. I told her I wasn't too surprised or upset if she didn't believe me because it would be made known soon enough. I do think however that deep down she knows the truth even if she doesn't admit it, not even to herself.

I want to thank Jehovah's shepherds for looking after his flock and for taking care of this situation.

Sincerely your sister,

Holly J. Benavides

TF000002

# **EXHIBIT D**

MONTANA TWENTIETH JUDICIAL DISTRICT COURT, SANDERS COUNTY

ALEXIS NUNEZ and HOLLY )  
MCGOWAN, )

Plaintiffs, )

vs. ) Cause No. DV 16-84

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/Third-Party )  
Plaintiffs, )

vs. )

MAXIMO NAVA REYES, )

Third-Party Defendant. )

Taken at 350 Ryman  
Missoula, Montana  
Wednesday, September 13, 2017 - 8:59 a.m.

VIDEOTAPED DEPOSITION

OF

DONALD JOHN HERBERGER

Reported by Mary R. Sullivan, RPR, RMR, CRR

1 A P P E A R A N C E S

2 For the Plaintiffs:

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5 777 East Main Street, Suite 203  
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9 and

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13 Dallas, Texas 75201  
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18 For the Defendants/Third-Party Plaintiffs Watchtower  
19 Bible and Tract Society of New York, Inc.; Christian  
20 Congregation of Jehovah's Witness:

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28 For the Defendants/Third-Party Plaintiffs Thompson  
29 Falls Congregation:

30 KATHLEEN L. DeSOTO, Esq.  
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32 350 Ryman  
33 Missoula, Montana 59802-7909  
34 klidesoto@garlington.com

35

36 ALSO PRESENT: Michael McFarland, Videographer.  
37 Jared Brannon, Intern.

38

1           **A. Probably 'cuz you wouldn't be impartial.**

2           **Q. So after the -- Strike that.**

3                   Typically are there about three elders on a  
4 judicial committee?

5           **A. Typically, yes.**

6           **Q. Okay. Can there be more?**

7           **A. Yes.**

8           **Q. Why would there need to be more?**

9           **A. Complexity of the case, to do your very best**  
10 **job in solving the problem. Not solving the problem,**  
11 **but determining the state of repentance in dealing with**  
12 **it.**

13           **Q. So you ask the accused to come sit in front of**  
14 **a judicial committee; is that right?**

15           **A. We do. We invite them.**

16           **Q. Okay. Well, what happens if they don't come?**

17           **A. Several things can happen. If the case is --**  
18 **Why didn't they come, would be one thing. If they're**  
19 **repeatedly invited and they don't come, I mean, that**  
20 **already tells you something, to an effect. Depending**  
21 **on what the circumstances, the evidence, the sin, the**  
22 **congregation would have to decide how to best deal with**  
23 **that.**

24           **Q. Okay. And if it's -- if it's a serious sin**  
25 **they've been accused of, as we discussed the term to**

1 mean, and -- and the person just refuses to come in  
2 front of a judicial committee, will they eventually be  
3 disfellowshipped?

4 **A. They could be, yes.**

5 Q. Is there any reason they wouldn't be  
6 disfellowshipped that you can think of?

7 **A. I mean, if -- if it's very clear that this**  
8 **took place, the Scriptures tell us to be submissive to**  
9 **the older men. So if they're refusing to do that, that**  
10 **kind of tells you something right there, so --**

11 Q. Okay.

12 **A. -- it's like --**

13 Q. So if want --

14 **A. -- they're saying I don't want to be part of**  
15 **the congregation, in -- in effect.**

16 Q. Okay. So if they want to maintain any sort of  
17 good standing in the congregation, they're required to  
18 show up at these judicial committee hearings; is that  
19 right?

20 **A. They would want to, yes.**

21 Q. Okay. I mean, it's -- it's a judicial  
22 setting, right? It's called a judicial committee.

23 **A. Yes.**

24 Q. Okay. And -- And the -- the -- the dialogue  
25 that goes on there is much like what we're doing here

1 today; is that right?

2 **A. The purpose of a judicial committee is to**  
3 **determine how the person feels about what took place.**  
4 **Are they repentant, are they not.**

5 Q. Okay.

6 **A. That's the purpose of a judicial committee.**

7 Q. But they're there as an accused. That's  
8 clear, right?

9 **A. Yes.**

10 Q. And the accusations are brought -- that are  
11 brought, they're made clear to that person, right?

12 **A. (Nods head.) Yes.**

13 Q. Is that a "yes"?

14 **A. They would understand that.**

15 Q. Okay. Is there anybody else at the judicial  
16 committee besides the accused and the elders that sit  
17 on the committee?

18 **A. Can be.**

19 Q. Who -- Who else could be there?

20 **A. We've had translators before, people that may**  
21 **have had firsthand knowledge could be there for part of**  
22 **it, anyway, just to give their testimony, whatever.**

23 Q. What about family members of the accused?

24 **A. They can be. Especially if there's a -- a --**  
25 **a minor there, you would -- you would want their**

1 THE VIDEOGRAPHER: We are now off the record.

2 The time is approximately 1:15 p.m.

3 (Recess taken from 1:15 p.m. to 1:17 p.m.)

4 THE VIDEOGRAPHER: We're now on the record.

5 The time is approximately 1:17 p.m.

6 BY MR. LEONOUDAKIS:

7 Q. When we left off, Mr. Herberger, I'd asked  
8 you, and you confirmed that Max Reyes was  
9 disfellowshipped from the church in 2004; is that  
10 right?

11 A. Yes.

12 Q. Okay. And you said you did know why he was  
13 disfellowshipped; is that right?

14 A. I couldn't say.

15 Q. Do you or don't you know why he was  
16 disfellowshipped?

17 A. I do know why.

18 Q. Okay. And why was that?

19 A. He --

20 MS. DESOTO: Same objection.

21 Instruct you not to answer.

22 MR. LEONOUDAKIS: Okay.

23 BY MR. LEONOUDAKIS:

24 Q. Did you have a judicial committee -- Did you  
25 convene a judicial committee to investigate Mr. Reyes?

1           **A. Yes.**

2           Q. Okay. And did he come to that judicial  
3 committee meeting?

4           **A. He did.**

5           Q. Okay. And what did he tell you at that --  
6 that -- that judicial committee meeting?

7           MS. DESOTO: Same objection. Instruct you not  
8 to answer.

9           MR. LEONOUKAKIS: Okay.

10           If I continue to ask questions based on the  
11 communications between the accused and the judicial  
12 committee, is that the scope of the privilege claim?

13           MS. DESOTO: It's -- And, I mean, I think Joel  
14 can probably address the -- the ecclesiastical side of  
15 it, but our position has been that everything that's  
16 learned in the con -- in the context of the judicial  
17 committee, which I know you've called it --

18           MR. LEONOUKAKIS: Um-huh.

19           MS. DESOTO: -- judicial but it's -- it's a  
20 spiritual --

21           MR. LEONOUKAKIS: Oh, I don't --

22           MS. DESOTO: -- priest.

23           MR. LEONOUKAKIS: -- call it that, they call  
24 it that.

25           MS. DESOTO: Well, okay. Well, I mean, you

1 maybe are using it in a secular way --

2 MR. LEONOUidakis: Okay.

3 MS. DESOTO: -- within the church it's not  
4 used in a secular way, it's how they determine a  
5 confession repentance. I mean, whatever your religion  
6 is, you know, every religion seems to have some sort of  
7 mechanism for that. That's what they use it for.  
8 We're asserting the privilege under the statute, and,  
9 so --

10 MR. LEONOUidakis: Okay.

11 MS. DESOTO: -- Whoops. And, so, yeah, we  
12 would -- we would instruct him not to answer.

13 MR. LEONOUidakis: And, so, if I continue to  
14 ask questions based on the judicial committee --  
15 communications inside the judicial committee, you're  
16 going to keep the same objection?

17 MS. DESOTO: Yes.

18 (Off-the-record discussion between Mr. Molloy  
19 and Mr. Leonoudakis.)

20 MR. LEONOUidakis: Okay. Okay, okay.

21 Okay. Well, with that understanding, I mean,  
22 we're going to keep the deposition open after this  
23 based on -- pending a resolution from the court on this  
24 issue.

25 MS. DESOTO: We understand.

1 Q. Okay.

2 A. They were -- We all live in the same Plains  
3 area, so.

4 Q. And, so, three days after the date of the  
5 letter, which is -- the day of the letter's March 19th,  
6 so three days letter on March 22nd a judicial hearing  
7 was held; right?

8 A. Um-huh.

9 EXHIBIT:

10 (Deposition Exhibit 3 marked for  
11 identification.)

12 BY MR. LEONOUDAKIS:

13 Q. I'm going to hand you what we're marking as  
14 Exhibit 3 to your deposition.

15 A. Okay.

16 Q. This is a -- Bates stamped TF00003 (sic),  
17 which is a redacted copy of what appeared to be notes  
18 on -- on lined legal paper.

19 Do you know what this is, Mr. Herberger?

20 A. I would guess it's notes from the judicial  
21 hearing involving Max.

22 Q. Okay. Did you write these notes?

23 A. I did not.

24 Q. Who wrote these notes?

25 A. I believe that's Glenn Wilson's handwriting.

1 Q. Did Ken Riech serve on that judicial  
2 committee?

3 A. He did.

4 Q. Did he take any notes during that meeting?

5 A. I don't think so.

6 MR. LEONOUDAKIS: If I ask him what's in these  
7 letters, I assume you'll instruct him not to answer; is  
8 that right?

9 MS. DESOTO: Yes.

10 MR. LEONOUDAKIS: Okay.

11 BY MR. LEONOUDAKIS:

12 Q. Just to be clear, those notes were taken by  
13 Glenn Wilson in the judicial hearing of Max Reyes; is  
14 that right?

15 A. Not necessarily during the hearing, but  
16 perhaps right after.

17 Q. Okay.

18 EXHIBIT:

19 (Deposition Exhibit 4 marked for  
20 identification.)

21 BY MR. LEONOUDAKIS:

22 Q. I'm going to hand you what has been marked as  
23 Exhibit 4 to your deposition.

24 MS. DESOTO: Thanks.

25 ///

Donald John Herberger  
September 13, 2017

Page 155

1 Q. Did you see Max after he was disfellowshipped?

2 A. Physically see him, yes.

3 Q. In what context would you see?

4 A. Once in a while I'd see him around town, but  
5 he did attend meetings afterwards.

6 Q. Okay. Did he continue -- So he continued to  
7 live in the Plains area or in the same -- same house?

8 A. Yes.

9 Q. Okay.

10 A. In the Plains area anyway, yep.

11 Q. Did you ever talk to him about what he'd --  
12 what he'd been accused of?

13 A. After the judicial hearing?

14 Q. Yes, sir.

15 A. No.

16 Q. Okay. How was Max perceived in the  
17 congregation after he was disfellowshipped?

18 A. As a disfellowshipped person.

19 Q. Okay.

20 A. By -- I don't know how to answer that other  
21 than no one had any association with him.

22 Q. Okay. So it's pretty awkward for a  
23 disfellowshipped member to come to a meeting?

24 A. Can be, sure can, yeah.

25 Q. Okay. So Max was then reinstated on

1 June 16th, 2005; is that right?

2 **A. Yes.**

3 Q. Roughly 16 or 14 months after he was  
4 disfellowshipped, right?

5 **A. May, June --**

6 Q. A little over a year.

7 **A. Year and -- Let's see. That was April -- Is**  
8 **that April? (Reviewing document.) 14 months, roughly.**

9 Q. Okay.

10 **A. I guess, yep.**

11 Q. And did Max ask to be reinstated?

12 **A. He did.**

13 Q. Okay. Did he write a letter?

14 **A. He did.**

15 Q. Who did he write the letter to?

16 **A. To the body of elders.**

17 Q. Was he repentant in that letter?

18 **A. I can't recall the contents of the letter.**

19 **I'm sure it just asked that we consider reinstating**  
20 **him, but whether he went into a lot of detail or -- I**  
21 **don't recall.**

22 Q. Isn't -- Isn't repentance required to be  
23 reinstated?

24 **A. Sure.**

25 Q. Okay. So he would have had to repent at some

1 point to be reinstated.

2 **A. But it wouldn't be in a letter. We -- The**  
3 **same committee meets with him and visits with him at**  
4 **length.**

5 Q. Okay. So there's a reinstatement meeting.

6 **A. There is.**

7 Q. Okay. Where is this letter kept, do you know?

8 **A. It might be in our files. I -- I don't know.**

9 Q. Okay. You say you can't remember the contents  
10 of the letter?

11 **A. I'm sure the -- Not specifically, no.**

12 Q. Do you remember the contents of the  
13 conversations you had where he asked to be reinstated?

14 MS. DESOTO: Yeah. You can say that he --  
15 whether you remember or not --

16 **A. I remember a meeting, yes.**

17 MS. DESOTO: Wait, stop. Okay, let me -- let  
18 me get my objection on the record, okay?

19 You can say what the contents are, but any  
20 discussion of the actual conversations would again be  
21 in that penitent context, and, so, we would instruct  
22 him not to answer on that.

23 MR. LEONOUDAKIS: Okay.

24 MS. DESOTO: So you can go ahead and say  
25 whether you remember.

1           **A. I remember having the meeting, yes.**

2 BY MR. LEONOUDAKIS:

3           Q. Okay. And you remember -- without telling me  
4 -- you do remember what the meeting was about.

5           **A. Sure.**

6           Q. Okay. What did you think personally about  
7 reinstating Max?

8           **A. I --**

9           MS. DESOTO: Yeah. I -- I guess hang on one  
10 second. I'm going to object to the extent this is  
11 calling for his deliberations as an elder, and I don't  
12 know that you can separate his role as an elder on the  
13 judicial committee from him as a person. He was there  
14 in the context of being an elder.

15           MR. LEONOUDAKIS: Okay. I want to know what  
16 his personal views were for letting somebody who's  
17 previously disfellowshipped back into the --

18           MS. DESOTO: But again, that's the context of  
19 what he learned during the communications that occurred  
20 in the context of the judicial committee meeting  
21 regarding reinstatement, and that's protected.

22           MR. LEONOUDAKIS: Okay. Okay. Duly noted.

23 BY MR. LEONOUDAKIS:

24           Q. What is the process for reinstatement,  
25 generally, from a person who's been disfel --

1 Q. This says "What factors, if any." You think  
2 it -- You don't think there's any?

3 A. Depends on the circumstances.

4 Q. Mr. Reyes is a former child abuser, and he got  
5 to be reinstated in the church, didn't he?

6 A. That's not what they're talking about there.

7 Q. Well, he got privileges, didn't he?

8 A. No.

9 Q. Reinstating isn't -- is not a privilege?

10 A. Reinstating?

11 Q. Being reinstated is not a privilege?

12 A. Is not considered a privilege in the  
13 congregation, no.

14 Q. Okay.

15 A. Just became a rank-and-file member of the  
16 congregation.

17 Q. Do you remember a 2012 letter with issues  
18 titled "Legal Concerns Regarding Accusations of Child  
19 Abuse"?

20 A. Yes.

21 Q. So we've got the letters here in Exhibit 9 and  
22 10 with all the instructions on what to do that's in --  
23 that the Scripture provides to protect children from  
24 child abusers so you're -- by limiting his privileges,  
25 and you've got all these articles we've just discussed,

1 among others, and not once in all of this literature or  
2 lessons does -- does it say anywhere that after you  
3 first learn of accusations of sexual child -- child  
4 abuse, to pick up the phone and call authorities, does  
5 it? Nowhere. Is that right?

6 **A. I --**

7 Q. You can't point to any -- any document  
8 anywhere that says that, can you?

9 **A. I cannot right now, no.**

10 Q. 'Cuz that's not in line with the Jehovah's  
11 Witness policies, is it?

12 **A. No.**

13 Q. Jehovah's Witnesses tell their congregation to  
14 call the service department first, don't they?

15 **A. We are instructed to call the service**  
16 **department when we learn of an accusation and the legal**  
17 **department.**

18 Q. Have there been any -- any other accusations  
19 of sexual abuse in the Thompson Falls congregation  
20 since you've been an elder?

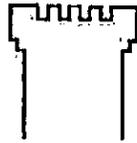
21 **A. Yes.**

22 Q. How many?

23 **A. I in the 20 -- 19-some years I've been an**  
24 **elder, I've dealt with two cases.**

25 Q. One of them being the case we're here

# **EXHIBIT E**



# WATCHTOWER

BIBLE AND TRACT SOCIETY OF NEW YORK, INC.

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

February 3, 1993

TO ALL BODIES OF ELDERS IN THE UNITED STATES

Dear Brothers:

In the March 23, 1992, letter to all bodies of elders some valuable suggestions and guidance were offered to help victims of child abuse. However, one aspect of this problem not covered by that letter is how to help individuals who only recently started to have memories of abuse that happened at a young age.

Some Christians may become troubled with memories and feelings dealing with past sexual abuse. They may even allege that as children they were abused by adults who apparently engaged in demonic activity or worship. When an elder is approached by someone concerned or distraught about such memories, he should "speak consolingly." (1 Thess. 5:14) Elders should manifest an empathetic, compassionate, and supportive response to those approaching them about such memories. Elders should listen patiently to the victim. Regardless of their own point of view or of how seemingly strange and even bizarre these memories are, it is wise for elders to avoid intimating that such 'memories' are unbelievable.--Prov. 18:13.

Elders will want to follow carefully the helpful suggestions in the March 23, 1992, letter to all bodies of elders. This letter should always be reviewed when there is a need to assist those who report they were abused as a child. There especially is a need to avoid insensitive remarks such as 'Just forget about it!' or 'Are you making this up?' Also, that letter explained, "Someone who has a serious mental or emotional illness may need professional help." As long as such assistance does not conflict with Bible principles, seeking such help is a personal decision. (See w75 4/15 pp. 255-6 and g75 4/22 pp. 3-21.) Therefore, the elders should not make disparaging comments regarding a Christian's decision to obtain professional help. It is also a personal decision if the alleged victim chooses to report such accusations to the secular authorities.

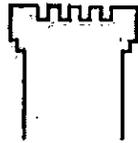
Elders should encourage the sufferer to use discretion if that one chooses to confide in a mature friend. They can help him to see that the matter should not be indiscriminately discussed in the congregation. However, in a balanced way and without neglecting other spiritual responsibilities, elders should be sympathetic and compassionate listeners. You want to use God's Word skillfully to encourage and upbuild. (Rom. 15:4; Eph. 4:29; See section "Balancing Your Responsibilities" in our March 23, 1992, letter, page 2.) If any allegations of such abuse involve accusations against active or inactive members of the Christian congregation, you are directed to contact the Society before initiating an investigation of the matter. We take this opportunity to commend you brothers for your diligent efforts in shepherding the flock under your care.--1 Pet. 5:2.

Your brothers,

*Watchtower B. T. Society*  
OF NEW YORK, INC.

P.S. to the presiding overseer: After reading this letter to all elders within one week of receipt, please attach it to your file copy of the March 23, 1992, letter.

WTNY000096



# 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 peophile 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.

WTNY000097

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. V. Society*

OF NEW YORK, INC.

WTNY000098

# **EXHIBIT F**

NOTIFICATION OF DISFELLOWSHIPING OR DISASSOCIATION

(Please type or print neatly in ink.)

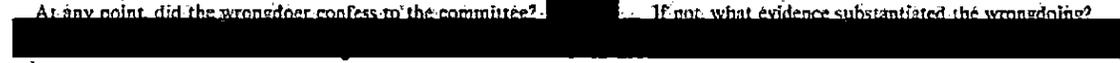
Individual's full name: Nava-Reyes Maximo
Last First Middle (Jr, Sr, II, III, etc.)
Date of birth: 5-15-49 Date of announcement of disfellowshipping or disassociation: Apr. 1, 2004

FOR OFFICE USE ONLY

Congregation number: 128215 Congregation name: Thompson Falls City: Thompson Falls State: mt

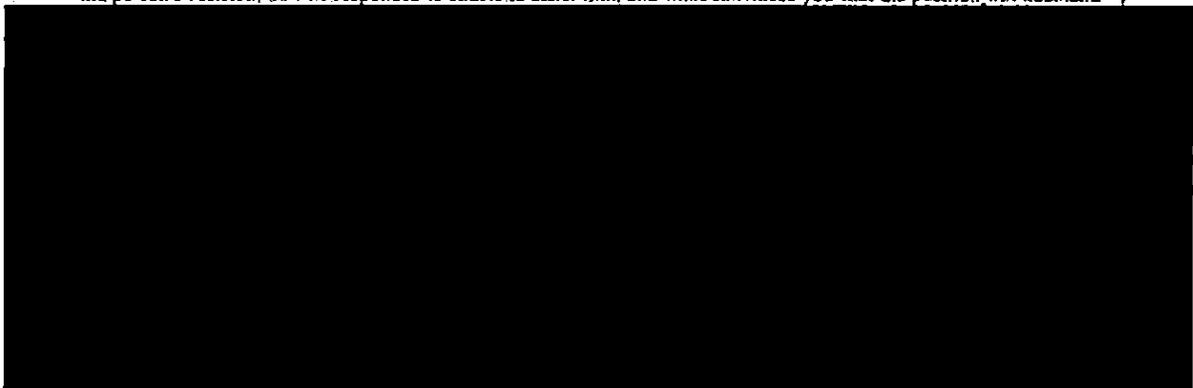
Check if applicable: [ ] Elder [ ] Ministerial servant [ ] Regular pioneer [ ] Special pioneer
[ ] Listed with the branch office as the person to receive literature and/or magazine shipments for the congregation.

1. [ ] DISFELLOWSHIPING. Specify offense(s) for which disfellowshipped (See K&P 92-6.):
At any point, did the wrongdoer confess to the committee? If not, what evidence substantiated the wrongdoing?



[ ] DISASSOCIATION. Specify by what action(s) the person disassociated himself (such as resignation, non-neutral activity, failure to abstain from blood, or joining another religion):
Did the individual submit a signed letter of resignation? If not, what evidence substantiated the disassociation?

2. Give a detailed summation of the case, explaining exactly what took place. (Use additional sheet only if more space is needed.) For a disfellowshipping, include the reasons why you judged the person to be unrepentant. For a disassociation, include what led to the person's decision, how he responded to efforts to assist him, and what convinced you that his position was adamant.



3. Did the individual appeal your decision? (If so, follow the instructions on the reverse side regarding appeals.)

4. If individual was previously disfellowshipped or disassociated show:
Person's full name at that time Date of previous action
Congregation that took the action Date of previous reinstatement
Name of congregation City State

5. Each member of the appointed committee should sign this form and any additional sheets. (Type name below each signature.)
CHAIRMAN: Glenn Wilson Don Harberger Ken Rice
Glenn Wilson Don Harberger Ken Rice

[x] Reinstated [ ] Decensed Date: June 16, 2005 (Month, Day, Year) Glenn Wilson (Signature of secretary)

FOR OFFICE USE ONLY

NOTIFICATION OF DISFELLOWSHIPING OR DISASSOCIATION

(Please type or print neatly in ink.)

Individual's full name: nava-Reyes, Maximo

5-15-49 Date of birth April 1, 2004 Date of announcement of ng or disassociation

FOR OFFICE USE ONLY SDJ MAY 07 2004

128215 Congregation number Thompson Congrega Thompson Falls mt State

Check if applicable: [ ] Elder [ ] Ministerial serva [ ] Special pioneer [ ] Listed with the branch office as the person to receive literature and/or magazine shipments for the congregation.

1. [ ] DISFELLOWSHIPING. Specify offense(s) for which disfellowshipped (See ks91 92-6.): [ ] At any point did the wrongdoer confess to the committee? [ ] If not, what evidence substantiated the wrongdoing?

DO NOT DESTROY

[ ] DISASSOCIATION. Specify by what action(s) the person disassociated himself (such as resignation, non-neutral activity, failure to abstain from blood, or joining another religion): Did the individual submit a signed letter of resignation? [ ] If not, what evidence substantiated the disassociation?

2. Give a detailed summation of the case, explaining exactly what took place. (Use additional sheet only if more space is needed.) For a disfellowshipping, include the reasons why you judged the person to be unrepentant. For a disassociation, include what led to the person's decision; how he responded to efforts to assist him, and what convinced you that his position was adamant.

3. Did the individual appeal your decision? (If so, follow the instructions on the reverse side regarding appeals.) 4. If individual was previously disfellowshipped or disassociated show: Date of previous action, Person's full name at that time, Date of previous reinstatement, Congregation that took the action, Name of congregation, City, State

5. Each member of the appointed committee should sign this form and any additional sheets. (Type name below each signature.) Chairman: Glenn Wilson, Ken Riech, Don Herberger

[x] Reinstated Date: June 16 2005 Glenn Wilson (Signature of secretary)

FOR OFFICE USE ONLY SDJ AUG 25 2005

## POINTS TO REVIEW BEFORE HANDLING EACH CASE

1. How body of elders selects qualified brothers to serve on judicial committee.—See *ks91* 109, 149-50.
2. Procedure for judicial committee to follow.—Review *ks91* Units 5 (a), 5 (b), and 5 (c); *ks91* 148-50.
3. Latest information on how to identify true repentance and appropriate works that besit repentance.—See *ks91* 111-16; *lt-2* 771, par. 5; *w95* 1/1 27-31; *w81* 9/1 24-7.
4. Direction on how appeal is to be handled, if disfellowshipping is appealed.—See below and *ks91* 121-2, 124-8.

## REPORTING DISFELLOWSHIPPINGS OR DISASSOCIATIONS

The S-77 form is to be used by the appointed committee to provide information to the branch office when cases of disfellowshipping and disassociation are handled. The S-77 form and special blue envelopes will be used as follows:

**Notification of Disfellowshipping or Disassociation (S-77):** After reviewing the notes written on page 143 of the Kingdom Ministry School textbook, promptly fill out an original S-77 form and make *two* copies. Retain one copy for the congregation's confidential file and send the *original and one copy to the branch office* in a special blue envelope. The branch office will stamp one copy of the S-77 form and return it to the congregation. After it is returned, place this stamped copy of the S-77 form with the congregation's copy of the S-77 form in a sealed envelope in the congregation's confidential file. The secretary does not sign and date the bottom of the S-77 forms until the named person is reinstated or dies.—See below.

**Special blue envelopes:** These are to be used when sending S-77 forms to the branch office or when sending correspondence to the branch office regarding judicial or child abuse matters. Please *do not* use the special blue envelopes for any other correspondence.

## REPORTING DISFELLOWSHIPPING APPEALS

When an individual appeals his disfellowshipping, the chairman of the judicial committee should promptly contact the circuit overseer, who will then designate elders to serve on the appeal committee. The judicial committee should complete the S-77 forms (except for the date of announcement of disfellowshipping) and give them, along with whatever written records it has from the judicial hearing(s), to the chairman of the appeal committee prior to the appeal hearing. (See *ks91* 125.) When the appeal case has been concluded, all written records from both the original and appeal committees should be placed in a sealed envelope in the congregation's confidential file.

The appeal committee's report is to be in the form of a letter addressed to the branch office, using the appeal committee chairman's mailing address for the return address. It is to be signed by all the members of the appeal committee, with each one's name and the name of his congregation typed below his signature. The letter should provide a detailed summation of the appeal hearing and include comments that directly address the following questions: (1) Was the offense for which the person was disfellowshipped serious enough to provide a Scriptural basis for disfellowshipping? (2) Was there acceptable evidence to establish the wrongdoing? Explain. (3) Was the wrongdoer unrepentant *at the time of the hearing by the original judicial committee*? What convinces the appeal committee of this?

If the appeal committee upholds the original committee's decision to disfellowship the individual, the appeal committee should make certain that the S-77 forms are filled out completely, *including the date of announcement of disfellowshipping*, and then mail the *original and one copy* of the S-77 form to the branch office in the same special blue envelope with their letter.

If the original basis for disfellowshipping was invalid, but other valid grounds for disfellowshipping exist, new S-77 forms should be made out by the original committee, giving the proper information. The *original and one copy of the new S-77 form* along with the initial S-77 form and appeal committee's letter should be sent to the branch office.

If both committees agree that the person should *not* be disfellowshipped, the individual *should not be told* this. Rather, the appeal committee should send the branch office the *original and one copy* of the S-77 form along with separate letters from both the original committee and appeal committee that supply sufficient details to give a clear picture of the reason(s) for their conclusions. Thereafter, the branch office will provide its comments.

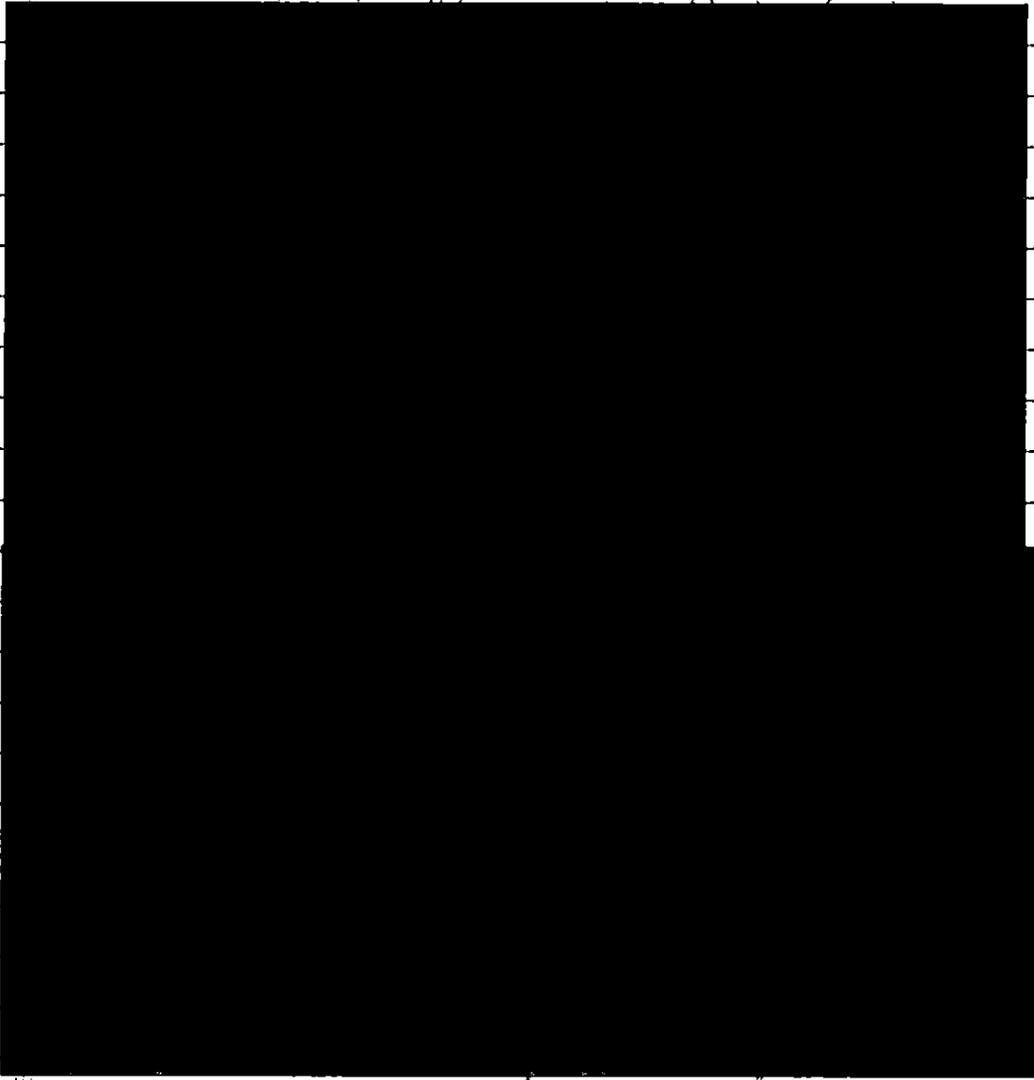
If the appeal committee and the original committee are in disagreement, the appeal committee should send the *original and one copy* of the S-77 form to the branch office with a letter giving the reasons for its conclusion and should include a letter from the original committee that expresses that committee's reasons for disagreement.

## REPORTING REINSTATEMENTS AND DEATHS

If the individual is reinstated or dies, the secretary should sign and date the bottom of the *stamped copy* of the S-77 form, check the appropriate box, and mail this copy to the branch office in a special blue envelope. The same information should also be recorded on the congregation's copy of the S-77 form, which should be retained in the congregation's confidential file.

# **EXHIBIT G**

mon mar. 22, 2004 Judicial Hearing Max Nava



# **EXHIBIT H**

MONTANA TWENTIETH JUDICIAL DISTRICT COURT, SANDERS COUNTY

ALEXIS NUNEZ and HOLLY )  
MCGOWAN, )

Plaintiffs, )

vs. ) Cause No. DV 16-84

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/Third-Party )  
Plaintiffs, )

vs. )

MAXIMO NAVA REYES, )  
Third-Party Defendant. )

Taken at 350 Ryman  
Missoula, Montana  
Thursday, September 14, 2017 - 8:57 a.m.

VIDEOTAPED DEPOSITION

OF

GLENN WILSON

Reported by Mary R. Sullivan, RPR, RMR, CRR

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A P P E A R A N C E S

For the Plaintiffs:

ROSS LEONOUDAKIS, Esq.  
Nix, Patterson & Roach, LLP  
1845 Woodall Rodgers Freeway, Suite 1050  
Dallas, Texas 75201  
RossL@nixlaw.com

For the Defendants/Third-Party Plaintiffs Watchtower  
Bible and Tract Society of New York, Inc.; Christian  
Congregation of Jehovah's Witness:

JOEL TAYLOR, Esq.  
100 Watchtower Drive  
Patterson, New York 12563-9204  
LegalDept@jw.org

For the Defendants/Third-Party Plaintiffs Thompson  
Falls Congregation:

KATHLEEN L. DeSOTO, Esq.  
Garlington, Lohn & Robinson  
350 Ryman  
Missoula, Montana 59802-7909  
kldesoto@garlington.com

ALSO PRESENT: Michael McFarland, Videographer.  
Jared Brannon, Intern.

1 you know who you're calling? Is it the Christian  
2 Congregation of Jehovah's Witnesses?

3 **A. I don't know.**

4 Q. Okay. After you got this letter from Holly,  
5 you read through the whole letter, I assume?

6 **A. Yes.**

7 Q. Okay. What was your personal reaction to  
8 getting this letter from Holly?

9 **A. Abhor what happened to her.**

10 Q. Okay. Did you call Holly at all?

11 **A. I never.**

12 Q. Okay. Were you concerned for Holly at all?

13 **A. Absolutely.**

14 Q. Okay. And did you do anything to make sure  
15 that Holly was safe after you got this letter?

16 **A. Holly had moved to Nebraska some years before  
17 this letter came, so basically there was nothing that I  
18 could do within my authority at that time.**

19 Q. Okay. Your authority as defined by Scripture?

20 **A. Yes.**

21 Q. And before this letter was written, Holly's  
22 brother, Peter, had come to the congregation  
23 personally, right?

24 **A. Very shortly before this letter was written.**

25 Q. Okay. Did he come to you?

1           **A. Yes.**

2           Q. Okay. And what did he tell you?

3           MS. DESOTO: Objection. This is the  
4 priest-penitent privilege when he was approached by  
5 Peter and spoke to him as an elder. So we have the  
6 same objection as we did to the issues yesterday.

7           MR. LEONOUKAKIS: How is that different than  
8 the letter that Holly wrote?

9           MS. DESOTO: It's the -- It's a privilege that  
10 we're raising. If you want to address that?

11          MR. TAYLOR: And Holly has waived her  
12 privilege.

13          MS. DESOTO: Yes.

14          MR. TAYLOR: She sued --

15          MS. DESOTO: Peter hasn't.

16          MR. TAYLOR: -- us, and we told you that we  
17 were asserting it, and you said she wasn't, and, so, we  
18 gave you the letter. If Peter says that he wants to  
19 disclose, we'll be free to talk about it.

20          MR. LEONOUKAKIS: Okay.

21 BY MR. LEONOUKAKIS:

22          Q. When Peter came to you, did he ask for your  
23 help?

24          MS. DESOTO: And let's just clarify. Are you  
25 talking about help with the authorities or --

1           **A. No.**

2           Q. Okay. You were appointed the chairman of the  
3 judicial committee that investigated Max --

4           **A. Yes.**

5           Q. -- correct? Who appointed you as chairman?

6           **A. The body of elders.**

7           Q. Okay. So it was a group decision?

8           **A. Yes.**

9           Q. Did you consult a circuit overseer at all  
10 before convening that judicial committee?

11          **A. No.**

12          Q. Okay. Did you take notes during the judicial  
13 committee?

14          **A. Yes.**

15          Q. Okay. I'm handing you what is marked as  
16 Exhibit 3 to your deposition. Most of Exhibit 3 is  
17 redacted. There is some handwriting at the top.

18          **A. (Reviewing document.)**

19          Q. Does that look like your handwriting?

20          **A. It does.**

21          Q. Okay. Do you remember taking these notes?

22          **A. I do.**

23          Q. Okay. And did you fill out an S-77 form as a  
24 result of the judicial committee?

25          **A. Yes.**

1 Q. Okay. And then you sent that form to the  
2 branch office; is that right?

3 A. That's correct.

4 Q. And did you send your notes in Exhibit 3 with  
5 that form?

6 A. Yes.

7 Q. Okay. And then the branch office reviewed  
8 those notes -- or the -- the form and notes and sent  
9 them back to you; is that right?

10 A. Yes.

11 Q. Okay. And they asked for additional  
12 information, right?

13 A. They did.

14 Q. Okay. And that's in Exhibit 5, which I'll  
15 hand to your deposition, it's the letter from the  
16 Christian Congregation of Jehovah's Witnesses.

17 A. (Reviewing document.)

18 Q. Do you remember receiving that letter?

19 A. Yes.

20 Q. Okay. So what did you do in response to that  
21 letter to gather the additional information, if  
22 anything?

23 A. Well, we use various means to put together the  
24 information that was asked for.

25 Q. What were those various means?

1           A. Well, finding out, like, what was the age of  
2 the accused at the time, how long ago it was, the age  
3 of the victims, whether it was a practice, to what  
4 extent.

5           Q. What did you do --

6           A. So --

7           Q. -- to determine what the age of the victim  
8 was?

9           A. Let me think about how we got that  
10 information.

11           I don't remember exactly how we did get that  
12 information.

13           Q. Okay. What about how he is viewed in the  
14 community and by authorities? How did you get that  
15 information?

16           A. Pardon?

17           Q. Yes, sir. In Exhibit 5, one of the questions  
18 that -- it asked for more information in the second  
19 paragraph. It says, "How is he viewed in the community  
20 and by authorities?"

21           Do you remember how you got that information?

22           A. Well, it would have been from our general  
23 knowledge of the accused.

24           Q. Okay.

25           A. Knowing over the years -- Knowing him, and

1 basically we knew how the community and authorities --  
2 he -- He actually did not have any record that -- that  
3 the authorities would have a view one way or the other,  
4 or the community.

5 Q. What about the next question? "Are members of  
6 the congregation aware of what took place?"

7 A. No --

8 Q. No?

9 A. -- they weren't.

10 Q. And these are questions that you didn't -- You  
11 didn't go to Max and ask these questions, did you?

12 A. No.

13 Q. Okay. You got them from somewhere else.

14 A. Yes.

15 Q. Okay.

16 MR. LEONOUDAKIS: Counsel, are you also going  
17 to uphold your privilege on the basis of those now  
18 knowing that this information didn't come from Max  
19 during the judicial committee?

20 MR. TAYLOR: I think that it's --

21 MS. DESOTO: Part of the process.

22 MR. TAYLOR: -- part of the process. It's  
23 what they learned in their communications with Max that  
24 gave rise to their understanding how to answer those  
25 questions.

# EXHIBIT I

**Christian Congregation  
of Jehovah's Witnesses**

2821 Route 22, Patterson, NY 12563-2237 Phone: (845) 306-1100  
SDJ:SSM April 12, 2004

**BODY OF ELDERS  
THOMPSON FALLS CONGREGATION OF  
JEHOVAH'S WITNESSES, THOMPSON FALLS, MT  
C/O KENNETH RIECH  
PO BOX 562  
PLAINS MT 59859-0562**

Dear Brothers:

Enclosed please find the S-77 forms you submitted to report the disfellowshipping of Maximo Nava-Reyes. We express our thanks to the judicial committee for handling matters of this sort in behalf of the congregation. Please have the judicial committee sign both forms, and type or print their names underneath the signatures, then return them in a special blue envelope.

In addition, the judicial committee should also compose a brief letter that answers each of the following questions: How long ago did he commit the sin? What was his age at the time? What was the age of his victim(s)? Was it a one-time occurrence or a practice? If it was a practice, to what extent? How is he viewed in the community and by the authorities? Has he lived down any notoriety in the community? Are members of the congregation aware of what took place? How do they and/or his victim(s) view him?

Thank you for providing this supplemental report and for signing the forms. When returning the forms, please mark the outside of the envelope with the date and desk symbols of this letter. We use this occasion to assure you of our warm love and best wishes.

Your brothers,  
*Christian Congregation  
of Jehovah's Witnesses*

TF000005

**HOLD**

SFK APR 13 2004

SDJ:SSM April 12, 2004

**BODY OF ELDERS  
THOMPSON FALLS CONGREGATION OF  
JEHOVAH'S WITNESSES, THOMPSON FALLS, MT  
C/O KENNETH RIECH  
PO BOX 562  
PLAINS MT 59859-0562**

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**Thank you for providing this supplemental report and for signing the forms. When returning the forms, please mark the outside of the envelope with the date and desk symbols of this letter. We use this occasion to assure you of our warm love and best wishes.**

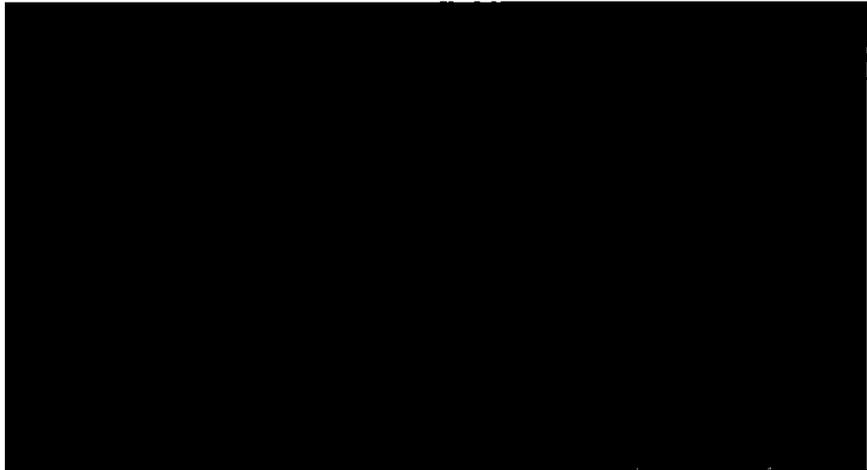
**Your brothers,**

CCJW000002

# **EXHIBIT J**

Dear [redacted]  
In response to letter dated 09/11/04  
5:05:55 m [redacted]

[redacted]



*Glenn Wilson*  
Chairman



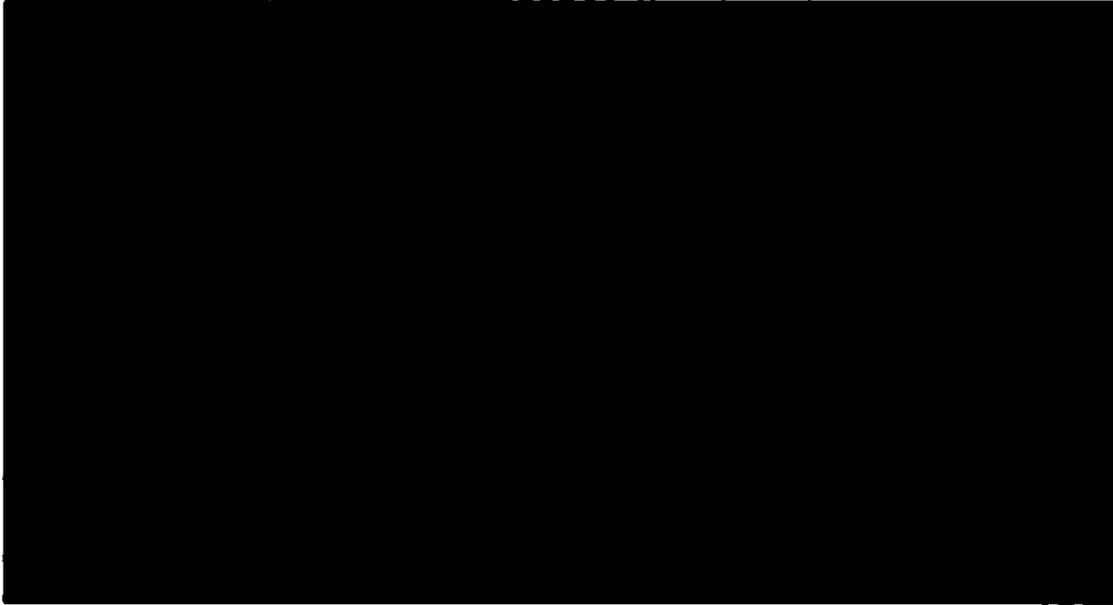
SSN APR 3 0

April 21, 2004

SSN APR 3 0 2004

Dear Brothers,

This letter is in response to your letter dated April 12, 2004, SDJ:SSM.



Glenn Wilson  
Glenn Wilson, Chairman

Ken Riech  
Ken Riech

Don Herberger  
Don Herberger

CCJW000003

# **EXHIBIT K**

Kathleen L. DeSoto  
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takeller@garlington.com

Joel M. Taylor (*Pro Hac Vice Admission Pending*)  
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 Defendant/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

ANSWER, DEMAND FOR JURY  
TRIAL AND THIRD-PARTY  
COMPLAINT

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,

Third-Party Defendant.

---

Defendants 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") answer Plaintiffs' First Amended Complaint as follows:

#### **FIRST DEFENSE**

1. Plaintiffs' First Amended Complaint fails to state a claim upon which relief may be granted.

#### **SECOND DEFENSE**

2. Answering Paragraph 1, Religious Defendants lack sufficient knowledge to affirm or deny the citizenry and domicile of Plaintiff Holly McGowan and so deny the same.

3. Answering Paragraph 2, Religious Defendants lack sufficient knowledge to affirm or deny the citizenry and domicile of Plaintiff Alexis Nunez and so deny the same.

4. Answering Paragraph 3, Religious Defendants admit the same.
5. Answering Paragraph 4, Religious Defendants admit the same.
6. Answering Paragraph 5, Religious Defendants admit the same.
7. Answering Paragraph 6, Religious Defendants admit the same.
8. Answering Paragraph 7, Religious Defendants deny the same.
9. Answering Paragraph 8, Religious Defendants admit this Court has

jurisdiction over civil matters pursuant to Montana Code Annotated § 3-5-302(1)(b), admit that the Thompson Falls Congregation is found within the State of Montana, and admit that the allegations of the First Amended Complaint allege a tort accruing within the State of Montana.

10. Answering Paragraph 9, Religious Defendants admit the Plaintiffs allege torts were committed in Sanders County and admit that the Thompson Falls Congregation is located in Sanders County, Montana.

11. Answering Paragraph 10, Religious Defendants deny the same as written.
12. Answering Paragraph 11, Religious Defendants deny the same as written.
13. Answering Paragraph 12, Religious Defendants deny the same as written.
14. Answering Paragraph 13, Religious Defendants deny the same as written.
15. Answering Paragraph 14, Religious Defendants deny the same as written.
16. Answering Paragraph 15, Religious Defendants deny the same as written.
17. Answering Paragraph 16, Religious Defendants deny the same as written.
18. Answering Paragraph 17, Religious Defendants deny the same as written.
19. Answering Paragraph 18, Religious Defendants deny the same as written.

20. Answering Paragraph 19, Religious Defendants deny the same as written.
21. Answering Paragraph 20, Religious Defendants deny the same as written.
22. Answering Paragraph 21, Religious Defendants deny the same as written.
23. Answering Paragraph 22, Religious Defendants deny the same as written.
24. Answering Paragraph 23, Religious Defendants deny the same as written.
25. Answering Paragraph 24, Religious Defendants deny the same as written.
26. Answering Paragraph 25, Religious Defendants deny the same as written.
27. Answering Paragraph 26, Religious Defendants admit the same as written.
28. Answering Paragraph 27, Religious Defendants deny the same as written.
29. Answering Paragraph 28, Religious Defendants deny the same as written.
30. Answering Paragraph 29, Religious Defendants deny the same as written.
31. Answering Paragraph 30, Religious Defendants deny the same.
32. Answering Paragraph 31, Religious Defendants admit that Holly

McGowan's mother was and is one of Jehovah's Witnesses but based upon information and belief her biological father has not been a member of a congregation for years.

Religious Defendants further admit that, at certain times, Holly McGowan attended the Thompson Falls Congregation.

33. Answering Paragraph 32, Religious Defendants admit that in 2004 the Thompson Falls Congregation, through its elders, learned of Holly McGowan's abuse accusations against her stepfather, Maximo Nava Reyes ("Reyes"), which according to Holly, began in 1994 and continued for several years after. Religious Defendants admit that in 2004 Thompson Falls Congregation also learned that Holly McGowan's brother

accused Reyes of abuse

34. Answering Paragraph 33, Religious Defendants deny the same.

35. Answering Paragraph 34, Religious Defendants deny the same.

36. Answering Paragraph 35, Religious Defendants deny the same.

37. Answering Paragraph 36, Religious Defendants lack sufficient information to affirm or deny the allegations of this paragraph and so deny the same.

38. Answering Paragraph 37, Religious Defendants admit Plaintiff Alexis Nunez is the daughter of Ivy McGowan-Castleberry and Marco Nunez. Religious Defendants further admit that Alexis was raised in a family that, at times, attended meetings at the Thompson Falls Congregation.

39. Answering Paragraph 38, Religious Defendants lack sufficient information to affirm or deny the allegations of this paragraph and so deny the same.

40. Answering Paragraph 39, Religious Defendants deny the same.

41. Answering Paragraph 40, Religious Defendants admit Reyes was disfellowshipped from the Thompson Falls Congregation on April 1, 2004 and further state that he was reinstated on June 16, 2005. Except as expressly admitted, the Religious Defendants deny the remaining allegations of this paragraph.

42. Answering Paragraph 41, Religious Defendants lack sufficient knowledge to affirm or deny this paragraph and so deny the same.

43. Answering Paragraph 42, Religious Defendants lack sufficient knowledge to affirm or deny this paragraph and so deny the same.

44. Answering Paragraph 43, Religious Defendants lack sufficient knowledge

to affirm or deny this paragraph and so deny the same.

45. Answering Paragraph 44, to the extent this paragraph contains legal conclusions, no response is necessary. To the extent this paragraph contains factual assertions, Religious Defendants deny McGowan's claim is timely pursuant to Montana Code Annotated § 27-2-216(b).

46. Answering Paragraph 45, Religious Defendants re-allege and incorporate their responses to Paragraphs 1-44 as if fully set forth herein.

47. Answering Paragraph 46, to the extent this paragraph contains legal conclusions, no response is necessary. To the extent this paragraph contains factual assertions, Religious Defendants deny the same.

48. Answering Paragraph 47, Religious Defendants deny the same.

49. Answering Paragraph 48, Religious Defendants deny the same.

50. Answering Paragraph 49, Religious Defendants deny the same.

51. Answering Paragraph 50, Religious Defendants re-allege and incorporate their responses to Paragraphs 1-49 as if fully set forth herein.

52. Answering Paragraph 51, to the extent this paragraph contains a legal conclusion, no response is necessary. To the extent this paragraph contains factual allegations, Religious Defendants admit the statute, including exceptions, speaks for itself.

53. Answering Paragraph 52, Religious Defendants deny the same.

54. Answering Paragraph 53, Religious Defendants deny the same.

55. Answering Paragraph 54, Religious Defendants deny the same.

56. Answering Paragraph 55, Religious Defendants re-allege and incorporate their responses to Paragraphs 1-54 as if fully set forth herein.

57. Answering Paragraph 56, Religious Defendants deny the same.

58. Answering Paragraph 57, Religious Defendants deny the same.

59. Answering Paragraph 58, Religious Defendants deny the same.

60. Answering Paragraph 59, Religious Defendants deny the same.

61. Answering Paragraph 60, Religious Defendants deny the same.

62. Answering Paragraph 61, Religious Defendants deny the same.

63. Answering Paragraph 62, Religious Defendants re-allege and incorporate their responses to Paragraphs 1-61 as if fully set forth herein.

64. Answering Paragraph 63, Religious Defendants deny the same.

65. Answering Paragraph 64, Religious Defendants deny the same.

66. Answering Paragraph 65, Religious Defendants deny the same.

67. Religious Defendants deny each and every allegation not specifically admitted herein.

### **AFFIRMATIVE DEFENSES**

At this time, Religious Defendants are uncertain what affirmative defenses may apply if this case goes to trial. Discovery, trial preparation, and the facts of the case may make some of the affirmative defenses inapplicable and thus they are raised in this Answer to avoid being waived. Religious Defendants will dismiss any affirmative defenses at the final pretrial conference that do not appear to be reasonably supported by the facts and/or law. The purpose of raising these affirmative defenses is not to create

defenses where none exist. Instead, it is recognized that the pleadings, discovery, and trial preparation require an examination and evaluation of evolving facts and law. The decision maker, whether a judge or jury, should have available for consideration all defenses that may apply.

#### **FIRST AFFIRMATIVE DEFENSE**

68. Religious Defendants did not cause the injuries alleged in the First Amended Complaint.

#### **SECOND AFFIRMATIVE DEFENSE**

69. The injuries alleged in the First Amended Complaint were caused by the acts or omissions of other persons or entities.

#### **THIRD AFFIRMATIVE DEFENSE**

70. The conduct of all persons or entities who contributed to cause the claims and damages alleged by McGowan and Nunez should be compared by the trier of fact with the claims against the Religious Defendants either barred or proportionately diminished, with contribution and indemnification, if any, in accordance with applicable law.

#### **FOURTH AFFIRMATIVE DEFENSE**

71. The injuries alleged in the First Amended Complaint were caused by unforeseeable, superseding and intervening causes.

#### **FIFTH AFFIRMATIVE DEFENSE**

72. Some or all of Plaintiffs' damages are barred by the applicable statute of limitations and laches.

### **SIXTH AFFIRMATIVE DEFENSE**

73. Religious Defendants are not mandatory reporters pursuant to Montana Code Annotated § 41-3-201(6)(c).

### **SEVENTH AFFIRMATIVE DEFENSE**

74. Requiring reporting that is contrary to Religious doctrine is a violation of the Establishment Clause of the United States Constitution and Article II, section 5 of the Montana Constitution.

### **EIGHTH AFFIRMATIVE DEFENSE**

75. Punitive damages are not allowed or appropriate in this case under the provisions of Montana Code Annotated § 27-1-221. Furthermore, any award of punitive damages would violate the Fifth, Sixth and Eighth Amendments, the Due Process and Equal Protection clause of the Fourteenth Amendment of the Constitution of the United States of America, as well as Sections 4, 17, and 25 of Article II of the Constitution of the State of Montana.

WHEREFORE Religious Defendants request Plaintiffs Holly McGowan and Alexis Nunez take nothing by way of their First Amended Complaint, and that Religious Defendants recover the costs of suit expended herein, as well as any other relief the Court deems appropriate.

### **DEMAND FOR JURY TRIAL**

Religious Defendants hereby demand a jury trial on all issues so triable.

### **THIRD-PARTY COMPLAINT**

Pursuant to Montana Code Annotated § 27-1-703(6) and Montana common law,

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") file their Third-Party Complaint against Third-Party Defendant Maximo Nava Reyes ("Max Reyes"):

1. Maximo Nava Reyes is a resident and citizen of the State of Montana, currently domiciled in Sanders County, Montana.

2. This Court has jurisdiction over Max Reyes because he is found in the State of Montana. Mont. R. Civ. P. 4(b)(1).

3. Venue in Sanders County is appropriate as Third-Party Defendant Max Reyes resides in Sanders County and it is the county in which Third-Party Plaintiff Thompson Falls Congregation is located. Mont. Code Ann. § 25-2-122 (2015).

4. Third-Party Defendant Max Reyes married Joan Reyes in 1993. Joan Reyes had three children from a prior marriage, one of whom is Holly McGowan.

5. Upon information and belief, Max Reyes abused Holly McGowan and her brother after his marriage to Joan Reyes.

6. This knowledge was concealed from the elders in the Thompson Falls Congregation and the other Religious Defendants until early 2004, when Peter McGowan approached elder Don Herberger and accused Max Reyes of abuse in the past.

7. Don Herberger and other elders investigated the allegations to determine if Max Reyes committed serious sin worthy of loss of membership in the Thompson Falls Congregation. During the course of the investigation, Holly McGowan, who had since

left Montana, wrote to the elders and noted that she had recently disclosed that she had also been abused by Max Reyes.

8. Max Reyes confessed to improper conduct with Holly McGowan's brother but denied abusing Holly McGowan. Based upon the allegations and Max Reyes' response, the elders in the Thompson Falls Congregation disfellowshipped (expelled) Max Reyes from the congregation.

9. Religious Defendants are not liable to Plaintiffs Holly McGowan and Alexis Nunez for any of the damages caused to them by Max Reyes.

10. Pursuant to Montana Code Annotated § 27-1-703(1), Religious Defendants have "the right of contribution from any other person whose negligence may have contributed as a proximate cause to the injury complained of" by Plaintiffs Holly McGowan and Alexis Nunez.

11. Max Reyes had a duty to ensure the safety and well-being of the minor children staying at his home.

12. Max Reyes breached his duty to use reasonable care in protecting the minor children staying at his home.

13. Max Reyes further breached the duty of reasonable care when he failed to take precautionary steps after he admitted abusing Holly McGowan's brother to ensure that there would be no additional abuse of minor children in his home or under his care.

14. Pursuant to Montana Code Annotated § 27-1-703(4), Max Reyes is a person "whose negligence may have contributed as a proximate cause to the injury complained of" by Plaintiffs Holly McGowan and Alexis Nunez against Religious

Defendants.

15. But for the negligence of Max Reyes, there would be no claims against Religious Defendants.

16. The negligence of Max Reyes was an intervening cause of the damages now claimed by Plaintiffs Holly McGowan and Alexis Nunez. As a result, the claimed negligence of the Religious Defendants was neither a foreseeable nor substantial cause of the damages now claimed by Plaintiffs.

17. Religious Defendants did not cause, or allow to be caused, any damages to Plaintiffs Holly McGowan and Alexis Nunez.

18. Religious Defendants are entitled to contribution or alternatively, be indemnified, for any damages awarded against them for the intentional and negligent acts of Max Reyes, which resulted in the sexual abuse of Plaintiffs and the damages claimed in this action.

WHEREFORE, Religious Defendants and Third-Party Plaintiffs respectfully request the following relief:

1. For full contribution or indemnification from Third-Party Defendant Max Reyes for any and all damages awarded to Holly McGowan and Alexis Nunez as a result of his conduct;
2. For apportionment of all or part of any liability for Holly McGowan's and Alexis Nunez's claimed damages to the Third-Party Defendant Max Reyes; and
3. For any other relief the Court finds appropriate.

//

**DEMAND FOR JURY TRIAL**

Religious Defendants and Third-Party Plaintiffs hereby demand a jury trial on all issues so triable.

DATED this 24<sup>th</sup> day of February, 2017.

Attorneys for the Religious Defendants/Third-Party Plaintiffs:

GARLINGTON, LOHN & ROBINSON, PLLP  
350 Ryman Street • P. O. Box 7909  
Missoula, MT 59807-7909  
Telephone (406) 523-2500  
Telefax (406) 523-2595

By Kathleen L. DeSoto  
Kathleen L. DeSoto

## CERTIFICATE OF SERVICE

I hereby certify that on February 24<sup>th</sup>, 2017, a copy of the foregoing document was served on the following persons by the following means:

           Hand Delivery  
1-3 Mail  
           Overnight Delivery Service  
           Fax (include fax number in address)  
1-2 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  
*Attorneys for Plaintiffs*
2. D. Neil Smith  
Nix, Patterson & Roach, LLP  
1845 Woodall Rogers Fwy., Ste. 1050  
Dallas, TX 75201  
dneilsmith@me.com  
*Attorneys for Plaintiffs*
3. COURTESY COPY TO:  
Hon. James A. Manley  
20th Judicial District Court  
106 Fourth Ave. E.  
Polson, MT 59860

  
\_\_\_\_\_

# **EXHIBIT L**

Kathleen L. DeSoto  
Tessa A. Keller  
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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

RESPONSES TO PLAINTIFFS'  
FIRST SET OF COMMON  
INTERROGATORIES

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,

Third-Party Defendant.

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COME NOW 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"), and hereby respond to Plaintiffs' First Set of Common Interrogatories dated March 13, 2017.<sup>1</sup>

**INTERROGATORY NO. 1:** Identify the name, address, and telephone number of each individual likely to have discoverable information, along with the subjects of that information.

**ANSWER:** Objection:

- (a) This interrogatory is vague and/or ambiguous as to the phrase "subjects of that information"; and
- (b) This interrogatory seeks information more likely to be in the possession of Plaintiffs.

Subject to and without waiving these objections, Religious Defendants answer as

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<sup>1</sup> These answers are prepared and submitted in accordance with Montana Rules of Civil Procedure 26 and 33.

follows:

Donald Herberger, Kenneth Riech, and Glenn Wilson (elders in Thompson Falls), can be contacted through counsel; Joni Nava-Reyes, 519 Clayton Street, Plains, MT, 59859, (406) 546-6554; Maximo Nava-Reyes, 519 Clayton Street, Plains, MT 59859, (406) 546-6554; Ivy McGowan [contact information unknown]; Holly McGowan [contact information unknown]; Peter McGowan [contact information unknown]; Alexis Nunez [contact information unknown]; Marco Nunez [contact information unknown]; and other persons as discovery may reveal.

**INTERROGATORY NO. 2:** Identify by name, address and telephone number any potential parties to this lawsuit.

**ANSWER:** Objection:

- (a) This interrogatory is vague and/or ambiguous as to the phrase "potential parties";
- (b) This interrogatory seeks information protected by the work-product doctrine and the attorney-client privilege; and
- (c) This interrogatory seeks information more likely to be in the possession of Plaintiffs.

Subject to and without waiving these objections, Religious Defendants answer as follows:

Joni Nava-Reyes, 519 Clayton Street, Plains, MT 59859, (406) 546-6554; Maximo Nava-Reyes, 519 Clayton Street, Plains, MT 59859, (406) 546-6554; Ivy McGowan [contact information unknown]; Holly McGowan [contact information unknown]; Peter McGowan [contact information unknown]; Alexis Nunez [contact information unknown]; Marco Nunez [contact information unknown]; and other persons as discovery may reveal.

**INTERROGATORY NO. 3:** Identify by name, address and telephone number any potential responsible third parties.

**ANSWER:** Please see objections and answer to Interrogatory No. 2.

**INTERROGATORY NO. 4:** Describe in detail how "Thompson Falls Congregation, through its elders, learned of Holly McGowan's abuse accusations against her stepfather, Maximo Nava Reyes" as described in paragraph 33 of Defendants' February 24, 2017 Answer. In doing so, please identify by name all the elders referenced in this paragraph and emphasized above in bold.

**ANSWER:** Objection:

- (a) This interrogatory constitutes an unwarranted invasion of the constitutional, statutory, and common law privacy rights of third parties;
- (b) This interrogatory seeks information or documents protected by the clergy-penitent privilege under Montana Code Annotated § 26-1-804; and
- (c) This interrogatory improperly seeks information and documents that are related to the religious beliefs, faith, customs, practices, and internal governance or discipline of Jehovah's Witnesses' religion because the First Amendment of the United States Constitution and its Montana analog bar civil courts from evaluating or interpreting such religious evidence in order to reach a decision. *See Serbian E. Orthodox Diocese v. Milivojevich*, 426 U.S. 696 (1976).

Subject to and without waiving these objections, Religious Defendants answer as follows:

Upon information and belief, in 2004, Donald Herberger received a letter from Holly McGowan containing accusations of abuse against Maximo Nava-Reyes. Religious Defendants will produce Ms. McGowan's letter if she consents to the release and signs a waiver of her confidentiality and privilege.

**INTERROGATORY NO. 5:** Identify the name, address, and telephone number

of each of the "other elders" that investigated allegations of abuse along with Don Herberger as described in paragraph 7 of Defendants' Third-Party Complaint.

**ANSWER:** Donald Herberger, Kenneth Riech, and Glenn Wilson (elders in the Thompson Falls Congregation), can be contacted through counsel.

**INTERROGATORY NO. 6:** Explain why the "Religious Defendants are not mandatory reporters pursuant to Montana Code Annotated § 41-3-201(6)(c)" as claimed in paragraph 73, Defendants' Sixth Affirmative Defense, of Defendants' Answer.

**ANSWER:** Objection:

- (a) This interrogatory seeks the legal reasoning of Defendant Thompson Falls and seeks information protected by the attorney client privilege and subject to the attorney work product doctrine.

Subject to and without waiving this objection, Defendant Thompson Falls treats disclosures of serious sin from congregants and others pursuant to the beliefs and practices of the Bible and church doctrine, which dictate that elders maintain the confidences of those who seek spiritual guidance, comfort, and/or correction. Defendants Watchtower and CCJW are not members of the clergy for reporting purposes.

**INTERROGATORY NO. 7:** Explain why Maximo Nava Reyes was reinstated into the Thompson Falls Congregation on June 6, 2005 as stated in paragraph 41 of Defendants' Answer.

**ANSWER:** Objection:

- (a) This interrogatory seeks information or documents protected by the clergy-penitent privilege under Montana Code Annotated § 26-1-804; and
- (b) This interrogatory improperly seeks information and documents that are related to the religious beliefs, faith, customs, practices, and internal governance or discipline of the faith of Jehovah's Witnesses because the

First Amendment of the United States Constitution and its Montana analog bar civil courts from evaluating or interpreting such religious evidence in order to reach a decision. *See Serbian E. Orthodox Diocese*, 426 U.S. at 696.

Subject to and without waiving these objections:

Neither Defendant Watchtower nor Defendant CCJW has any information responsive to this interrogatory as neither Defendant participated in the reinstatement process. Defendant Thompson Falls determined to reinstate Maximo Nava-Reyes into the congregation in accord with scriptural principles relating to the redeeming value of the shed blood of Jesus Christ and the importance Jesus' placed on extending forgiveness to those giving evidence of godly sadness.

**INTERROGATORY NO. 8:** Explain why the Religious Defendants did not report to any law enforcement or other authority the specific abuse that it was aware of, as stated in paragraph 33 of Defendants Answer and in paragraphs 5-8 of Defendants Third-Party Complaint.

**ANSWER:** Defendants Watchtower and CCJW are not members of the clergy for reporting purposes. Defendant Thompson Falls Congregation learned of accusations of abuse against Maximo Nava-Reyes pursuant to Montana Code Annotated § 41-3-201(6) and thus did not report the allegations of abuse.

**INTERROGATORY NO. 9:** Describe in detail the purpose and business activities of the Watchtower Bible and Tract Society of Pennsylvania. In your answer, please describe the relationship between the Watchtower Bible and Tract Society of Pennsylvania and Thompson Falls Congregation of Jehovah's Witnesses as well as its

relationship with the other Watchtower Defendants.

**ANSWER:** Watchtower Bible and Tract Society of Pennsylvania ("WTPA") is a non-profit 501(c)(3) corporation, formed in 1884. WTPA supports the faith of Jehovah's Witnesses by obtaining and holding copyright to religious materials (print, electronic, and digital media) used by Jehovah's Witnesses; by providing international humanitarian aid to victims of natural and man-made disasters, and by assisting branch offices of Jehovah's Witnesses worldwide (akin to national/regional offices) with construction and operational support. WTPA has no legal affiliation with the Thompson Falls Congregation and does not oversee the activities of congregations of Jehovah's Witnesses in any state, including Montana. WTPA is but one corporation associated with Jehovah's Witnesses, however, none of the corporations are the owner of the other, none of the corporations share common directorship, and none of the corporations share common bank accounts.

DATED this 21<sup>st</sup> day of April, 2017.

Attorneys for Religious Defendants/Third-Party  
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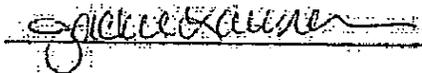
By   
Kathleen L. DeSoto

**CERTIFICATE OF SERVICE**

I hereby certify that on April 21, 2017, a copy of the foregoing document was served on the following persons by the following means:

- Hand Delivery
- Mail
- I-2 Overnight Delivery Service
- Fax (include fax number in address)
- E-Mail (include email in address)

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# **EXHIBIT M**

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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

RESPONSES TO PLAINTIFFS' FIRST  
SET OF REQUESTS FOR  
PRODUCTION TO DEFENDANTS  
WATCHTOWER AND CCJW

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,

Third-Party Defendant.

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COME NOW Defendants/Third-Party Plaintiffs Watchtower Bible and Tract Society of New York, Inc. ("Watchtower") and Christian Congregation of Jehovah's Witnesses ("CCJW"); and hereby responds to Plaintiffs' First Set of Requests for Production to Watchtower Defendants ("Plaintiffs' Requests for Production") dated March 13, 2017.<sup>1</sup>

#### Preliminary Objections

1. Defendants CCJW and Watchtower object to the scope of the definition of "You, Your, or Watchtower Defendant(s)" contained in Plaintiffs' Requests for Production on the grounds that it seeks documents that are in the possession, custody, or control of its attorneys and not in the possession, custody, or control of Defendant CCJW or Watchtower. Defendants CCJW and Watchtower further object on the basis that the definition of the term "You, Your, or Watchtower Defendant(s)" contained in Plaintiffs'

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<sup>1</sup> These responses are prepared and submitted in accordance with Montana Rules of Civil Procedure 26 and 34.

Requests for Production seeks information that is prepared in anticipation of litigation, information that constitutes attorney's work product or constitutes attorney-client communication, and therefore is privileged and protected from disclosure.

2. Defendants CCJW and Watchtower object to the scope of the definition of "Thompson Falls Congregation of Jehovah's Witnesses" contained in Plaintiffs' Requests for Production on the grounds that it seeks documents that are in the possession, custody, or control of its attorneys and not in the possession, custody, or control of Defendant CCJW or Watchtower.

3. Defendants object to these requests to the extent that they improperly seek information and documents that are related to the religious beliefs, faith, custom, practices and internal governance or discipline of the faith of Jehovah's Witnesses because the First Amendment of the United States Constitution and its Montana analog bar civil courts from evaluating or interpreting such religious evidence in order to reach a decision. *See Serbian E. Orthodox Diocese v. Milivojevich*, 426 U.S. 696 (1976).

**REQUEST FOR PRODUCTION NO. 1:** Produce all documents, files, photographs, or other information that concern, reference, or in any way relate to Maximo Nava Reyes's sexual abuse, or alleged sexual abuse of Holly McGowan.

**RESPONSE:** Objection:

- (a) This request is vague and/or ambiguous as to the phrase "other information that concern, reference, or in any way relate . . . .";
- (b) This request seeks information protected by the work-product doctrine and the attorney-client privilege;
- (c) This request seeks information or documents protected by the clergy-penitent privilege under Montana Code Annotated § 26-1-804; and

- (d) This request constitutes an unwarranted invasion of the constitutional, statutory, and common law privacy rights of third parties.

Subject to and without waiving these objections, Defendants respond as follows:

Defendant Watchtower refers Plaintiffs to its privilege log.

Defendant CCJW refers Plaintiffs to its privilege log and document production bates numbered CCJW000001-000007.

**REQUEST FOR PRODUCTION NO. 2:** Produce all documents, files, photographs, or other information that concern, reference, or in any way relate to Maximo Nava Reyes's sexual abuse, or alleged sexual abuse of Alexis Nunez.

**RESPONSE:** Objection:

- (a) This request is vague and/or ambiguous as to the phrase "other information that concern, reference, or in any way relate . . . .";
- (b) This request seeks information protected by the work-product doctrine and the attorney-client privilege;
- (c) This request seeks information or documents protected by the clergy-penitent privilege under Montana Code Annotated § 26-1-804; and
- (d) This request constitutes an unwarranted invasion of the constitutional, statutory, and common law privacy rights of third parties; and
- (e) This request is overly broad as to time and scope.

Subject to and without waiving these objections, Defendants respond as follows:

Defendant Watchtower refers Plaintiffs to its privilege log.

Defendant CCJW has no documents responsive to this request.

**REQUEST FOR PRODUCTION NO. 3:** Produce all documents, files, photographs, or other information that concern, reference, or in any way relate to Maximo Nava Reyes's sexual abuse, or alleged sexual abuse of Peter McGowan, plaintiff Holly McGowan's minor brother.

**RESPONSE: Objection:**

- (a) This request is vague and/or ambiguous as to the phrase "other information that concern, reference, or in any way relate . . . .";
- (b) This request seeks information protected by the work-product doctrine and the attorney-client privilege;
- (c) This request seeks information or documents protected by the clergy-penitent privilege under Montana Code Annotated § 26-1-804; and
- (d) This request constitutes an unwarranted invasion of the constitutional, statutory, and common law privacy rights of third parties.

Subject to and without waiving these objections, Defendants respond as follows:

Defendant Watchtower refers Plaintiffs to its privilege log.

Defendant CCJW refers Plaintiffs to its privilege log and document production bates numbered CCJW000001-000007.

**REQUEST FOR PRODUCTION NO. 4:** Produce all reports, documents, files, photographs, or other information that concern, reference, or in any way relate to Your admissions in paragraphs 33 & 41 of Your answer served on Plaintiffs on February 24, 2017.

**RESPONSE: Objection:**

- (a) This request is vague and/or ambiguous as to the phrase "other information that concern, reference, or in any way relate . . . .";
- (b) This request seeks information protected by the work-product doctrine and the attorney-client privilege;
- (c) This request seeks information or documents protected by the clergy-penitent privilege under Montana Code Annotated § 26-1-804; and
- (d) This request constitutes an unwarranted invasion of the constitutional, statutory, and common law privacy rights of third parties.

Subject to and without waiving these objections, Defendants respond as follows:

Defendant Watchtower refers Plaintiffs to its privilege log.

Defendant CCJW refers Plaintiffs to its privilege log and document production

bates numbered CCJW000001-000007.

**REQUEST FOR PRODUCTION NO. 5:** Produce all reports, documents, files, photographs, or other information that concern, reference, or in any way relate to Your allegations made in paragraphs 5-8 of Your Third-Party Complaint, served on Plaintiffs on February 24, 2017. This should include but is not limited to all reports, documents, files, photographs, or other information that concern the "investigation" mentioned in paragraph 7 of Defendants' Third-Party Complaint.

**RESPONSE: Objection:**

- (a) This request is vague and/or ambiguous as to the phrase "other information that concern, reference, or in any way relate . . . .";
- (b) This request seeks information protected by the work-product doctrine and the attorney-client privilege;
- (c) This request seeks information or documents protected by the clergy-penitent privilege under Montana Code Annotated § 26-1-804; and
- (d) This request constitutes an unwarranted invasion of the constitutional, statutory, and common law privacy rights of third parties.

Subject to and without waiving these objections, Defendants respond as follows:

Defendant Watchtower refers Plaintiffs to its privilege log.

Defendant CCJW refers Plaintiffs to its privilege log and document production bates numbered CCJW000001-000007.

**REQUEST FOR PRODUCTION NO. 6:** Produce all reports of any kind made to any Watchtower Defendant regarding charges or allegations of sexual abuse made by anyone against Maximo Nava Reyes.

**RESPONSE: Objection:**

- (a) This request is vague and/or ambiguous as to the phrase "other information that concern, reference, or in any way relate . . . .";

- (b) This request seeks information protected by the work-product doctrine and the attorney-client privilege;
- (c) This request seeks information or documents protected by the clergy-penitent privilege under Montana Code Annotated § 26-1-804; and
- (d) This request constitutes an unwarranted invasion of the constitutional, statutory, and common law privacy rights of third parties.

Subject to and without waiving these objections, Defendants respond as follows:

Defendant Watchtower refers Plaintiffs to its privilege log.

Defendant CCJW refers Plaintiffs to its privilege log and document production bates numbered CCJW000001-000007.

**REQUEST FOR PRODUCTION NO. 7:** Produce any and all reports made and department or division of any of the Watchtower Defendants including but not limited to Bethel, the Service Department, the Writing Department, and/or the Governing Body, or any individual member thereof, regarding or in any way relating to the charges or allegations of sexual abuse made by anyone against Maximo Nava Reyes.

**RESPONSE: Objection:**

- (a) This request is vague and/or ambiguous. Responding Defendants have no "Bethel, the Service Department, the Writing Department, and/or the Governing Body . . . .";
- (b) This request seeks information protected by the work-product doctrine and the attorney-client privilege;
- (c) This request seeks information or documents protected by the clergy-penitent privilege under Montana Code Annotated § 26-1-804; and
- (d) This request constitutes an unwarranted invasion of the constitutional, statutory, and common law privacy rights of third parties.

Subject to and without waiving these objections, Defendants respond as follows:

Defendant Watchtower refers Plaintiffs to its privilege log.

Defendant CCJW refers Plaintiffs to its privilege log and document production

bates numbered CCJW000001-000007.

**REQUEST FOR PRODUCTION NO. 8:** Produce true and correct copies of all Congregation's Publisher Record cards and membership files for Maximo Nava Reyes.

**RESPONSE:** None.

**REQUEST FOR PRODUCTION NO. 9:** Produce true and correct copies of all Congregation's Publisher Record cards and membership files for Holly McGowan.

**RESPONSE:** None.

**REQUEST FOR PRODUCTION NO. 10:** Produce true and correct copies of all Congregation's Publisher Record cards and membership files for Alexis Nunez.

**RESPONSE:** None.

**REQUEST FOR PRODUCTION NO. 11:** Produce any and all documents, including any electronic recordings of any nature, in the possession or control of any of the Watchtower Defendants, in which any person discusses being sexually abused by Maximo Nava Reyes.

**RESPONSE:** Objection:

- (a) This request is vague and/or ambiguous as to the phrase "other information that concern, reference, or in any way relate . . . .";
- (b) This request seeks information protected by the work-product doctrine and the attorney-client privilege;
- (c) This request seeks information or documents protected by the clergy-penitent privilege under Montana Code Annotated § 26-1-804; and
- (d) This request constitutes an unwarranted invasion of the constitutional, statutory, and common law privacy rights of third parties.

Subject to and without waiving these objections, Defendants respond as follows:

Defendant Watchtower refers Plaintiffs to its privilege log.

Defendant CCJW refers Plaintiffs to its privilege log and document production bates numbered CCJW000001-000007.

**REQUEST FOR PRODUCTION NO. 12:** Produce any and all documents, including any electronic recordings of any nature, in the possession or control of any of the Watchtower Defendants, concerning Maximo Nava Reyes's alleged sexual abuse of either Holly McGowan or Alexis Nunez.

**RESPONSE: Objection:**

- (a) This request is vague and/or ambiguous as to the phrase "other information that concern, reference, or in any way relate . . . .";
- (b) This request seeks information protected by the work-product doctrine and the attorney-client privilege;
- (c) This request seeks information or documents protected by the clergy-penitent privilege under Montana Code Annotated § 26-1-804; and
- (d) This request constitutes an unwarranted invasion of the constitutional, statutory, and common law privacy rights of third parties.

Subject to and without waiving these objections, Defendants respond as follows:

Defendant Watchtower refers Plaintiffs to its privilege log.

Defendant CCJW refers Plaintiffs to its privilege log and document production bates numbered CCJW000001-000007.

**REQUEST FOR PRODUCTION NO. 13:** Produce any and all files, records, correspondence, disciplinary or investigatory records, photographs, memorandum, notes, emails, or other documentary, tangible, or electronically created or stored information of any kind, under the control of or possessed by the Watchtower Defendants, concerning Maximo Nava Reyes, including but not limited to, any such information evidencing his participation in any Jehovah's Witnesses institutions or activities at or arising from the

Thompson Falls Congregation of Jehovah's Witnesses, or any Kingdom Hall or Jehovah's Witnesses Organization.

**RESPONSE:** None.

**REQUEST FOR PRODUCTION NO. 14:** Produce documents sufficient to show former and current directors for any of the Watchtower Defendants from 1990 to present.

**RESPONSE:** Defendants refer Plaintiffs to document production bates numbered WTN000011-000083, CCJW000008-000028.

**REQUEST FOR PRODUCTION NO. 15:** Produce documents sufficient to show the organizational and corporate structure of the Jehovah's Witnesses organization including but not limited to the interrelationship between and amongst the Watchtower Defendants, the Governing Body, and the Montana Districts, Bethels, Circuits and Congregations.

**RESPONSE:** Objection:

- (a) This request is vague and/or ambiguous as to the phrase "the Jehovah's Witnesses organization."

Subject to and without waiving this objection, Defendants refer Plaintiffs to its document production bates numbered WTN000001-000010.

**REQUEST FOR PRODUCTION NO. 16:** Produce documents sent or prepared by Watchtower Defendants that provide instruction for District Overseers, Circuit Overseers, Elders and other congregation leaders in Montana from 1990 to present.

**RESPONSE:** Objection:

- (a) This request is vague and/or ambiguous as to the phrase "provide instruction"; and
- (b) This request is overly broad as to time and scope.

Subject to and without waiving this objection, Defendants refer Plaintiffs to its document production bates numbered WTNY000084-000104; CCJW000029-000048.

**REQUEST FOR PRODUCTION NO. 17:** Produce documents describing the organizational structure and reporting relationships within the Watchtower Defendants, specifically, and Watchtower Society, generally (describing how each Defendant fits into the overall organization).

**RESPONSE:** Objection:

- (a) This request is vague and/or ambiguous as to the phrases "organizational structure and reporting relationships" and "Watchtower Society."

Subject to and without waiving this objection, Defendants refer Plaintiffs to its document production bates numbered WTNY000001-000010.

**REQUEST FOR PRODUCTION NO. 18:** Produce any and all documentary, tangible, or electronically created or stored evidence of the Articles of Incorporation, By-Laws, or other organizational corporate or entity information evidencing the organization, creation, management, or structure of each of the Watchtower Defendants.

**RESPONSE:** Defendants refer Plaintiffs to document production bates numbered WTNY000011-000083; CCJW000008-000028.

**REQUEST FOR PRODUCTION NO. 19:** Produce any and all documentary, tangible, or electronically created or stored evidence of any kind, indicating the identity, titles, and responsibilities of person holding any formal title within each of the

Watchtower Defendants, at present, and at any time between 1990 and the present.

**RESPONSE:** Defendants refer Plaintiffs to document production bates numbered WTNY000011-000083; CCJW000008-000028.

**REQUEST FOR PRODUCTION NO. 20:** Produce true and correct copies of all written communications addressed or sent to "All Bodies of Elders" or "All Bodies of Elders in the United States" or anyone else between 1970 and the present regarding or in any way relating to child abuse or sexual abuse, including but not limited to at least the following letters:

- a. Letter mailed by Watchtower to "ALL CIRCUIT AND DISTRICT OVERSEERS IN THE UNITED STATES" on December 5, 1985.
- b. Letter mailed by Watchtower to "ALL BODIES OF ELDERS IN THE UNITED STATES" on July 1, 1989.
- c. Letter mailed by Watchtower to "ALL BODIES OF ELDERS IN BRITAIN" on January 30, 1992.
- d. Letter mailed by Watchtower to "ALL BODIES OF ELDERS" on March 23, 1992.
- e. Letter mailed by Watchtower to "ALL BODIES OF ELDERS" on February 3, 1993.
- f. Letter mailed by Watchtower to "ALL BODIES OF ELDERS IN THE UNITED STATES" on August 1, 1995.
- g. Letter mailed by Watchtower to "ALL BODIES OF ELDERS" on March 14, 1997.
- h. Letter mailed by Watchtower to "ALL BODIES OF ELDERS" on July 20, 1998.
- i. Statement issue by Jehovah's Witness Public Affairs Office on January 2, 2001 regarding child abuse.

- j. Statement issue by Jehovah's Witness Public Affairs Office on August 7, 2001 regarding child abuse.
- k. Letter written by J.R. Brown, Director of the Watchtower Society Office of Public Information, to Betsan Powys / British Broadcasting Company "Panorama" on May 9, 2002.
- l. Letter mailed by Watchtower to "ALL BODIES OF ELDERS" on May 24, 2002.
- m. Letter mailed by Watchtower to "ALL BODIES OF ELDERS" on April 1, 2004.
- n. Letter mailed by Watchtower to "ALL BODIES OF ELDERS" on June 5, 2006.
- o. Letter mailed by Watchtower to "ALL BODIES OF ELDERS" on May 24, 2010.
- p. Letter mailed by Christian Congregation of Jehovah's Witnesses to "ALL BODIES OF ELDERS" on October 1, 2012, titled "Re: Child Abuse."
- q. Letter mailed by Christian Congregation of Jehovah's Witnesses to "ALL BODIES OF ELDERS" on November 6, 2014, titled "Re: Procedures when legal issues are involved."
- r. Letter mailed to the BODY OF ELDERS titled "A Letter From The Watchtower Bible and Tract Society About the Deletion of an Elder" related to or resulting from child abuse.
- s. Any other letters mailed by Watchtower or Christian Congregation of Jehovah's Witnesses to Elders that reference child abuse, sexual abuse, or legal issues.

**RESPONSE: Objection:**

- (a) This request is vague and/or ambiguous as to the phrases "or anyone else" and "in any way relating to child abuse or sexual abuse";
- (b) This request seeks information protected by the work-product doctrine and the attorney-client privilege;
- (c) This request constitutes an unwarranted invasion of the constitutional, statutory, and common law privacy rights of third parties;
- (d) This request is overly broad as to time and scope;

- (e) This request improperly seeks information and documents that are related to the religious beliefs, faith, customs, practices, and internal governance or discipline of the faith of Jehovah's Witnesses because the First Amendment of the United States Constitution and its Montana analog bar civil courts from evaluating or interpreting such religious evidence in order to reach a decision. See *Serbian E. Orthodox Diocese*, 426 U.S. at 696; and
- (f) This request is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving these objections, Defendants respond as follows:

As to requests 20 (a), (b), (d)-(h), Defendant Watchtower refers Plaintiffs to document production bates numbered WTNY000084-000104.

As to requests 20 (l)-(q) (l)-(o) are incorrectly identified by Plaintiffs as correspondence from Watchtower), Defendant CCJW refers Plaintiff to document production bates numbered CCJW000029-000048.

As to request 20 (c)(i)(j)(k) and (r), Defendants are unable to locate any responsive documents:

As to request 20 (s), Defendants have either produced or listed on a privilege log all responsive documents relating to the alleged perpetrator and Plaintiffs in this case; as to documents unrelated to this case, see objections.

**REQUEST FOR PRODUCTION NO. 21:** Produce all letters and communications sent to anyone regarding child abuse by Maximo Nava Reyes.

**RESPONSE:** Objection:

- (a) This request is vague and/or ambiguous as to the phrase "sent to anyone";
- (b) This request seeks information protected by the work-product doctrine and the attorney-client privilege;
- (c) This request seeks information or documents protected by the clergy-penitent privilege under Montana Code Annotated § 26-1-804; and

- (d) This request constitutes an unwarranted invasion of the constitutional, statutory, and common law privacy rights of third parties.

Subject to and without waiving these objections, Defendants respond as follows:

Defendant Watchtower refers Plaintiffs to its privilege log.

Defendant CCJW refers Plaintiffs to its privilege log and document production bates numbered CCJW000002, 000004-000007.

**REQUEST FOR PRODUCTION NO. 22:** Produce any and all documents concerning, regarding or in any way relating to any disciplinary hearing conducted regarding allegations of child abuse or sexual abuse against Maximo Nava Reyes, including but not limited to:

- a. All S-52 forms/reports and related communications
- b. All S-77 forms/reports and related communications
- c. All S-79 forms/reports and related communications
- d. All S-303 forms/reports and related communications
- e. Any notes taken by Judicial Counsel members or Judicial Committee members;
- f. All communications or letters written concerning the results of such disciplinary hearing including notice to church members or brothers.
- g. All case summaries

**RESPONSE: Objection:**

- (a) This request seeks information or documents protected by the clergy-penitent privilege under Montana Code Annotated § 26-1-804; and
- (b) This request improperly seeks information and documents that are related to the religious beliefs, faith, customs, practices, and internal governance or discipline of the faith of Jehovah's Witnesses because the First Amendment of the United States Constitution and its Montana analog bar civil courts

from evaluating or interpreting such religious evidence in order to reach a decision. *See Serbian E. Orthodox Diocese*, 426 U.S. at 696.

Subject to and without waiving these objections, Defendant Watchtower responds as follows: None.

Defendant CCJW refers Plaintiffs to document production bates numbered CCJW000001.

**REQUEST FOR PRODUCTION NO. 23:** Produce any and all documents reflecting or in any way relating to instructions by the Jehovah's Witnesses', the Watchtower Organization's, Bethel's, the Service Department's, the Writing Department's, the Governing Body's, any Watchtower Defendant's, or any member or agent thereof's instructions to judicial committee members for conducting a disciplinary hearing regarding allegations of child abuse or sexual abuse.

**RESPONSE:** Objection:

- (a) This request is vague and/or ambiguous as to the phrases "the Jehovah's Witnesses . . . Watchtower Organization's, Bethel's, the Service Department's, the Writing Department's, the Governing Body's";
- (b) This request is overly broad as to time and scope;
- (c) This request improperly seeks information and documents that are related to the religious beliefs, faith, customs, practices, and internal governance or discipline of the faith of Jehovah's Witnesses because the First Amendment of the United States Constitution and its Montana analog bar civil courts from evaluating or interpreting such religious evidence in order to reach a decision. *See Serbian E. Orthodox Diocese*, 426 U.S. at 696; and
- (d) This request is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving these objections, Defendant Watchtower refers Plaintiffs to document production bates numbered WTNY000105-000260.

**REQUEST FOR PRODUCTION NO. 24:** Produce true and correct copies of

all documents that describe any policy that Defendants had in place from 1990 to present concerning the reporting of child abuse.

**RESPONSE:** Objection:

(a) This request is vague and/or ambiguous as to the phrase "policy."

Subject to and without waiving this objection, Defendants respond as follows:

See Defendants' objections and responses to Request for Production No. 20.

**REQUEST FOR PRODUCTION NO. 25:** Produce true and Correct copies of all training or instructional materials provided to or by the Defendants concerning:

- a. Sexual abuse of a child;
- b. How to identify child sexual abuse.
- c. How to deal with issues involving the sexual abuse of a child
- d. How to investigate allegations of sexual abuse of a child
- e. What to do when a report of allegation of sexual abuse of a child is made.
- f. The "Two Witness Rule"

**RESPONSE:** Objection:

(a) This request is vague and/or ambiguous as to the phrase "training or instructional materials;"

(b) This request is not reasonably calculated to lead to the discovery of admissible evidence; and

(c) This request improperly seeks information and documents that are related to the religious beliefs, faith, customs, practices, and internal governance or discipline of the faith of Jehovah's Witnesses because the First Amendment of the United States Constitution and its Montana analog bar civil courts from evaluating or interpreting such religious evidence in order to reach a decision. See *Serbian E. Orthodox Diocese*, 426 U.S. at 696.

Subject to and without waiving these objections, Defendants respond as follows:

Defendant Watchtower refers Plaintiffs to document production bates numbered WTNY000261-000266 .

**REQUEST FOR PRODUCTION NO. 26:** Produce true and correct copies of the Kingdom Ministry School Supplementary Course for Congregation Elders that includes "Use Discernment in Handling Serious Matters."

**RESPONSE:** Objection:

- (a) This request is not reasonably calculated to lead to the discovery of admissible evidence; and
- (b) This request improperly seeks information and documents that are related to the religious beliefs, faith, customs, practices, and internal governance or discipline of the faith of Jehovah's Witnesses because the First Amendment of the United States Constitution and its Montana analog bar civil courts from evaluating or interpreting such religious evidence in order to reach a decision. *See Serbian E. Orthodox Diocese*, 426 U.S. at 696.

Subject to and without waiving this objection, Defendants refer Plaintiffs to document production bates numbered WTNY000261-000266.

**REQUEST FOR PRODUCTION NO. 27:** Produce a true and correct copy of Branch Office Procedure.

**RESPONSE:** None.

**REQUEST FOR PRODUCTION NO. 28:** Produce a true and correct copy of Singing Praises to Jehovah.

**RESPONSE:** Defendants refer Plaintiffs to document production bates numbered WTNY000267-000522.

**REQUEST FOR PRODUCTION NO. 29:** Produce a true and correct copy of "Pay Attention to Yourselves and to All the Flock" as well as all supplements including

changes and additions to be made verbally.

**RESPONSE:** Objection:

- (a) This request is overly broad as to time and scope;
- (b) This request improperly seeks information and documents that are related to the religious beliefs, faith, customs, practices, and internal governance or discipline of the faith of Jehovah's Witnesses because the First Amendment of the United States Constitution and its Montana analog bar civil courts from evaluating or interpreting such religious evidence in order to reach a decision. *See Serbian E. Orthodox Diocese*, 426 U.S. at 696; and
- (c) This request is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving these objections, Defendant Watchtower refers Plaintiffs to document production bates numbered WTNY000105-000260.

**REQUEST FOR PRODUCTION NO. 30:** Produce true and correct copies of articles from *The Watchtower* and *Awake!* that include content related to child abuse or sexual abuse, included but not limited to:

- a. "Let Us Abhor What Is Wicked," published in January 1, 1997 issue of *The Watchtower*
- b. "Help For the Victims of Incest," published in October 1, 1983 issue of *The Watchtower*
- c. "Your Child Is In Danger" published in October 8, 1993 issue of *Awake!*
- d. "How Can We Protect Our Children?" published in October 8, 1993 issue of *Awake!*
- e. "Prevention in the Home" published in October 8, 1993 issue of *Awake!*
- f. "Child Molesting — Every Mother's Nightmare" published in the January 22, 1985 issue of *Awake!*

**RESPONSE:** Defendant Watchtower refers Plaintiffs to document production bates numbered WTNY000523-000552.

**REQUEST FOR PRODUCTION NO. 31: Produce all pleadings and documents**

produced by any Defendant to the plaintiff in the following cases:

- a. Amy B. v. Watchtower Bible and Tract Society of New York, et al., Dumas Congregation of Jehovah's Witnesses, Amarillo-Southwest Congregation of Jehovah's Witnesses and Larry Kelly; Case #91,08-C-1, Filed: June 3, 2003 in the District Court of the State of Texas for the County of Potter
- b. Dorman, et al v. Doe 1, La Jolla Church, et al. (Case Number 37-2010-00092450-CU-PO-CTL)
- c. Rivera, et al v. Doe 1, Linda Vista Church, et al (Case Number 37-2011-00096950-CU-PO-CTL)
- d. Doe v. Watchtower Bible and Trust Society of New York, Inc. (Alameda County Case Number HG11558324.)
- e. Jaramillo v. Los Lunas Congregation of Jehovah's Witnesses, et al.
- f. JW, Individually, by and through her Guardian Ad Litem, TW v. Mountain View Congregation of Jehovah's Witnesses, et al (Riverside County, CA) – Case No. MCC 1300850
- g. Other lawsuits involving allegations of sexual abuse of a minor against members of the Watchtower Defendants or other Jehovah's Witnesses Congregations.

**RESPONSE: Objection:**

- (a) This request seeks information protected by the work-product doctrine and the attorney-client privilege;
- (b) This request constitutes an unwarranted invasion of the constitutional, statutory, and common law privacy rights of third parties;
- (c) This request seeks documents Defendants are precluded from producing as they are governed by court-issued protective orders which have not been rescinded; and
- (c) This request is overly broad as to time and scope.

Subject to and without waiving these objections, Defendants respond as follows:

As to requests 31 (a)-(f), Defendants refer Plaintiffs to Pleadings bearing

document production bates numbers WTNY000553-000744. Defendants stand on its

objections as all other documents sought in request No. 31(a)-(g) which were obtained or produced through discovery and contain third-party information unrelated to the allegations in this lawsuit and are subject to confidentiality agreements and/or protective orders. If Plaintiffs provide court orders from the respective jurisdictions nullifying the confidentiality agreements and/or protective orders, Defendants reserve their right to supplement this response.

**REQUEST FOR PRODUCTION NO. 32:** Produce all correspondence with your insurance agent or insurance company regarding any application or request for sexual misconduct or sexual molestation liability coverage.

**RESPONSE:** None.

**REQUEST FOR PRODUCTION NO. 33:** Produce all documents relating to any liability insurance policy held by any of the Watchtower Defendants between 1990 and the present.

**RESPONSE:** None.

**REQUEST FOR PRODUCTION NO. 34:** Produce all Insurance policies purchased by any of the Watchtower Defendants or any other Jehovah's Witness entity that provide coverage for any Montana Circuit, Montana Congregation, Montana Elder or Montana Ministerial Servant from 1990 to present.

**RESPONSE:** None.

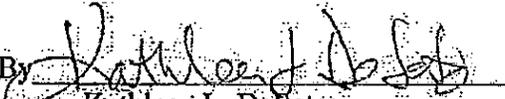
**REQUEST FOR PRODUCTION NO. 35:** Produce all other insurance policies which might be triggered by a judgment in this case.

**RESPONSE:** None.

DATED this 21<sup>st</sup> day of April, 2017.

Attorneys for Religious Defendants/Third-Party  
Plaintiffs:

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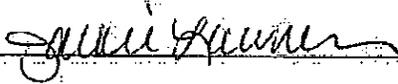
By   
Kathleen L. DeSoto

**CERTIFICATE OF SERVICE**

I hereby certify that on April 21, 2017, a copy of the foregoing document was served on the following persons by the following means:

- Hand Delivery
- Mail
- 1-2 Overnight Delivery Service
- Fax (include fax number in address)
- E-Mail (include email in address)

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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

RESPONSES TO PLAINTIFFS' FIRST  
SET OF REQUESTS FOR  
PRODUCTION TO THOMPSON FALLS  
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,

Third-Party Defendant.

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COMES NOW Defendant/Third-Party Plaintiff Thompson Falls Congregation of Jehovah's Witnesses ("Thompson Falls Congregation"), and hereby responds to Plaintiffs' First Set of Requests for Production to Thompson Falls Congregation Defendants ("Plaintiffs' Requests for Production") dated March 13, 2017.<sup>1</sup>

**Preliminary Objections:**

1. Thompson Falls objects to the scope of the definition of "You, Your, or Thompson Falls Congregation of Jehovah's Witnesses" contained in Plaintiffs' Requests for Production on the grounds that it seeks documents that are in the possession, custody, or control of its attorneys and not in the possession, custody, or control of Thompson Falls Congregation. Thompson Falls Congregation further objects on the basis that the definition of the term "You, Your, or Thompson Falls Congregation of Jehovah's Witnesses" contained in Plaintiffs' Requests for Production seeks information that is prepared in anticipation of litigation, information that constitutes attorney's work product or constitutes attorney-client communication, and therefore is privileged and protected from disclosure. Subject to the specific objections asserted to the specific requests, Thompson Falls Congregation will withhold from producing all privileged documents.

2. Thompson Falls Congregation objects to the scope of the definition of "Watchtower Defendants" contained in Plaintiffs' Requests for Production on the

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<sup>1</sup> These responses are prepared and submitted in accordance with Montana Rules of Civil Procedure 26 and 34.

grounds that it seeks documents that are in the possession, custody, or control of its attorneys and not in the possession, custody, or control of Thompson Falls Congregation.

3. Defendant objects to these requests to the extent that they improperly seek information and documents that are related to the religious beliefs, faith, custom, practices and internal governance or discipline of the faith of Jehovah's Witnesses because the First Amendment of the United States Constitution and its Montana analog bar civil courts from evaluating or interpreting such religious evidence in order to reach a decision. *See Serbian E. Orthodox Diocese v. Milivojevich*, 426 U.S. 696 (1976).

**REQUEST FOR PRODUCTION NO. 1:** Produce all documents, files, photographs, or other information that concern, reference, or in any way relate to Maximo Nava Reyes's sexual abuse, or alleged sexual abuse of Holly McGowan.

**RESPONSE: Objections:**

- (a) This request is vague and/or ambiguous as to the phrase "other information that concern, reference, or in any way relate . . .";
- (b) This request seeks information or documents protected by the clergy-penitent privilege under Montana Code Annotated § 26-1-804; and
- (c) This request constitutes an unwarranted invasion of the constitutional, statutory, and common law privacy rights of third parties.

Subject to and without waiving these objections, Defendant refers Plaintiffs to its privilege log and document production bates numbered TF000001-000011

**REQUEST FOR PRODUCTION NO. 2:** Produce all documents, files, photographs, or other information that concern, reference, or in any way relate to Maximo Nava Reyes's sexual abuse, or alleged sexual abuse of Alexis Nunez.

**RESPONSE: Objections:**

- (a) This request is vague and/or ambiguous as to the phrase "other information that concern, reference, or in any way relate . . .";
- (b) This request seeks information or documents protected by the clergy-penitent privilege under Montana Code Annotated § 26-1-804; and
- (c) This request constitutes an unwarranted invasion of the constitutional, statutory, and common law privacy rights of third parties; and

(d) This request is overly broad as to time and scope.

Subject to and without waiving these objections, Defendant responds as follows:

None.

**REQUEST FOR PRODUCTION NO. 3:** Produce all documents, files, photographs, or other information that concern, reference, or in any way relate to Maximo Nava Reyes's sexual abuse, or alleged sexual abuse of Peter McGowan, plaintiff Holly McGowan's minor brother.

**RESPONSE:** See Defendant's objections and response to Request for Production No. 1.

**REQUEST FOR PRODUCTION NO. 4:** Produce all reports, documents, files, photographs, or other information that concern, reference, or in any way relate to Your admissions in paragraphs 33 & 41 of Your Answer served on Plaintiffs on February 24, 2017.

**RESPONSE:** See Defendant's objections and response to Request for Production No. 1.

**REQUEST FOR PRODUCTION NO. 5:** Produce all reports, documents, files, photographs, or other information that concern, reference, or in any way relate to Your allegations made in paragraphs 5-8 of Your Third-Party Complaint, served on Plaintiffs on February 24, 2017. This should include, but is not limited to, all reports, documents, files, photographs, or other information concerning:

- a. Max Reyes' abuse of Holly McGowan and her brother as mentioned in paragraph 5.

- b. Peter McGowan accusing Max Reyes of abuse as mentioned in paragraph 6.
- c. The "investigation" mentioned in paragraph 7.
- d. The letter that Holly McGowan wrote to the elders as mentioned in the same paragraph 7.
- e. Max Reyes' confession to improper conduct with Holly McGowan's brother mentioned in paragraph 8.
- f. Max Reyes' denial of abusing Holly McGowan mentioned in the same paragraph 8.
- g. Thompson Falls Congregation disfellowship (expulsion) of Max Reyes from the congregation mentioned in the same paragraph 8.

**RESPONSE:** See Defendant's objections and response to Request for Production No. 1.

**REQUEST FOR PRODUCTION NO. 6:** Produce all reports of any kind made to any Thompson Falls Congregation of Jehovah's Witnesses or any Watchtower Defendants regarding charges or allegations of sexual abuse made by anyone against Maximo Nava Reyes.

**RESPONSE:** See Defendant's objections and response to Request for Production No. 1.

**REQUEST FOR PRODUCTION NO. 7:** Produce any and all reports made by any department or division of any of the Watchtower Defendants including but not limited to Bethel, the Service Department, the Writing Department, and/or the Governing Body, or any individual member thereof, regarding or in any way relating to the charges or allegations of sexual abuse made by anyone against Maximo Nava Reyes.

**RESPONSE:** Objection:

- (a) This request is vague and/or ambiguous. "[T]he Watchtower Defendants" have no "Bethel, the Service Department, the Writing Department, and/or the Governing Body . . . ."

Subject to and without waiving these objections, Defendant responds as follows:

None.

**REQUEST FOR PRODUCTION NO. 8:** Produce true and correct copies of all Congregation's Publisher Record cards and membership files for Maximo Nava Reyes.

**RESPONSE:** Defendant refers Plaintiffs to document production bates numbered TF000012-000025.

**REQUEST FOR PRODUCTION NO. 9:** Produce true and correct copies of all Congregation's Publisher Record cards and membership files for Holly McGowan.

**RESPONSE:** Defendant has made a reasonable, good faith search for documents responsive to this request and has found none.

**REQUEST FOR PRODUCTION NO. 10:** Produce true and correct copies of all Congregation's Publisher Record cards and membership files for Alexis Nunez.

**RESPONSE:** None. Ms. Nunez was not a member of the Thompson Falls Congregation of Jehovah's Witnesses.

**REQUEST FOR PRODUCTION NO. 11:** Produce any and all video or audio recordings of any nature supplied to Thompson Falls Congregation of Jehovah's Witnesses in which any person discusses being sexually abused by Maximo Nava Reyes.

**RESPONSE:** None.

**REQUEST FOR PRODUCTION NO. 12:** Produce any and all documents, including any electronic recordings of any nature, in the possession or control of

Thompson Falls Congregation of Jehovah's Witnesses, concerning Maximo Nava Reyes's alleged sexual abuse of either Holly McGowan or Alexis Nunez.

**RESPONSE:** See Defendant's objections and response to Request for Production No. 1 as to Ms. McGowan. Defendant has no responsive documents relating to Ms. Nunez.

**REQUEST FOR PRODUCTION NO. 13:** Produce any and all files, records, correspondence, disciplinary or investigatory records, photographs, memorandum, notes, emails, or other documentary, tangible, or electronically created or stored information of any kind, under the control of or possessed by Thompson Falls Congregation of Jehovah's Witnesses, concerning Maximo Nava Reyes, including but not limited to, any such information evidencing his participation in any Jehovah's Witnesses institutions or activities at or arising from the Thompson Falls Congregation of Jehovah's Witnesses, or any Kingdom Hall or Jehovah's Witnesses Organization.

**RESPONSE:** Objection:

- (a) This request is compound, vague, and/or ambiguous; and
- (b) This request is overly broad as to time and scope.

Subject to and without waiving these objections, see Defendant's objections and response to Request for Production No. 1.

**REQUEST FOR PRODUCTION NO. 14:** Produce any and all documentary, tangible, or electronically created or stored evidence of the Articles of Incorporation, By-Laws, or other organizational corporate or entity information evidencing the organization, creation, management, or structure of Thompson Falls Congregation of Jehovah's

Witnesses.

**RESPONSE:** Defendant refers Plaintiffs to document production bates numbered TF000026-000045.

**REQUEST FOR PRODUCTION NO. 15:** Produce any and all documentary, tangible, or electronically created or stored evidence of any kind, indicating the identity, titles, and responsibilities of person holding any formal title within the Thompson Falls Congregation of Jehovah's Witnesses at all times between 1990 and the present.

**RESPONSE:** Defendant refers Plaintiffs to document production bates numbered TF000046-000070.

**REQUEST FOR PRODUCTION NO. 16:** Produce documents sent or prepared by Watchtower Defendants that provide instruction for District Overseers, Circuit Overseers, Elders and other congregation leaders in Montana from 1990 to present.

**RESPONSE:** Objection:

- (a) This request is vague and/or ambiguous as to the phrases "provide instruction" and "congregation leaders";
- (b) This request is overly broad as to time and scope;
- (c) This request improperly seeks information and documents that are related to the religious beliefs, faith, customs, practices, and internal governance or discipline of the faith of Jehovah's Witnesses because the First Amendment of the United States Constitution and its Montana analog bar civil courts from evaluating or interpreting such religious evidence in order to reach a decision. *See Serbian E. Orthodox Diocese*, 426 U.S. at 696; and
- (d) This request is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving these objections, Defendant refers Plaintiffs to document production bates numbered TF000071-000076.

**REQUEST FOR PRODUCTION NO. 17:** Produce all letters and communications sent to anyone regarding child abuse by Maximo Nava Reyes.

**RESPONSE:** See Defendant's objections and response to Request for Production No. 1.

**REQUEST FOR PRODUCTION NO. 18:** Produce any and all documents concerning, regarding or in any way relating to any disciplinary hearing conducted regarding allegations of child abuse or sexual abuse against Maximo Nava Reyes, including but not limited to:

- a. All S-52 forms/reports and related communications
- b. All S-77 forms/reports and related communications
- c. All S-79 forms/reports and related communications
- d. All S-303 forms/reports and related communications
- e. Any notes taken by Judicial Counsel members or Judicial Committee members;
- f. All communications or letters written concerning the results of such disciplinary hearing including notice to church members or brothers..
- g. All case summaries

**RESPONSE:** See Defendant's objections and response to Request for Production No. 1.

**REQUEST FOR PRODUCTION NO. 19:** Produce any and all documents reflecting or in any way relating to instructions by the Jehovah's Witnesses', the Watchtower Defendants', Bethel's, the Service Department's, the Writing Department's, the Governing Body's, or any member or agent thereof's instructions to judicial

committee members for conducting a disciplinary hearing regarding allegations of child abuse or sexual abuse.

**RESPONSE: Objection:**

- (a) This request is compound, vague, and/or ambiguous as to the phrases "instructions by the Jehovah's Witnesses" and "Bethel's the Service Department's, the Writing Department's, the Governing Body's, or any member or agent thereof's . . . .";
- (b) This request is overly broad as to time and scope; and
- (c) This request improperly seeks information and documents that are related to the religious beliefs, faith, customs, practices, and internal governance or discipline of the faith of Jehovah's Witnesses because the First Amendment of the United States Constitution and its Montana analog bar civil courts from evaluating or interpreting such religious evidence in order to reach a decision. *See Serbian E. Orthodox Diocese*, 426 U.S. at 696.

Subject to and without waiving these objections, Defendant responds as follows:

See Defendant's objections and response to Request for Production No. 16.

**REQUEST FOR PRODUCTION NO. 20:** Produce any and all documentary, tangible, or electronically created or stored materials of any kind, evidencing procedures, policies, protocols, guidelines, or other information promulgated by or provided to persons participating in or supervising Jehovah's Witnesses' activities, including the Thompson Falls Congregation of Jehovah's Witnesses, on the subjects of prevention of the sexual abuse of minors during or arising out of Jehovah's Witnesses activities, or the protection of minors against such abuse, including policies, procedures, or guidelines developed, circulated, or promulgated between 1990 and the present.

**RESPONSE: Objections:**

- (a) This request is compound, unintelligible, vague, and/or ambiguous;
- (b) This request is overly broad as to time and scope;
- (c) This request improperly seeks information and documents that are related

to the religious beliefs, faith, customs, practices, and internal governance or discipline of the faith of Jehovah's Witnesses because the First Amendment of the United States Constitution and its Montana analog bar civil courts from evaluating or interpreting such religious evidence in order to reach a decision. *See Serbian E. Orthodox Diocese*, 426 U.S. at 696; and

- (d) This request is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving these objections, Defendant responds as follows:

*See* Defendant's objections and response to Request for Production No. 16.

**REQUEST FOR PRODUCTION NO. 21:** Produce true and correct copies of all documents that describe any policy that Defendant had in place from 1990 to present concerning the reporting of child abuse.

**RESPONSE:** Objection:

- (a) This request is vague and/or ambiguous as to the phrases "policy" and "reporting of child abuse."

Subject to and without waiving these objections, Defendant responds as follows:

*See* Defendant's objections and response to Request for Production No. 16.

**REQUEST FOR PRODUCTION NO. 22:** Produce true and Correct copies of all training or instructional materials provided to or by the Defendants concerning:

- a. Sexual abuse of a child;
- b. How to identify child sexual abuse
- c. How to deal with issues involving the sexual abuse of a child
- d. How to investigate allegations of sexual abuse of a child
- e. What to do when a report of allegation of sexual abuse of a child is made.
- f. The "Two Witness Rule"

**RESPONSE: Objection:**

- (a) This entire request is vague and/or ambiguous; and
- (b) This request improperly seeks information and documents that are related to the religious beliefs, faith, customs, practices, and internal governance or discipline of the faith of Jehovah's Witnesses because the First Amendment of the United States Constitution and its Montana analog bar civil courts from evaluating or interpreting such religious evidence in order to reach a decision. *See Serbian E. Orthodox Diocese*, 426 U.S. at 696.

Subject to and without waiving these objections, Defendant responds as follows:

See Defendant's objections and response to Request for Production No. 16.

**REQUEST FOR PRODUCTION NO. 23:** Produce true and correct copies of the Kingdom Ministry School Supplementary Course for Congregation Elders that includes "Use Discernment in Handling Serious Matters."

**RESPONSE:** Defendant does not possess any such copies.

**REQUEST FOR PRODUCTION NO. 24:** Produce a true and correct copy of Branch Office Procedure.

**RESPONSE:** To the best of Defendant's knowledge, none such document exists.

**REQUEST FOR PRODUCTION NO. 25:** Produce all correspondence with your insurance agent or insurance company regarding any application or request for sexual misconduct or sexual molestation liability coverage.

**RESPONSE:** None.

**REQUEST FOR PRODUCTION NO. 26:** Produce all documents relating to any liability insurance policy held by Thompson Falls Congregation of Jehovah's Witnesses between 1990 and the present.

**RESPONSE:** None.

**REQUEST FOR PRODUCTION NO. 27:** Produce all insurance policies purchased by Thompson Falls Congregation of Jehovah's Witnesses that provide coverage for any Montana Circuit, Montana Congregation, Montana Elder or Montana Ministerial Servant from 1990 to present.

**RESPONSE:** None.

**REQUEST FOR PRODUCTION NO. 28:** Produce all other insurance policies which might be triggered by a judgment in this case.

**RESPONSE:** None.

DATED this 21<sup>st</sup> day of April, 2017.

Attorneys for Religious Defendants/Third-Party  
Plaintiffs:

GARLINGTON, LOHN & ROBINSON, PLLP  
350 Ryman Street • P. O. Box 7909  
Missoula, MT 59807-7909  
Telephone (406) 523-2500  
Telefax (406) 523-2595

By

  
Kathleen L. DeSoto

## CERTIFICATE OF SERVICE

I hereby certify that on April 21, 2017, a copy of the foregoing document was served on the following persons by the following means:

           Hand Delivery  
           Mail  
1-2 Overnight Delivery Service  
           Fax (include fax number in address)  
           E-Mail (include email in address)

1. James P. Molloy  
Gallik, Bremer & Molloy, P.C.  
P.O. Box 70  
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*Attorneys for Plaintiffs*
  
2. D. Neil Smith  
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1845 Woodall Rogers Fwy., Ste. 1050  
Dallas, TX 75201  
dneilsmith@me.com  
*Attorneys for Plaintiffs*

  
\_\_\_\_\_

# **EXHIBIT N**

Christian Congregation  
of Jehovah's Witnesses

2821 Route 22, Palisades, NY 12563-2237 Phone: (845) 306-7100

SDJ:SSM August 25, 2005

K.R.  
Done  
Shuman

BODY OF ELDERS  
THOMPSON FALLS CONGREGATION OF  
JEHOVAH'S WITNESSES, THOMPSON FALLS, MT  
C/O KENNETH RIECH  
PO BOX 562  
PLAINS MT 59859-0562

Dear Brothers:

Thank you for notifying us of the reinstatement of Maximo Nava-Reyes on June 16, 2005. Since he was disfellowshipped for [REDACTED] we are providing specific comments on how the congregation should view him. If Brother Nava-Reyes is not associated with your congregation, please promptly return this letter and inform us of his current whereabouts so that we can contact the appropriate body of elders.

For good reason, the January 1, 1997, issue of *The Watchtower*, page 29, states: "A dedicated adult Christian who falls into the sin of child sexual abuse reveals an unnatural fleshly weakness. Experience has shown that such an adult may well molest other children. True, not every child molester repeats the sin, but many do. And the congregation cannot read hearts to tell who is and who is not liable to molest children again. (Jeremiah 17:9) Hence, Paul's counsel to Timothy applies with special force in the case of baptized adults who have molested children: 'Never lay your hands hastily upon any man; neither be a sharer in the sins of others.' (1 Timothy 5:22) For the protection of our children, a man known to have been a child molester does not qualify for a responsible position in the congregation." Therefore, in the best interest of the congregation and its members, neither the local congregation nor any legal corporations used by Jehovah's Witnesses should be viewed as delegating authority or position to one who is a known child molester.

Now that we have given careful and prayerful consideration to all the factors in the case of Brother Nava-Reyes, we believe that what is stated in the foregoing applies to him. Hence, you should not extend to him any specific responsibility that could be construed as an assigned duty, even though some assignments might be considered minor. He should not be used to handle accounts, literature, magazines, or territories. Nor would he be used as an attendant, microphone handler, to operate sound equipment, to represent the congregation in prayer, or to present "Announcements" on the Service Meeting. He would not be used as the reader at the Congregation Book Study or *Watchtower* Study, nor to conduct a meeting for field service. It would be advisable not to have a book study in his home. And, he would not qualify to auxiliary or regular pioneer. Whereas he could volunteer to assist with general care of the Kingdom Hall where he attends meetings, he could not be approved to work on other Kingdom Halls or Assembly Halls. It will be many years, if ever, before privileges of service can be restored. Even if in the distant future you were considering him for the privileges mentioned in this paragraph, you should contact the branch office.

TF000006

THOMPSON FALLS CONGREGATION, THOMPSON FALLS, MT

August 25, 2005

Page 2

Please be reminded of the following direction that appears in the March 14, 1997, confidential letter to all bodies of elders regarding known child molesters: "Individuals who have manifested a weakness in this regard should be sensitive to their need not to be alone with children. They should refrain from holding children or displaying other forms of affection for them. It would be appropriate for elders to give kindly cautions to any who are doing things that may be a temptation or a cause for concern to others in the congregation." (1 Corinthians 10:12, 32) This would include not allowing children (other than his own) to spend the night in his home, not working in field service with a child, not cultivating friendships with children, and the like.

Additionally, former child abusers should not work alone in the field ministry. They should always be accompanied by another adult publisher who is in good standing in the congregation. This also applies to working with their own minor children in the field ministry. If they choose to do so, there still should always be another adult present. This serves to protect the minor who might answer the door, the former abuser and the reputation of the congregation.

Lastly, in harmony with the direction in the August 1, 1995, and March 14, 1997, letters to all bodies of elders, if Brother Nava-Reyes moves to another congregation, you will need to write to the body of elders and "clearly and discreetly inform the elders in the new congregation about the problem," outlining the individual's background, the restrictions imposed, and any needed cautions. You should also send us a copy of your letter so that we will know his whereabouts.

Certainly, in view of the problems Brother Nava-Reyes has had, the family will benefit from regular encouragement and shepherding from you brothers. In conclusion, we thank you in advance for loyally adhering to what we have stated in this letter, and we send an expression of our warm Christian love.

Your brothers,

*Christian Congregation  
of Jehovah's Witnesses*

TF000007

**Do Not Destroy**

SDK AUG 25 2005

SDJ:SSM August 25, 2005

BODY OF ELDERS  
THOMPSON FALLS CONGREGATION OF  
JEHOVAH'S WITNESSES, THOMPSON FALLS, MT  
C/O KENNETH RIECH  
PO BOX 562  
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CCJW000004

THOMPSON FALLS CONGREGATION, THOMPSON FALLS, MT

August 25, 2005

Page 2

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Certainly, in view of the problems Brother Nava-Reyes has had, the family will benefit from regular encouragement and shepherding from you brothers. In conclusion, we thank you in advance for loyally adhering to what we have stated in this letter, and we send an expression of our warm Christian love.

Your brothers,

CCJW000005

# **EXHIBIT O**

**FILED**

SEP 29 2005

Clerk of the Napa Superior Court

By: *Jean E. Pille*  
Deputy

SUPERIOR COURT FOR THE STATE OF CALIFORNIA,  
COUNTY OF NAPA

CHARISSA W., et al.,

Plaintiffs,

v.

WATCHTOWER BIBLE AND TRACT  
SOCIETY OF NEW YORK, et al.

Defendants.

Case No.: 26-22191  
JCCP No. 4374

RULING ON SUBMITTED MOTION TO  
COMPEL PRODUCTION OF DOCUMENTS

Plaintiffs' Motion To Compel Production Of Documents came on for hearing on August 31, 2005. The court, having read and considered the papers and heard oral argument, took the matter under submission and now rules as follows:

Plaintiff's motion to compel production of documents is GRANTED in part and continued in part to allow for the production of an attorney-client privilege log.

Although defendants raised a number of objections when responding to plaintiffs' request for production of documents, they address only two of those objections in opposing plaintiffs' motion to compel: the penitential communication privilege and the attorney-client privilege, which the court will discuss in more detail below. As to the other objections not discussed by defendants, the court finds the objections are not well taken. The requested discovery requests

26-22191

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3006

are not overbroad, are relevant, and are not barred by *Serbian East Orthodox Diocese v. Milivojevich* (1976) 426 U.S. 696.

### 1. Penitential Privilege

Evidence Code section 1032 provides:

As used in this article, "penitential communication" means a communication made in confidence, in the presence of no third person so far as the penitent is aware, to a member of the clergy who, in the course of the discipline or practice of the clergy member's church, denomination, or organization, is authorized or accustomed to hear those communications and, under the discipline or tenets of his or her church, denomination, or organization, has a duty to keep those communications secret.

Defendants object to the production of a number of documents requested by plaintiffs on the ground that they are protected by the penitential communication privilege contained in Evidence Code section 1032. This court finds that the privilege does not apply to communications between the alleged abusers and the Judicial Committee. The evidence presented by both sides establishes that communications with the Judicial Committee do not fall within the scope of the privilege. First, it is clear that the Judicial Committee's purpose is to investigate sins for which disfellowship is a potential penalty. This is established not only by the deposition excerpts provided by plaintiffs, but by the Watchtower publication provided by defendants in connection with the objections to plaintiffs' evidence ("Judicial action is necessary only if a gross sin has been committed that could lead to disfellowshipping" p. 18.) Second, the privilege does not apply because the Judicial Committee was under no duty to keep the communications private. In fact, the evidence establishes that the Judicial Committee was required to communicate information it obtained regarding potential cases of child molestation to the Watchtower Society Headquarters.

Because the penitential communication privilege does not apply, within 20 days defendants shall produce all documents for which it previously asserted this privilege.

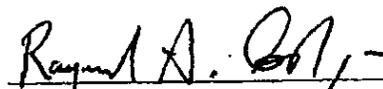
### 2. Attorney-client privilege

Defendants have not produced a privilege log for those few documents they apparently claim are protected by the attorney client privilege. Neither the plaintiffs nor the court can adequately address the objection without a privilege log. Defendants shall serve a privilege log

on plaintiffs within 10 days. Plaintiffs may thereafter file and a supplemental brief addressing the log within 10 days. The court will then issue a written ruling on the matter.

Dated:

9/29/05

  
Raymond A. Guadagni, Judge

