

Robert L. Stepan  
Ryan R. Shaffer  
James C. Murnion  
Meyer, Shaffer & Stepan, PLLP  
430 Ryman Street  
Missoula, MT 59802  
Tel: (406) 543-6929  
Fax: (406) 721-1799  
rob@mss-lawfirm.com  
ryan@mss-lawfirm.com  
james@mss-lawfirm.com

Matthew L. Merrill (appearing *pro hac vice*)  
Merrill Law, LLC  
1863 Wazee Street, #3A  
Denver, CO 80202  
Tel: (303) 947-4453  
matthew@merrillwaterlaw.com

*Attorneys for Plaintiff*

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

TRACY CAEKAERT, and CAMILLIA  
MAPLEY,

Plaintiffs,

vs.

WATCHTOWER BIBLE AND TRACT  
SOCIETY OF NEW YORK, INC.,  
WATCH TOWER BIBLE AND TRACT  
SOCIETY OF PENNSYLVANIA, and  
BRUCE MAPLEY SR.,

Defendants,

WATCHTOWER BIBLE AND TRACT  
SOCIETY OF NEW YORK, INC.,  
Cross Claimant,

BRUCE MAPLEY, SR.,  
Cross Defendant.

Case No. CV-20-52-BLG-SPW

**PLAINTIFFS' BRIEF IN  
SUPPORT OF MOTION FOR  
NEW SCHEDULING ORDER**

**BRIEF IN SUPPORT OF PLAINTIFFS' MOTION  
FOR NEW SCHEDULING ORDER**

The basis of Plaintiffs' Motion for a New Scheduling Order is as follows:

1. Since the December 20, 2021 Scheduling Order (Doc. 105) was entered, Plaintiffs have served three rounds of written discovery on Defendants.
2. In responding, Defendant Watch Tower Bible Tract Society of New York, Inc. ("WTNY") has asserted that various testimonial privileges permit it to withhold production of documents pertaining to child sex abuse, including documents pertaining to the sex abuse at issue in this case.
3. Since April of 2022, the parties have been conferring over a variety of discovery questions, including WTNY's claims of testimonial privilege.
4. On September 26, 2022, WTNY served a new, Second Supplemental Privilege log bringing the total number of privilege log entries up to fifty-two (52).
5. Plaintiffs have already challenged WTNY's assertion of clergy-penitent privilege over evidence pertaining to Defendant Mapley Sr.'s and Gunner Hain's admissions to sexually molesting Tracy Caekaert.<sup>1</sup>
6. However, to more fully evaluate all 52 of WTNY's testimonial privilege

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<sup>1</sup> This Motion has been fully briefed and is scheduled for a hearing on October 21, 2022. Order (Doc. 143).

claims, Plaintiffs have determined that a foundational deposition of WTNY is necessary. That deposition has taken nearly three months to set up and is now scheduled for October 11, 2022, in White Plains, NY.

7. Plaintiffs have additional concerns about Defendants' written discovery responses that will need to be resolved.
8. For instance, many of the problems that plagued Defendants' prior discovery responses in this case have cropped up again:
  - a. Objecting to basic English terms and phrases like "clergy," "reporting allegations," and "policies and procedures" as too vague to permit an answer, while simultaneously not stating whether discoverable information is being withheld based on such objections.<sup>2</sup>
  - b. Repeatedly stating that it has conducted a "diligent search" for documents without providing any information as to the scope of such diligent search.
9. In other instances, WTNY's discovery responses raise significant questions about its expansive claims of testimonial privilege. For example, when defending its privilege log WTNY claims its corporate legal department has

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<sup>2</sup> WTNY's objection that it is incapable of understanding the term "clergy" is hard to swallow because it has withheld evidence from production by asserting "clergy-penitent" privilege, which by necessity requires a clear understanding of the term "clergy."

established an attorney-client relationship with elders at the Hardin Congregation, “individually and on behalf of their Congregation.” Yet, when it comes to producing documents from the Hardin Congregation WTNY states that it does not have access to them. Plaintiffs do not understand how WTNY can, at the same time, have an attorney-client relationship with elders at the Hardin Congregation without having access to documents at the Hardin Congregation.

10. While Plaintiffs hope that the parties will be able to resolve many of these issues through cooperative efforts, it is apparent that other issues will need to be briefed and resolved by the Court.
11. Plaintiffs believe that discovery disputes now capable of being raised should be resolved prior to the taking of key depositions so that the parties will know what evidence is in play and where testimony may be limited by testimonial privileges.
12. Plaintiffs are therefore requesting a new scheduling order that provides at least sixty (60) days to take depositions after the aforementioned discovery disputes are resolved.
13. Plaintiffs anticipate being prepared to brief such discovery disputes no later than December 1, 2022.

Based on the foregoing, Plaintiffs respectfully request that the Court

hold a scheduling conference for the purpose of entering a new scheduling order that provides at least sixty (60) days to take depositions after current discovery disputes are resolved so that Plaintiffs may take key depositions knowing the full scope of evidence and testimony that will be available in this case.

DATED 27<sup>th</sup> day of September, 2022.

MEYER, SHAFFER & STEPANS PLLP

By: /s/ Ryan Shaffer  
Ryan R. Shaffer  
MEYER, SHAFFER & STEPANS PLLP

*Attorneys for Plaintiffs*

**CERTIFICATE OF COMPLIANCE**

Pursuant to Local Rule 7.1(d)(2), Plaintiff hereby certifies that this brief complies with the length requirement for briefs, and that this brief contains 645 words, excluding the caption, certificates of service and compliance, table of contents and authorities, and exhibit index.

By: /s/ Ryan Shaffer  
Ryan R. Shaffer  
MEYER, SHAFFER & STEPANS PLLP  
*Attorneys for Plaintiffs*

***CERTIFICATE OF SERVICE***

Pursuant to Local Rule 1.4, this document has been served on all parties via electronic service through the Court's Case Management/Electronic Case Filing (CM/ECF) system.

By: /s/ Ryan Shaffer  
Ryan R. Shaffer  
MEYER, SHAFFER & STEPANS PLLP  
*Attorneys for Plaintiffs*