

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FIRST APPELLATE DISTRICT, DIVISION THREE**

A136641

HG11558324

**JANE DOE**

Plaintiff and Respondent.

v.

**WATCHTOWER BIBLE & TRACT SOCIETY OF NEW YORK, INC.**

Defendant and Appellant,

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Appeal from the Superior Court of Alameda County  
The Honorable Robert McGuinness, Judge

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**APPLICATION OF MARIO F. MORENO TO APPEAR AS COUNSEL  
PRO HAC VICE; MEMORANDUM OF POINTS AND AUTHORITIES;  
DECLARATIONS OF MARIO F. MORENO AND JON R. WILLIAMS,  
AND [PROPOSED] ORDER**

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**WATCHTOWER BIBLE &  
TRACT SOCIETY OF  
NEW YORK, INC.,**  
Legal Department  
Mario F. Moreno, Esq.  
*(Pro Hac Vice Pending)*  
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(845) 306-1000

**BOUDREAU WILLIAMS LLP**  
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(619) 238-0370

Attorneys for Defendant and Appellant,  
**WATCHTOWER BIBLE & TRACT SOCIETY  
OF NEW YORK, INC.**

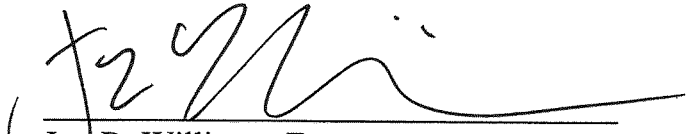
**APPLICATION**

Pursuant to California Rules of Court 9.40 and 8.54, Defendant and Appellant, Watchtower Bible and Tract Society of New York, Inc. (“Watchtower”) hereby moves the Court for an order permitting attorney Mario F. Moreno to appear as counsel *pro hac vice* in this matter. Watchtower requests that the Court grant this motion for the reasons explained in the accompanying memorandum of points and authorities, the attached declarations of Mario F. Moreno, the record accompanying this appeal, and upon all papers, pleadings, and other records on file in this case.

Respectfully submitted,

**WATCHTOWER BIBLE & TRACT  
SOCIETY OF NEW YORK, INC.,  
LEGAL DEPARTMENT**  
Mario F. Moreno, Esq.  
*(Pro Hac Vice Pending)*

**BOUDREAU WILLIAMS LLP**



Jon R. Williams, Esq.  
Attorneys for Defendant/Appellant  
**WATCHTOWER BIBLE & TRACT  
SOCIETY OF NEW YORK, INC.**

Date: 02/25/13

## MEMORANDUM OF POINTS AND AUTHORITIES

California Rule of Court 9.40(a) provides that “[a] person who is not a member of the State Bar of California but who is a member in good standing of and eligible to practice before the bar of any United States court or the highest court in any state, territory, or insular possession of the United States, and who has been retained to appear in a particular cause pending in a court of this state, may in the discretion of such court be permitted upon written application to appear as counsel *pro hac vice*, provided that an active member of the State Bar of California is associated as attorney of record.”

Mario F. Moreno, Associate General Counsel for Watchtower, coordinates all of the defense litigation for Watchtower, including appeals, in the United States. Following entry of Judgment adverse to Watchtower in the underlying trial court matter before the Alameda Superior Court, it has become necessary for Watchtower to pursue its appellate remedies with this Court, and it desires to do so with Mr. Moreno’s input and assistance. However, as Mr. Moreno is not yet admitted before the Court of Appeal and Mr. Moreno’s participation and appearance will be required on behalf of Watchtower throughout the course of this appeal, Watchtower respectfully files this *pro hac vice* motion pursuant to California Rule of Court 9.40, subd. (c)(2). Proper and timely notice of this motion has been given to all parties in this case and to the State Bar of California at its San Francisco address.

As set forth in the attached declaration of Mario F. Moreno, all the requirements of Rule 9.40 have been met by the declarant. Accordingly, Watchtower

respectfully moves this Court to permit Mario F. Moreno, Associate General Counsel for Watchtower Bible and Tract Society of New York, Inc., to appear as counsel *pro hac vice* in this appellate matter in association with Jon R. Williams, Esq., an active member of the State Bar of California and Certified Appellate Specialist who also serves as appellate counsel of record for Watchtower in this appeal.

## DECLARATION OF MARIO F. MORENO

I, Mario F. Moreno, declare as follows:

1. I am an attorney duly licensed to practice in the State of New York. I serve as in-house counsel and Associate General Counsel for Watchtower Bible and Tract Society of New York, Inc. (“Watchtower”), the Appellant/Defendant in this appeal. I have been assigned by Watchtower’s General Counsel, Philip Brumley, to represent Watchtower in this case.

2. I make this application for permission to appear as counsel *pro hac vice* on behalf of Watchtower pursuant to Rules 9.40 and 8.54 of the California Rules of Court.

3. I am not a resident of California nor am I regularly engaged in the practice of law in California. My office address is Watchtower Bible and Tract Society of New York, Inc., Legal Department, 100 Watchtower Drive, Patterson, NY 12563. My telephone number is (845) 306-1000.

4. I am a resident of New York. My residential address is 2721 Route 22, Patterson, NY 12563-2228.

5. I am admitted to practice law in the jurisdictions of Arizona, Connecticut, and New York. I was admitted to practice before the Supreme Court of the State of Arizona and all other courts in the State of Arizona on October 13, 1979. I was admitted to practice before the District Court for the District of Arizona on September 5, 1980. I was admitted to practice before the Court of Appeals for the Ninth Circuit on September 7, 1982. I was admitted to practice before the Supreme

Court of the State of Connecticut and all other courts in the State of Connecticut on June 10, 1994. I was admitted to practice before the Court of Appeals of the State of New York and all other courts in the State of New York on December 7, 1994. I was admitted to practice before the District Court, Southern District of New York, on October 14, 2003.

6. I am currently in good standing and eligible to practice in all courts to which I am admitted.

7. I am not currently suspended or disbarred in any court.

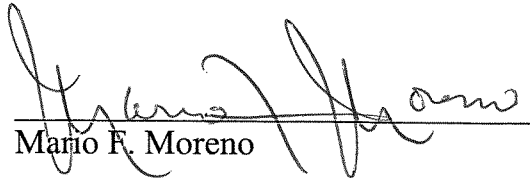
8. In the preceding two years, I have applied to appear as counsel *pro hac vice* in two cases in California. In the first case, *Dorman v. La Jolla Church*, San Diego Superior Court, Case Number 37-2010-00092450-CU-PO-CTL, my unopposed *pro hac vice* application was filed with the Superior Court on or about May 6, 2011. After the Superior Court granted my application, I was admitted *pro hac vice* on or about June 3, 2011. In the second case, *Rivera, et al. v. Pacific Beach Church, et al.*, San Diego Superior Court, Case Number 37-2011-00096950-CU-PO-CTL, my unopposed *pro hac vice* application was filed with the Superior Court on or about November 4, 2011. After the Superior Court granted my application, I was admitted *pro hac vice* on or about December 16, 2011.

9. Watchtower has also employed as their appellate counsel in this matter the firm of Boudreau Williams LLP, by Jon R. Williams, Esq., a Certified Specialist in Appellate Law (State Board of Legal Specialization). Mr. Williams is an active member of the State Bar of California.

10. Concurrently with the filing of this Application, I submit the required fee of \$50.00 along with a copy of this Application to the State Bar of California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 21<sup>st</sup> day of March, 2013 at Patterson, New York.

  
Mario F. Moreno

**DECLARATION OF JON R. WILLIAMS**

I, Jon R. Williams, declare as follows:

1. I make this declaration in support of the Motion of Mario F. Moreno to Appear as Counsel *Pro Hac Vice* in this matter.

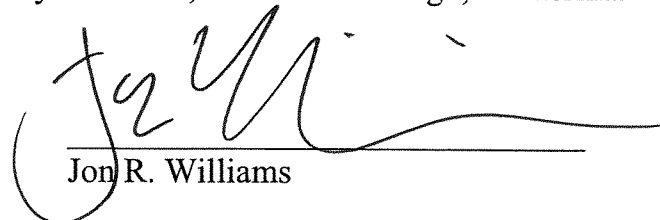
2. I am an active member of the State Bar of California, and am a Certified Specialist in Appellate Law (State Board of Legal Specialization).

3. I have been retained by Watchtower to assist in the preparation and prosecution of this appeal before this Court, and in that capacity, have consulted with Mr. Moreno and other members of Watchtower's Legal Department, as well as Watchtower's trial counsel.

4. I declare that the Application of Mario F. Moreno to Appear as Counsel *Pro Hac Vice* was served on the State Bar of California at its San Francisco address, along with a check for \$50 in payment of the fee required for the *pro hac vice* appearance.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 25<sup>th</sup> day of March, 2013 at San Diego, California.

  
\_\_\_\_\_  
Jon R. Williams



**[PROPOSED] ORDER**

The Application of Mario F. Moreno for an order granting permission for him to appear as counsel *pro hac vice* for Defendant/Appellant Watchtower Bible and Tract Society of New York, Inc., in association with Boudreau Williams LLP, by Jon R. Williams, Esq., appellate attorney of record in the above-entitled action, came under review by this Court.

The Court, having considered the papers submitted in support of the motion and good cause appearing therefore, orders as follows:

IT IS HEREBY ORDERED that the Application for an Order granting permission for Mario F. Moreno to appear as counsel *pro hac vice* pursuant to California Rule of Court 9.40 is granted.

Dated: March \_\_\_\_\_, 2013

\_\_\_\_\_  
PRESIDING JUSTICE

*Jane Doe v. The Watchtower Bible and Tract Society of New York Inc. et al.*  
**Court of Appeal of the State of California**  
**First Appellate District, Division Three**  
**Court of Appeal Case No.: A136641**  
**Alameda County Superior Court Case No.: HG11558324**

**PROOF OF SERVICE**

STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

I am employed in the county of San Diego, State of California. I am over the age of 18 and not a party to the within action; my business address is 666 State Street, San Diego, California 92101.

On **March 26, 2013**, I placed with this firm at the above address for deposit with the United States Postal Service a true and correct copy of the within document(s):

- 1) **APPLICATION OF MARIO F. MORENO TO APPEAR AS COUNSEL PRO HAC VICE; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATIONS OF MARIO F. MORENO AND JON R. WILLIAMS, AND [PROPOSED] ORDER**

In a sealed envelope, postage fully paid, addressed as follows:

Richard J. Simons, Esq. Kelly I. Kraetsch, Esq. Furtado Jaspovice & Simons 6589 Bellhurst Lane Castro Valley, CA 94552	<i>Attorney(s) for Plaintiff and Respondent: Jane Doe</i>
James M. McCabe, Esq. The McCabe Law Firm, APC 4817 Santa Monica Avenue, Suite B San Diego, CA 92107	<i>Attorney(s) for Defendant and Appellant: Fremont California Congregation of Jehovah's Witnesses, North Unit</i>

On the above date:

  X   (BY  U.S. MAIL/ EXPRESS MAIL) The sealed envelope with postage thereon fully prepaid was placed for collection and mailing following ordinary business practices. I am aware that on motion of the party served, service is presumed invalid if the postage cancellation date or postage meter date on the envelope is more than one day after the date of deposit for mailing set forth in this declaration. I am readily familiar with Boudreau Williams LLP's practice for collection and processing of documents for mailing with the United States Postal Service and that the documents are deposited with the United States Postal Service the same day as the day of collection in the ordinary course of business.

       (BY FEDERAL EXPRESS OR OTHER OVERNIGHT SERVICE) I deposited the sealed envelope in a box or other facility regularly maintained by the express service

carrier or delivered the sealed envelope to an authorized carrier or driver authorized by the express carrier or delivered the sealed envelope to an authorized carrier or driver authorized by the express carrier to receive documents.

\_\_\_\_ (BY FACSIMILE TRANSMISSION) On \_\_\_\_\_, at San Diego, California, I served the above-referenced document on the above-stated addressee by facsimile transmission pursuant to Rule 2008 of the California Rules of Court. The telephone number of the sending facsimile machine was 619-231-8181; see attached Service List for a list of the telephone number(s) of the receiving facsimile number(s). A transmission report was properly issued by the sending facsimile machine, and the transmission was reported as complete and without error.

\_\_\_\_ (BY PERSONAL DELIVERY) by causing a true copy of the within document(s) to be personally hand-delivered by \_\_\_\_\_ to the attached Service List, on the date set forth above.

\_\_\_\_ (BY E-MAIL OR ELECTRONIC TRANSMISSION) Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the person at the e-mail addresses listed. I did not receive, within a reasonable time after the transmission, any was unsuccessful.

X (STATE ONLY) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

\_\_\_\_ (FEDERAL ONLY) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on **March 26, 2013**, at San Diego, California.

  
Chenin M. Andreoli