

1 Rocky K. Copley, SBN 101628
Law Office of Rocky K. Copley
2 225 Broadway, Suite 2100
San Diego, California 92101
3 (619) 232-3131

4 Attorneys for Doe 2, Linda Vista Spanish
Congregation of Jehovah's Witnesses
5
6
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

10 JOHN DORMAN, individually; and JOEL
GAMBOA, individually,

11 Plaintiff,

12 v.

13 DEFENDANT DOE 1, LA JOLLA CHURCH;
14 DEFENDANT DOE 2, LINDA VISTA
CHURCH; DEFENDANT DOE 3,
15 SUPERVISORY ORGANIZATION;
DEFENDANT DOE 4, PERPETRATOR; and
16 DOES 5 through 100,
and DOES 1 through 20, inclusive,

17 Defendants.
18

CASE NO. 37-2010-00092450-CU-PO-CTL

**LINDA VISTA SPANISH
CONGREGATION'S OPPOSITION TO
PLAINTIFFS' MOTION TO AMEND
COMPLAINT TO ALLEGE PUNITIVE
DAMAGES**

Date: December 2, 2011
Time: 10:30 a.m.
Dept: C-73
Judge: Hon. Steven R. Denton
Trial Date: January 27, 2012
Complaint Filed: May 20, 2010

19 Defendant Linda Vista Spanish Congregation (Linda Vista) submits the following points
20 and authorities in opposition to plaintiffs' motion for leave of court to file a third amended
21 complaint to add a claim for punitive damages.

22 **I**
23 **ISSUE FOR THE COURT**

24 The liberal policy of permitting amendments to the complaint does not apply and
25 amendments should be denied where there has been inexcusable delay and probable prejudice to the
26 opposing party. Plaintiffs' original complaint contained allegations that would have pleaded facts
27 to support a request for punitive damages but no request for punitive damages was alleged. If a
28 claim for punitive damages is added to the complaint at this time, Linda Vista Spanish

1 Congregation will be prejudiced by requiring a trial continuance, additional experts to be retained,
2 amending its previously served designation of expert witnesses, increase its expense for trial
3 preparation, and increase the liability exposure of the individual congregation members to satisfy
4 the judgment. Should the plaintiffs be permitted to amend their complaint just before trial to add a
5 claim for punitive damages?

6 **II**

7 **STATUS OF THE CASE**

8 The trial in this matter is scheduled to take place on January 27, 2012. The law and motion
9 and discovery cutoff date is set for December 23, 2011. The first expert witness exchange took
10 place on October 28, 2011. The second expert witness exchange is scheduled to take place on
11 November 18, 2011. Linda Vista and the other defendants currently have motions for summary
12 judgment pending with this court. The motions for summary judgment are scheduled to be heard
13 on December 16, 2011, at 10:30 a.m. Plaintiffs filed the motion to amend their complaint to add a
14 claim for punitive damages on or about November 7, 2011. This motion is scheduled to be heard
15 only two weeks before defendants' motions for summary judgment.

16 **III**

17 **PLAINTIFFS' MOTION FOR LEAVE TO AMEND COMPLAINT TO PLEAD PUNITIVE**
18 **DAMAGES SHOULD BE DENIED**

19 **A. GENERAL LAW ON MOTIONS TO AMEND COMPLAINT**

20 "Although courts are bound to apply a policy of great liberality in permitting amendments to
21 the complaint at any stage of the proceedings, up to and including trial (see, e.g., *Mesler v. Bragg*
22 *Management Co.* (1985) 39 Cal.3d 290, 296-297, 216 Cal.Rptr. 443, 702 P.2d 601; *Higgins v. Del*
23 *Faro* (1981) 123 Cal.App.3d 558, 564, 176 Cal.Rptr. 704; *Hirsa v. Superior Court* (1981) 118
24 Cal.App.3d 486, 488-489, 173 Cal.Rptr. 418), this policy should be applied only "[w]here no
25 prejudice is shown to the adverse party...." (*Higgins v. Del Faro, supra*, 123 Cal.App.3d at p. 564,
26 176 Cal.Rptr. 704.) A different result is indicated "[w]here inexcusable delay and probable
27 prejudice to the opposing party" is shown. (*Estate of Murphy* (1978) 82 Cal.App.3d 304, 311, 147
28 Cal.Rptr. 258.)" (*Magpali v. Farmers Group, Inc.* (1996) 48 Cal.App.4th 471, 486-487).

1 It has been held that the denial of an amendment to a pleading was not an abuse of
2 discretion by the trial court because of the party's lack of diligence and the prejudice that would be
3 suffered by the opposing party with increased legal fees for preparing for trial. (*Hulsei v. Koehler*
4 (1990) 218 Cal.App.3d 1150, 1159.) The court held that "the plaintiff has a right to know his risk
5 and weigh his exposure prior to trial." (*Ibid.*)

6 "[E]ven if a good amendment is proposed in proper form, unwarranted delay in presenting it
7 may – of itself – be a valid reason for denial" of the amendment. (*Roemer v. Retail Credit Co.*
8 (1975) 44 Cal.App.3d 926, 939-940.) Where a party was aware of the facts giving rise to the basis
9 of the claim, the court is justified in denying a motion to amend the complaint when sought after a
10 long, unexcused delay or where there has been a lack of diligence. (*Hulsei v. Koehler, supra*, 218
11 Cal.App.3d at 1159; *Record v. Reason* (1999) 73 Cal.App.4th 472, 486-487.) Plaintiffs' original
12 complaint pled sufficient facts to pursue a claim for punitive damages but no request for punitive
13 damages was asserted. Plaintiffs obtained more facts through discovery to pursue such a claim a
14 year before bringing this motion to add a claim for punitive damages. There was inexcusable delay
15 by plaintiffs in seeking punitive damages. "[A]ppellate courts are less likely to find an abuse of
16 discretion where, for example, the proposed amendment is 'offered after long unexplained delay ...
17 or where there is a lack of due diligence ...'" (*Hulsei v. Koehler, supra*, 218 Cal.App.3d at 1159.)

18 Where the amendment would necessitate the continuance of a trial or would require an
19 increase burden on discovery, the amendment is properly denied. (*Magplai v. Farmers Group, Inc.*
20 (1996) 48 Cal.App.4th 471, 486-488; *P & D Consultants, Inc. v. City of Carlsbad* (2010) 190
21 Cal.App.4th 1332, 1345.) This amendment will require a continuance of the trial and increase the
22 burdens of discovery to this defendant.

23 For the reasons set forth below, this motion should be denied as a result of plaintiffs'
24 inexcusable delay in seeking this amendment and the prejudice that will be suffered by Linda Vista
25 Spanish Congregation if the amendment is permitted.

26 ///

27 ///

28 ///

1 **B. PLAINTIFFS HAVE UNREASONABLY DELAYED BRINGING THIS MOTION**
2 **FOR LEAVE TO ADD A CLAIM FOR PUNITIVE DAMAGES**

3 Code of Civil Procedure section 425.14 provides that no claim for punitive or exemplary
4 damages may be pleaded against a “religious corporation or religious corporation sole” unless
5 permitted by court order after the plaintiff brings a motion to amend the complaint. Plaintiffs
6 concede that neither Linda Vista Spanish Congregation nor the La Jolla Spanish Congregation are
7 incorporated, nor are they corporations sole. (See plaintiffs’ memorandum of points and
8 authorities, page 29, lines. 23-25.) Therefore, plaintiffs could have made a request for punitive
9 damages when this complaint was originally filed on May 20, 2010. Plaintiffs’ original complaint
10 alleges that La Jolla Church and Linda Vista Church were aware that the perpetrator, Gonzalo
11 Campos, was providing plaintiff Joel Gamboa with Bible instruction through defendant Linda Vista
12 Church and that defendant Campos had been reprovved for his conduct of sexually abusing boys but
13 continued to allow Campos access to Gamboa. (See, ¶ 5.4 of plaintiffs’ original complaint.)

14 Plaintiffs alleged that Linda Vista Church and La Jolla Church negligently hired and/or
15 retained defendant Campos in the position of trust and authority as a ministerial servant, elder,
16 religious instructor, counselor, etc., where he was able to commit acts of molestation against the
17 plaintiffs. (See ¶ 23 of plaintiffs’ original complaint.)

18 Plaintiffs attached various letters and other documents to its motion as Exhibits 1, 5, 7, and
19 11-21. These exhibits are various letters and other documents supporting their claim to amend their
20 complaint to seek punitive damages. Those documents were produced to the plaintiffs by
21 defendant Watchtower in its response to plaintiffs’ original request for production of documents.
22 Those responses with the documents were sent *October 11, 2010*. (See Exhibit A.)

23 Plaintiffs have attached portions of depositions in support of their motion. Those
24 depositions were taken on February 7, 8 and 9 of 2011. Plaintiffs’ Exhibit 8 attaches deposition
25 testimony of witness John Doe. John Doe claims that he was the victim of an attempted
26 molestation by defendant Campos and reported the molestation to an elder at Linda Vista Spanish
27 Congregation. (See plaintiffs’ Exhibit 8, page 10, lines 13-21, page 12, lines 17-25, page 13, line 1
28 and page 14, lines 14-17.) Plaintiffs’ Exhibit 9 is the deposition testimony of Jesus Montijo. Mr.

1 Montijo states in his deposition testimony that he was an elder and that he spoke with victim John
2 Doe's mother who reported the attempted molestation by Campos and Mr. Montijo reported the
3 report by John Doe's mother to the other elders at Linda Vista Spanish Congregation. (See
4 plaintiffs' Exhibit 9, page 36, lines 13-21, page 40, lines 5-11.)

5 Plaintiffs' Exhibit 10 is the deposition testimony of Justino Diaz. He was also an elder at
6 Linda Vista Spanish Congregation and states that he spoke with John Doe's mother about the
7 attempted molestation upon John Doe. (See plaintiffs' Exhibit 10, page 28, lines 16-25, page 29,
8 lines 1-10.)

9 In summary, this is not a situation where the plaintiffs did not know of facts until now.
10 They knew of most of these facts at the time they filed their original complaint since they made
11 allegations of those same facts in the original complaint. Discovery was conducted and documents
12 were produced by defendant Watchtower which plaintiffs contend confirm their allegations in their
13 original complaint. Depositions were taken 10 months ago to provide further details in support of
14 plaintiffs' allegations in their original complaint.

15 There has been inexcusable delay by the plaintiffs in failing to allege a claim for punitive
16 damages since such claims could have been made when the plaintiffs filed their original complaint.
17 Plaintiffs showed a further lack of diligence when they waited over a year after receiving
18 documents from Watchtower which the plaintiffs contend support their claims for punitive damages
19 before seeking this amendment. The depositions taken February 7, 8 and 9 of 2011 simply
20 provided more details about the documents that had been produced in October of 2010. There is no
21 justification for the plaintiffs to wait until approximately 3 weeks before the discovery cutoff and
22 law and motion cutoff before having this issue decided by the court. Plaintiffs should have alleged
23 a claim for punitive damages when the original complaint was filed. A party "has a right to know
24 his risk and weigh his exposure prior to trial." (*Hulsei v. Koehler, supra*, 218 Cal.App.3d at 1159.)
25 The court should deny plaintiffs' motion as against Linda Vista Spanish Congregation on the
26 grounds that plaintiffs have been guilty of inexcusable delay in seeking this amendment.

27 ///

28 ///

1 **C. DEFENDANT LINDA VISTA SPANISH CONGREGATION WILL SUFFER**
2 **PREJUDICE IF AMENDMENT PERMITTED**

3 The general rule of the liberality of permitting amendments to complaints is not applied in
4 situations where there has been inexcusable delays by the moving party or probable prejudice will
5 be suffered by the opposing party. If this amendment is permitted, Linda Vista Spanish
6 Congregation will suffer severe prejudice. The trial will need to be continued to permit Linda Vista
7 Spanish Congregation to study its exposure for punitive damages. It will also cause its attorney to
8 need to re-interview and/or re-depose witnesses that have already been deposed to obtain further
9 details as a result of this change in exposure to Linda Vista Spanish Congregation. Expert witness
10 exchanges have already taken place. The first expert witness exchange occurred on October 28,
11 2011. There was no claim of punitive damages at that point in time in the case. No experts were
12 designated on the issue of punitive damages. The expert witness designation by Linda Vista
13 Spanish Congregation will need to be amended to address this new issue. In addition, additional
14 experts will need to be retained to address the punitive damage allegation, which include but are not
15 limited to possible appraisers to value the assets of Linda Vista Spanish Congregation. The need to
16 retain additional experts will increase the pre-trial and trial expenses of Linda Vista Spanish
17 Congregation.

18 There will also be an increase in the cost to prepare for trial and to participate in the trial as
19 a result of the claim for punitive damages. The evidence will need to be marshaled to address the
20 new issue of the punitive damage claim.

21 Linda Vista would ordinarily have brought a motion to strike and/or a motion for summary
22 adjudication of the punitive damage claim. However, the law and motion cutoff date is set for
23 December 23, 2011. Consequently, Linda Vista Spanish Congregation would be precluded from
24 bringing such motions if the amendment were permitted at this late date.

25 Finally, the amendment to include a claim for punitive damages would change the exposure
26 of the individual members of this congregation since it is not a corporation. It could possibly
27 expose the assets of the individual members to satisfy the judgment. This will need to be analyzed
28 and addressed with the congregation so that it can understand its exposure if the claim for punitive

1 damage is permitted to be added at this late date. Therefore, it is respectfully submitted that this
2 motion should be denied for plaintiffs' inexcusable delay as well as the prejudice that would be
3 suffered by Linda Vista Spanish Congregation if this motion were to be granted.

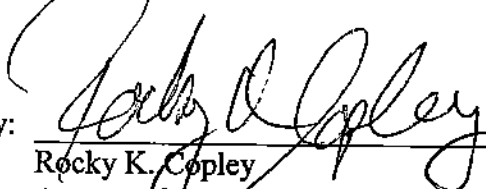
4 V

5 CONCLUSION

6 In conclusion, defendant respectfully requests that this court deny plaintiffs' request to
7 amend the complaint to plead a claim for punitive damages against defendant Linda Vista Spanish
8 Congregation on the grounds that there has been an inexcusable delay by the Plaintiffs in seeking to
9 amend the complaint to add this claim and defendant Linda Vista Spanish Congregation would
10 suffer prejudice as a result of an amendment at this late date.

11 Dated: November 16, 2011

Law Office of Rocky K. Copley

12
13 By: 

14 Rocky K. Copley
15 Attorney for Doe 2, Linda Vista Spanish
16 Congregation of Jehovah's Witnesses

17
18
19
20
21
22
23
24
25
26
27
28

SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN DIEGO - CENTRAL DIVISION			FOR COURT USE ONLY
TITLE OF CASE: (Abbreviated) John Dorman, et al. v. Defendant Doe 1, La Jolla Church, et al.			
ATTORNEY(S) NAME AND ADDRESS: Rocky K. Copley, SBN 101628 Law Office of Rocky K. Copley 225 Broadway, Suite 2100 San Diego, CA 92101			
ATTORNEY(S) FOR: Doe 2, Linda Vista Spanish Congregation	TELEPHONE: 619-232-3131	HEARING DATE-TIME-DEPT. Date: 12/2/11 Time: 10:30 a.m. Dept. C-73 Judge: Steven R. Denton	CASE NUMBER 37-2010-00092450-CU-PO-CTL

PROOF OF SERVICE

I, the undersigned, declare that: I am over the age of 18 years and not a party to the case; I am employed in the County of San Diego, where the mailing occurs; and my business address is 225 Broadway, Suite 2100, San Diego, California, 92101.

On November 16, 2011, I caused to be served the following document(s): Linda Vista Spanish Congregation's Opposition to Plaintiffs' Motion to Amend Complaint to Allege Punitive Damages and Declaration of Rocky K. Copley in Support of Linda Vista Spanish Congregation's Opposition to Plaintiffs' Motion to Amend Complaint to Allege Punitive Damages by placing a true copy of each document in a separate envelope addressed to each addressee, respectively, as follows:

Irwin M. Zalkin
Devin M. Storey
The Zalkin Law Firm, P.C.
12555 High Bluff Drive, Suite 260
San Diego, CA 92130

Mario F. Moreno, Esq.
Watchtower Bible and Tract Society
Of New York, Inc., Legal Department
100 Watchtower Drive
Patterson, NY 12563-9204

James McCabe
The McCabe Law Firm, APC
4817 Santa Monica Avenue, Suite B
San Diego, CA 92107

I then sealed each envelope and, with postage thereon fully prepaid, I placed each for deposit in the United States Postal Service, this same day, at my business address shown above, following ordinary business practices.

I further declare that I am readily familiar with the business' practice for collection and processing of correspondence for mailing with the United States Postal Service; and that the correspondence shall be deposited with the United States Postal Service this same day in the ordinary course of business.

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

Dated: November 16, 2011

Tomi Lee Stant

1 Rocky K. Copley, SBN 101628
Law Office of Rocky K. Copley
2 225 Broadway, Suite 2100
San Diego, California 92101
3 (619) 232-3131

4 Attorneys for Doe 2, Linda Vista Spanish
Congregation of Jehovah's Witnesses
5
6
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

10 JOHN DORMAN, individually; and JOEL
GAMBOA, individually,

11 Plaintiff,

12 v.

13 DEFENDANT DOE 1, LA JOLLA CHURCH;
14 DEFENDANT DOE 2, LINDA VISTA
CHURCH; DEFENDANT DOE 3,
15 SUPERVISORY ORGANIZATION;
DEFENDANT DOE 4, PERPETRATOR; and
16 DOES 5 through 100,
and DOES 1 through 20, inclusive,

17 Defendants.
18

CASE NO. 37-2010-00092450-CU-PO-CTL

**DECLARATION OF ROCKY K. COPLEY
IN SUPPORT OF LINDA VISTA
SPANISH CONGREGATION'S
OPPOSITION TO PLAINTIFFS'
MOTION TO AMEND COMPLAINT TO
ALLEGE PUNITIVE DAMAGES**

Date: December 2, 2011
Time: 10:30 a.m.
Dept: C-73
Judge: Hon. Steven R. Denton

Trial Date: January 27, 2012
Complaint Filed: May 20, 2010

19 I, Rocky K. Copley, declare as follows:

20 1. I am the attorney of record for defendant Linda Vista Spanish Congregation of
21 Jehovah's Witnesses. I make this declaration based upon facts personally known to me.

22 2. I have reviewed the original complaint filed by John Dorman and Joel Gamboa
23 (Plaintiffs) in this matter. The original allegations allege facts that would have justified the
24 Plaintiffs to request punitive damages. My investigation into those allegations has proven to me
25 that there was no factual basis to support those allegations. However, the Plaintiffs made those
26 allegations in the original complaint. If a motion to strike had been brought, this court would have
27 been required to accept those factual allegations as being true.

28 3. Paragraph 5.4 of the Plaintiffs' original complaint alleges that La Jolla Church and

1 Linda Vista Church (now referred to as La Jolla Spanish Congregation aka Playa Pacifica Spanish
2 Congregation) and Linda Vista Spanish Congregation were aware that the perpetrator, Gonzalo
3 Campos, was providing plaintiff Joel Gamboa with Bible instruction through defendant Linda
4 Vista Spanish Congregation and knew that Campos had been reprovved for his conduct of sexually
5 abusing boys but continued to allow Campos access to Gamboa.

6 4. The original complaint also alleges that Linda Vista Spanish Congregation and La
7 Jolla Spanish Congregation negligently hired and/or retained defendant Campos in a position of
8 trust and authority as a ministerial servant, elder, religious instructor, counselor, etc., where he was
9 able to commit acts of molestation against the Plaintiffs. (See paragraph 23 of the Plaintiffs'
10 original complaint.)

11 5. Despite those factual allegations that Linda Vista Spanish Congregation was aware
12 that Campos had molested boys and it permitted him to continue access to the Plaintiffs to provide
13 Bible instruction and other religious instruction, Plaintiffs failed to allege punitive damages in
14 their original complaint.

15 6. Formal discovery was conducted by the parties. The various church defendants
16 (Watchtower, La Jolla Spanish Congregation and Linda Vista Spanish Congregation) provided
17 responses to interrogatories and request for production of documents. Plaintiffs attach various
18 letters and other documents to their motion as Exhibits 1, 5, 7 and 11-21. Those exhibits were
19 various letters and other documents that the Plaintiffs contend support their claim to amend their
20 complaint to seek punitive damages. Those documents were produced to the Plaintiffs by
21 Watchtower in its response to Plaintiffs' original request for production of documents. Those
22 responses along with the documents were sent to Plaintiffs' counsel on October 11, 2010. A true
23 and correct copy of the proof of service for the response to the request for production of
24 documents reflecting that they were served on October 11, 2010 is attached hereto as Exhibit A.

25 7. The Plaintiffs attach various portions of depositions in support of their motion.
26 Those depositions were taken on February 7, 8 and 9 of 2011.

27 8. I have no explanation as to why Plaintiffs failed to allege claims for punitive
28 damages in the original complaint, in the first amended complaint, or the second amended

1 complaint.

2 9. The trial in this matter is scheduled to take place on January 27, 2012. The law and
3 motion and discovery cutoff date is set for December 23, 2011. The first expert witness exchange
4 took place on October 28, 2011. The second expert witness exchange is set to take place on
5 November 18, 2011. Linda Vista Spanish Congregation and the other defendants currently have
6 motions for summary judgment pending with this court. The motions for summary judgment are
7 scheduled to be heard on December 16, 2011 at 10:30 a.m. Plaintiffs filed this motion to amend
8 their complaint to add a claim for punitive damages on or about November 7, 2011. This motion
9 is scheduled to be heard only two weeks before defendants' motions for summary judgment and
10 approximately three weeks from the law and motion and discovery cutoff date.

11 10. I believe that Plaintiffs have been guilty of inexcusable delay in seeking a claim for
12 punitive damages. The Plaintiffs could have made a claim for punitive damages when they filed
13 their original, first amended or second amended complaints based upon the factual allegations that
14 they alleged.

15 11. I have reviewed the file after being retained to represent Linda Vista Spanish
16 Congregation. I noted that there was no claim for punitive damages. I have evaluated the case
17 based upon a lack of any punitive damages being sought against my client. Recommendations
18 have been made to my client based upon my evaluation that included the lack of any claim for
19 punitive damages.

20 12. If this court decides to overlook the inexcusable delay by the Plaintiffs and permit
21 this amendment, my client will suffer severe prejudice as a result of the Plaintiffs adding punitive
22 damages to this case.

23 13. By adding punitive damages in this case against Linda Vista Spanish Congregation,
24 there will need to be a continuance of the trial in order that I may conduct further investigation and
25 discovery into that claim. Depositions have already been taken. I believe that I will need to retake
26 several of the depositions of the various elders as well as the Plaintiffs to obtain more detailed
27 information that will address the issues of malice, oppression and fraud. In addition, I will need to
28 ask more questions about prior knowledge and/or ratification by Linda Vista Spanish

1 Congregation of the alleged conduct by Campos. This will substantially increase the cost and
2 expense to my client. I may also need to retain additional experts and revise my first expert
3 designation due to the addition of this claim.

4 14. In addition to the increased expense of having to conduct more discovery on the
5 issue of punitive damages and retain additional experts, I will need to spend more time in trial
6 preparation on the punitive damages issue. This will increase the financial expense to my client as
7 I will need to marshal out the evidence to address the issues of malice, oppression and fraud, prior
8 knowledge and/or ratification by managing agents, officers or directors of my client.

9 15. Linda Vista Spanish Congregation is not a corporation nor a corporation sole.
10 Plaintiffs' moving papers acknowledge that my client is not a corporation or a corporation sole.
11 (See Plaintiffs memorandum of points and authorities, page 29, lines 23-25.) There was no need
12 for the Plaintiffs to seek an order from the court under Code of Civil Procedure section 425.14 to
13 make a claim for punitive damages against Linda Vista Spanish Congregation.

14 16. If the Plaintiffs were hesitant at the time they filed their original complaint to make
15 a claim for punitive damages, their hesitancy should have then eliminated when they received the
16 documentation produced by Watchtower in response to Plaintiffs' original request for production
17 of documents. The very exhibits that Plaintiffs attach to their motion were produced in excess of a
18 year ago. Further details were provided to Plaintiffs' counsel in the depositions taken February 7,
19 8 and 9 of 2011. Despite having alleged facts in their original complaint, obtained documents that
20 allegedly support those facts, and obtained more details about the documents previously produced
21 and having all of that information as early as February 2011, the Plaintiffs waited ten months
22 before they filed this motion to amend to add a claim for punitive damages. The motion to amend
23 will not be heard until December 2, 2011.

24 17. If this court were to grant this motion, my clients would be prejudiced because I
25 would be unable to file a motion to strike or a motion for summary adjudication of the punitive
26 damage issue. The law and motion cutoff date is December 23, 2011. While I am uncertain as to
27 whether a motion to strike would have been brought, I am confident that I would have brought a
28 motion for summary adjudication on the punitive damage issue against my client.

EXHIBIT A

PROOF OF SERVICE
DORMAN et. al v. DOE 1, LA JOLLA CHURCH et. al.
Case No. 37-2010-00092450-CU_PO-CTL

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 am not a party to the within action; my business address is 4817 Santa Monica Ave., Ste. B, San Diego, CA 92107

On October 11, 2010 I served the following document(s) described as **Defendant Doe 1, 2, and 3's Responses to Special Interrogatories (Set One) and Defendant Doe 1, 2, and 3's Responses to Request for Production of Documents, and CD-ROM Containing Responsive Documents** on all interested parties to this action as follows:

by placing the original a true copy thereof enclosed in sealed envelopes addressed as follows:

PLEASE SEE ATTACHED SERVICE LIST.

BY MAIL: By placing a true copy thereof in a sealed envelope addressed as above, and placing it for collection and mailing following ordinary business practices. I am readily familiar with The Law Offices of James M. McCabe's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Ocean Beach, California, in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposition for mailing in affidavit.

BY OVERNIGHT COURIER: I caused the above-referenced document(s) to be delivered to _____ for delivery to the above address(es).

BY FAX: I caused the above-referenced document to be transmitted via facsimile from Fax No. (619) 224-0089 to Fax No. _____ directed to _____. The facsimile machine I used complies with Rule 2003(3) and no error was reported by the machine.

BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee(s).

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

[Federal] 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 October 11, 2010 at Ocean Beach, California


Employee of the McCabe Law Firm

SERVICE LIST

DORMAN et. al v. DOE 1, LA JOLLA CHURCH et. al.

Case No. 37-2010-00092450-CU_PO-CTL

The Zalkin Law Firm, P.C.
Devin M Storey, Esq.
12555 High Bluff Drive, Suite 260
San Diego, CA 92130
Telephone: (858) 259-3011
Facsimile: (858) 259-3015

(ATTORNEYS FOR PLAINTIFFS)