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CIVIL RIGHTS OFFICE 2
CENTRAL DIVISION

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SAN DIEGO COUNTY, CA

1 Irwin M. Zalkin, Esq., (#89957)
Devin M. Storey, Esq. (#234271)
2 Michael J. Kinslow, Esq. (#238310)
THE ZALKIN LAW FIRM, P.C.
3 12555 High Bluff Drive, Suite 260
San Diego, CA 92130
4 Tel: 858-259-3011
Fax: 858/259-3015

5 Attorney for Plaintiffs
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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF SAN DIEGO**
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11 John Dorman, Individually, and Joel
Gamboa, Individually,)
12 Plaintiffs,)
13 vs.)
14 Defendant Doe 1, La Jolla Church;)
15 Defendant Doe 2, Linda Vista Church;)
16 Defendant Doe 3, Supervisory Organization;)
Defendant Doe 4, Perpetrator; and Does 5)
through 100,)
17 Defendants.)

Case No: 37-2010-00092450-CU-PO-CTL

**PLAINTIFFS' REPLY TO
DEFENDANTS' OPPOSITION TO
PLAINTIFFS' MOTION TO COMPEL
FURTHER DOCUMENTS FROM
DEFENDANTS**

**Date: 12-23-11
Time: 10:30 a.m.
Judge: Steven R. Denton
Dept: C-73**

1 **I. INTRODUCTION**

2 Four documents are at issue in Plaintiffs' motion to compel. The document identified as
3 Plaintiffs' Exhibit 3 appears to no longer have information redacted. This leaves Plaintiffs'
4 Exhibits 1, 2, and 4 at issue. These documents have a total of four names redacted. Each name
5 should be made available to Plaintiffs.

6 **II. THE THIRD PARTIES' HAVE NO REASONABLE EXPECTATION OF**
7 **PRIVACY IN THE SUBJECT DOCUMENTS**

8 It is important to note that each of the third parties has, at one time or another, disclosed
9 the relevant information to others within the Jehovah's Witness Religion. In light of the number
10 of individuals who may subsequently access such information, the third party witnesses have no
11 reasonable expectation of privacy. *Pioneer Electronics* notes:

12 "the privacy claimant must possess a reasonable expectation of privacy under the
13 particular circumstances, including "customs, practices, and physical settings surrounding
14 particular activities" (*Hill*, supra, 7 Cal.4th at p. 36.) As *Hill* explains, "A
15 'reasonable' expectation of privacy is an objective entitlement founded on broadly based
and widely accepted community norms." (*Id.* at p. 37.) "[O]pportunities to consent
voluntarily to activities impacting privacy interests obviously affect[] the expectations of
the participant." (*Ibid.*)"

16 40 Cal.4th 360, 370-371

17 Essentially, the reasonableness of a third party's expectation of privacy is affected by the
18 activities in which they choose to participate. In this circumstance, it is clear that the third parties
19 chose to divulge personal information regarding their interactions with Gonzalo Campos in non-
20 confidential settings within the Jehovah's Witness Religion. These individuals have no
21 reasonable expectation that such material would be kept private.

22 With respect to Exhibit 1, that document was reviewed time again by individuals at
23 various Jehovah's Witness Congregations and by Watchtower. The individual whose name is
24 redacted voluntarily disclosed information regarding Gonzalo Campos' actions toward her son to
25 a third party, Roberto Rivera, in a non-confidential setting. It is difficult to envision how that
26 third party could have a reasonable expectation of privacy in the subject documents under such
27 circumstances.

28 **PLAINTIFFS' REPLY TO DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION**
TO COMPEL FURTHER RESPONSES

1 With respect to Exhibit 2, two names have been redacted from page 2. This document
2 has also been reviewed on numerous occasions by numerous individuals within the Playa
3 Pacifica Spanish Congregation. There is no reasonable expectation of privacy under such
4 circumstances.

5 Moreover, the first individual whose name is redacted did not assert his or her privacy
6 interest. Defendant was unable to locate this individual to provide notice of this action. As a
7 result, there is no indication that this person does not, or would not if they had notice, desire to be
8 contacted by Plaintiffs or their counsel.

9 As to the second individual, this witness has testified in a deposition in this action. He
10 fully explained the extent of his contact with Campos, and his subsequent dealing with the Elders
11 from Linda Vista Spanish Congregation. He has undoubtedly waived his privacy interest in the
12 subject document, or at least has no cognizable right of privacy in the subject document.

13 As to Plaintiffs' Exhibit 4, the individual whose name is redacted is a family member of a
14 Plaintiff in a related case. The redaction to preclude Plaintiffs from learning this third party's
15 name is a fiction. Nothing is served by continuing to redact the information.

16 **III. PLAINTIFFS' AND OTHER INTERESTS IN THE SUBJECT DOCUMENTS** 17 **JUSTIFY THEIR COMPULSION**

18 If this Court determines that any of the third parties mentioned in the redacted documents
19 have a reasonable expectation of privacy, this Court should nonetheless order the documents
20 produced in un-redacted form because Plaintiffs' interest in the documents is greater than said
21 privacy interest.

22 "Assuming that a claimant has met the foregoing *Hill* criteria for invasion of a privacy
23 interest, that interest must be measured against other competing or countervailing
24 interests in a "balancing test." (*Hill*, supra, 7 Cal.4th at p. 37; see *Parris v. Superior*
25 *Court*, supra, 109 Cal.App.4th at pp. 300-301 [balancing privacy rights of putative class
26 members against discovery rights of civil litigants]; see also *Britt v. Superior Court*
27 (1978) 20 Cal.3d 844, 855-856 [143 Cal. Rptr. 695, 574 P.2d 766] [balancing right of
28 associational privacy with discovery rights of litigants]; *Valley Bank*, supra, 15 Cal.3d at
p. 657 [balancing test in bank customer privacy case]; *Planned Parenthood Golden Gate*
v. Superior Court, supra, 83 Cal. App. 3d at pp. 358-369 [balancing associational privacy
rights].) "Conduct alleged to be an invasion of privacy is to be evaluated based on the
extent to which it furthers legitimate and important competing interests." (*Hill*, supra, 7

**PLAINTIFFS' REPLY TO DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION
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1 Cal.4th at p. 38.) Protective measures, safeguards and other alternatives may minimize
2 the privacy intrusion. "For example, if intrusion is limited and confidential information is
3 carefully shielded from disclosure except to those who have a legitimate need to know,
4 privacy concerns are assuaged." (*Ibid.*)

5 *Pioneer Electronics*, 40 Cal.4th 360, 370-371

6 Plaintiffs have a substantial interest in obtaining the name of the individual redacted from
7 Exhibit 1. It is obvious from the context of the document that the individual whose name is
8 redacted reported to Roberto Rivera her concerns about Gonzalo Campos' interest in her son
9 prior to the Dorman letter of complaint on April 11, 1994. Roberto Rivera was a Ministerial
10 Servant with Playa Pacifica from the moment of its creation until he was appointed an Elder of
11 Playa Pacifica on August 4, 1989. He was removed as an Elder sometime following February 2,
12 1990 and preceding November of 1990. Thus it is possible, depending on the date of Roberto
13 Rivera's discussion with the woman whose name is redacted, that Rivera was serving Playa
14 Pacifica in a representative capacity at the time he learned of the woman's concerns about
15 Campos. This is extremely relevant to the issue of "notice." Defendant should not be allowed
16 the opportunity to access this witness, while Plaintiff is precluded from even knowing her
17 identity.

18 Defendants claim that, since Plaintiff John Dorman's mother wrote the letter, Plaintiffs
19 must also be aware of the name of this individual whose name is redacted. This reasoning is
20 flawed. Manuela Dorman obtained this name from Roberto Rivera; she did not claim to have
21 spoken to the witness directly. It is certainly possible, and in fact true, that Manuela Dorman no
22 longer remembers the name that has been redacted from this document. Plaintiffs have a
23 substantial interest in receiving an un-redacted copy of Exhibit 1, and there is no reasonable
24 expectation of privacy at issue that can overcome that interest.

25 Two names are redacted from page two of this exhibit. Plaintiffs are entitled to both
26 names. Plaintiffs have taken the position that a judicial committee took place in 1986 regarding
27 Gonzalo Campos' sexual abuse of a child. Defendants have taken a contrary position that there
28 was no such Judicial Committee, and that the purported committee had been fabricated by

**PLAINTIFFS' REPLY TO DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION
TO COMPEL FURTHER RESPONSES**

1 Campos.

2 As to the first redacted name on page 2 of this exhibit, there appears to be a notation next
3 to that person's redacted name stating "1986". The right hand margin of page one of this exhibit,
4 contains a handwritten tally of Campos' victims, including a notation referring to "caso de
5 1986." It is entirely possible that the first redacted name on page two of this exhibit is the name
6 of the individual whom the 1986 Judicial Committee regarded. This information is crucial to
7 Plaintiffs' claims. It impacts on the level of knowledge of each Defendant, and also impacts
8 heavily on the credibility of multiple witnesses who have testified that no such judicial
9 committee took place, despite their signatures on documents to the contrary.

10 This individual has not asserted his or her right to privacy. Instead, Defendants claim that
11 since they have not been able to locate this person, Plaintiffs are not disadvantaged by having the
12 name withheld. Plaintiffs should not be forced to accept Defendants' efforts to find what may be
13 a key witness. Plaintiffs' should not be precluded from conducting their own search for this
14 individual. Plaintiffs' interest in this individual is extreme and overcomes the un-asserted
15 privacy right of this individual.

16 As to the second redacted individual, this witness has testified in a deposition in this
17 action. He fully explained the extent of his contact with Campos, and his subsequent dealing
18 with the Elders from Linda Vista Spanish Congregation. He has undoubtedly waived his privacy
19 interest in the subject document.

20 As to Exhibit 4, Plaintiffs have an interest in confirming the identity of the redacted
21 individual. Plaintiffs can certainly guess as to the identity of the redacted individual, but have an
22 interest in being certain as to the individual's identity. Since there is no reasonable expectation
23 of privacy, the document should be produced in un-redacted form.

24 Finally, this Court can choose to implement a protective order on the usage of the
25 redacted information so as to impose an even more minimal burden on the third parties whose
26 names are redacted.

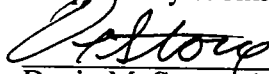
27 **PLAINTIFFS' REPLY TO DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION**
28 **TO COMPEL FURTHER RESPONSES**

1 **IV. CONCLUSION**

2 For the reasons discussed above, and in Plaintiffs' moving papers, the individuals whose
3 names were redacted from the subject documents have no reasonable expectation of privacy in
4 said documents. Moreover, if such a privacy interest did exist, that interest would be far
5 outweighed by Plaintiffs' interests in obtaining the documents, and in the State's interests in
6 finding the truth in legal proceedings, and shedding light on the actions of institutions who utilize
7 known child abusers within their organization. The documents should be produced in un-
8 redacted form.

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10 Dated: 12-16-11

Respectfully submitted,


Devin M. Storey
Attorney for Plaintiffs

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SAN DIEGO COUNTY, CA

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Irwin M. Zalkin, Esq. SBN 89957
Devin M. Storey, Esq. SBN 234271
Michael J. Kinslow, Esq. SBN 238310
THE ZALKIN LAW FIRM, P.C.
12555 High Bluff Drive, Suite 260
San Diego, California 92130
Telephone (858) 259-3011
Facsimile: (858) 259-3015
Attorney for Plaintiffs

I, Lisa E. Maynes, am employed in the city and county of San Diego, State of California. I am over the age of 18 and no a party to the action; my business address is 12555 High Bluff Drive, Suite 260, San Diego, CA 92130.

On December 16, 2011, I caused to be served:

PLAINTIFFS' REPLY TO DEFENDANTS OPPOSITION TO PLAINTIFFS SECOND MOTION TO COMPEL FURTHER DOCUMENTS

in this action by placing a true and correct copy of said documents(s) in sealed envelopes addressed as follows:

SEE ATTACHED SERVICE LIST

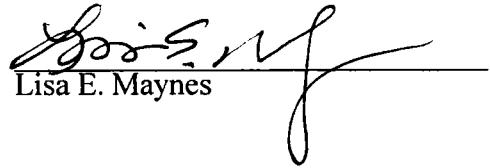
(BY MAIL) I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at San Diego, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

(BY PERSON SERVICE) By causing to be delivered by hand to the offices of the addressee(s).

(BY OVERNIGHT DELIVERY) By sending by Federal Express to the addressee(s) as indicated on the attached list.

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

Dated: 12-16-11


Lisa E. Maynes

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MAILING LIST

James M. McCabe, Esq.
The McCabe Law Firm, APC
4817 Santa Monica Avenue, Suite B
San Diego, CA 92107
Tel: 619-224-2848
Fax: 619-224-0089
email: jim@mccabelaw.net
Attorneys for Defendants
Defendant Doe 1, Playa Pacifica Spanish Congregation of Jehovah's Witnesses (formerly La Jolla Spanish Congregation)

Rocky K. Copley, Esq.
Law Office of Rocky K. Copley
225 Broadway, Suite 2100
San Diego, CA 92101
Tel: 619-232-3131
Fax: 619-232-1690
email: rkcopy@rkc-rocklaw.com
Attorney for Defendant
Defendant Doe 2, Linda Vista Spanish Congregation

Mario Moreno, Esq.
Law Offices of Mario Moreno
100 Watchtower Drive
Patterson, New York 12563
Tel: 845-306-0700
Fax: 845-306-0709
Attorney for Defendant Defendant Doe 3, Watchtower Bible & Tract Society of New York