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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF SAN DIEGO**
10

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;
17 Defendant Doe 4, Perpetrator; and Does 5
through 100,

18 Defendants.
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Case No: 37-2010-00092450-CU-PO-CTL

**PLAINTIFFS REPLY TO
DEFENDANT WATCHTOWER
BIBLE AND TRACT SOCIETY OF
NEW YORK, INC.'S OPPOSITION TO
PLAINTIFFS' MOTION TO AMEND
COMPLAINT TO ALLEGE
PUNITIVE DAMAGES**

**Date: 12-2-11
Time: 10:30 a.m.
Judge: Steven R. Denton
Dept: C-73**

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28 **PLAINTIFFS REPLY TO DEFENDANT WATCHTOWER BIBLE AND TRACT SOCIETY OF
NEW YORK, INC.'S OPPOSITION TO PLAINTIFFS' MOTION TO AMEND COMPLAINT TO
ALLEGE PUNITIVE DAMAGES**

TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I. INTRODUCTION.....1

II. PLAINTIFFS’ MOTION TO AMEND TO STATE CLAIMS FOR PUNITIVE DAMAGES WAS FILED WITHIN A REASONABLE TIME OF OBTAINING NECESSARY EVIDENCE, AND WATCHTOWER WOULD NOT BE PREJUDICED BY THE INCLUSION OF SUCH A CLAIM.....2

 A. Plaintiffs’ Motion to Amend was Timely Made.....3

 B. Defendant will Suffer no Prejudice from the Amendment.....4

 1. Watchtower will suffer no cognizable prejudice.....5

III. WATCHTOWER RATIFIED CAMPOS’ SEXUAL ABUSE OF CHILDREN.....7

 A. Campos Was an Agent of Watchtower When he Molested Plaintiffs.....7

 B. Watchtower Ratified Campos’ Molestation of Children.....8

IV. WATCHTOWER WAS GUILTY OF MALICE.....8

V. CONCLUSION.....10

TABLE OF AUTHORITIES

Cases

1
2
3
4 *Angie M. v. Superior Court*
 (1995) 37 Cal.App.4th 1217.....9
5 *Baptist v. Robinson*
 (2006) 143 Cal.App.4th 151.....7
6
7 *Coats v. Construction & General Laborers Local No. 185*
 (1971) 15 Cal.App.3d 908.....9
8 *Daum Development Corp. v. Yuba Plaza, Inc.*
 (1970)11 Cal.App.3d 65.....2,6
9
10 *Deetz v. Carter*
 (1965) 232 Cal.App.2d 851.....2,6
11 *Higgins v. Del Faro*
 (1981) 123 Cal.App.3d 558.....2
12
13 *Hirsa v. Superior Court*
 (1981) 118 Cal.App.3d 486.....2,6
14 *Honig v. Financial Corporation of America*
 (1992) 6 Cal.App.4th 960.....2
15
16 *Malloy v. Fong*
 (1951) 37 Cal.2 356.....7
17 *McChristian v. Popkin*
 (1946) 75 Cal.App.2d 249.....7
18
19 *Murillo v. Rite Stuff Foods*
 (1998) 65 Cal.App.4th 833.....7
20 *Oakes v. McCarthy Co.*
 (1968) 267 Cal.App.2d 231.....9
21
22 *Rainer v. Community Memorial Hosp.*
 (1971) 18 Cal.App.3d 240.....2
23 *Taylor v. Superior Court*
 (1979) 24 Cal.3d 890.....9
24
25 *Weeks v. Baker & McKenzie*
 (1998) 63 Cal.App.4th 1128.....9
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
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14
15
16
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18
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20
21
22
23
24
25
26
27
28

Statutes

Civil Code § 3294.....3,9
Civil Code § 3294(a).....8
Code of Civil Procedure § 425.14.....3

Miscellaneous Authorities

Rest. 2d (Agency) § 221.....7
Rest. 2d (Agency) § 225.....7

1 **I. INTRODUCTION**

2 Plaintiffs John Dorman and Joel Gamboa filed a joint motion to file a Third Amended
3 Complaint alleging claims for punitive damages against Defendants. Specifically, John Dorman
4 seeks to assert a claim for punitive damages against Defendant Linda Vista Spanish
5 Congregation of Jehovah's Witnesses, San Diego, California (Linda Vista) and Defendant
6 Watchtower Bible and Tract Society of New York, Inc. (Watchtower). Joel Gamboa seeks to
7 assert a claim for punitive damages against Linda Vista, Watchtower and Defendant La Jolla
8 Spanish Congregation of Jehovah's Witnesses, San Diego, California (Playa Pacifica). Plaintiffs
9 were both molested by Gonzalo Campos (Campos) on numerous occasions when they were
10 minors associated with Defendants.

11 In response to Plaintiffs' joint motion to amend, the three Church Defendants filed
12 separate Oppositions. For the sake of increased clarity, Plaintiffs will file three reply briefs - one
13 for each Opposition. This brief is filed by both Plaintiff John Dorman and Plaintiff Joel Gamboa
14 in reply to the Opposition filed by Defendant Watchtower.

15 Watchtower opposes Plaintiffs' motion on the ground that the motion is unreasonably
16 late, and Watchtower would purportedly suffer prejudice as a result of that supposed tardiness.
17 Watchtower next claims Campos was not its agent at the time of the molestation of Dorman; that
18 the officers, directors and managing agents of Watchtower had no notice of, and did not ratify,
19 Campos' molestation of children; and finally, that Watchtower did not act with malice sufficient
20 to justify the amendment of Plaintiffs' complaint.

21 Watchtower's Opposition must fail since a long line of authority bears witness to this
22 State's policy of liberally permitting amendments to pleadings, even up to and during trial.
23 Plaintiffs did not delay in bringing this motion, but instead filed it diligently after obtaining
24 necessary evidence supporting the motion. Watchtower will suffer no prejudice if Plaintiffs are
25 permitted to amend their complaint. Watchtower ratified the sexual abuse of Dorman, and had
26 knowledge of Campos' molestation of children while the molestation of Gamboa was ongoing
27 sufficient to justify the amendment of Plaintiffs' complaint to assert claims for punitive damages.
28 Watchtower's arguments are insufficient to justify the denial of Plaintiffs' motion.

1 **II. PLAINTIFFS' MOTION TO AMEND TO STATE CLAIMS FOR PUNITIVE**
2 **DAMAGES WAS FILED WITHIN A REASONABLE TIME OF OBTAINING**
3 **NECESSARY EVIDENCE, AND WATCHTOWER WOULD NOT BE**
4 **PREJUDICED BY THE INCLUSION OF SUCH A CLAIM**

5 "A court, at any time before or after commencement of trial, may allow an amendment to
6 a pleading in furtherance of justice." *Higgins v. Del Faro* (1981) 123 Cal.App.3d 558, 564
(underline emphasis added.) In *Honig v. Financial Corporation of America*, the court noted:

7 "Motions to amend are appropriately granted as late as the first day of trial (e.g., *Higgins*
8 *v. Del Faro* (1981) 123 Cal.App.3d 558 [176 Cal.Rptr. 704]) or even during trial (*Rainer*
9 *v. Community Memorial Hosp.* (1971) 18 Cal.App.3d 240, 251-256 [95 Cal.Rptr. 901]) if
the defendant is alerted to the charges by the factual allegations, no matter how framed (*Hirsa v. Superior Court* (1981) 118 Cal.App.3d 486, 489 [173 Cal.Rptr. 418]) and the
defendant will not be prejudiced."

10 (1992) 6 Cal.App.4th 960, 965; *See Deetz v. Carter* (1965) 232 Cal.App.2d 851, 856-857 (since
11 the underlying facts of the claim were not changed, no abuse of discretion to grant plaintiffs leave
12 to amend complaint on the day of trial, even though conceivably the last minute change could
13 dramatically affect trial plans, and there was no good reason why the plaintiffs could not have
14 sought such an amendment prior to the day of trial); *Daum Development Corp. v. Yuba Plaza,*
15 *Inc.* (1970) 11 Cal.App.3d 65, 75-76 (no abuse of discretion to allow plaintiffs to file third
16 amended complaint adding new theory of breach of contract after trial began because new
17 pleading did not assert a new cause of action, only a new theory, and defendants could not claim
18 to be surprised by the theory.)

19 In *Honig*, the complaint was filed in February of 1988, while the plaintiff was still
20 employed by the defendant. *Id.* The plaintiff was terminated from his employment in April of
21 1988. *Id.* The action was scheduled for trial on November 13, 1990. *Id.* Defendants' motions
22 for summary judgment were filed in September of 1990, and when the plaintiff filed his
23 opposition to the summary judgment motions, he also filed a motion to amend to add new
24 paragraphs relating to the plaintiff's existing claims, and also to add a new claim for defamation.
25 *Id.* at 965-66. The court determined that since the defendants were aware of the facts underlying
26 the new claim in advance of the motion, and had deposed the plaintiff regarding those issues, no
27 prejudice inured to the defendant as a result of the proposed amendment. *Id.* at 966.

28 The same is true here. Plaintiffs assert claims that Watchtower and its agents negligently,

1 hired, retained, supervised, and failed to warn of the dangers posed by Campos; that Watchtower
2 breached a confidential duty to Plaintiffs; and that Watchtower negligently failed to warn, train or
3 educate Plaintiffs. Plaintiffs also claim that, by virtue of the vicarious liability doctrine of
4 ratification, Watchtower is liable for the sexual harassment and sexual battery of Plaintiffs by
5 Campos. (Plaintiff's Exhibit 22, Proposed Third Amended Complaint.)

6 The evidence Plaintiffs will offer to prove Watchtower's liability is the same evidence
7 that Plaintiffs will introduce to establish that Watchtower is liable for punitive damages. In fact,
8 the theory of ratification is both a basis for which Watchtower is liable for punitive damages, and
9 an underlying theory of liability in the case in chief. There is no difference in the evidence that
10 would be introduced, and no need for additional discovery by either party relating to the punitive
11 damages claim. Plaintiffs' motion to amend should be granted.

12 **A. Plaintiffs' Motion to Amend was Timely Made**

13 Watchtower claims that Plaintiffs were dilatory in pursuing this motion to amend to
14 allege punitive damages.¹ Watchtower's arguments regarding the purported tardiness of
15 Plaintiffs' motion does not hold up under scrutiny.

16 Under Code of Civil Procedure §425.14, Plaintiffs must support a motion to amend to
17 allege punitive damages against a religious corporation with admissible evidence establishing a
18 prima facie entitlement to punitive damages. Much of the evidence relied upon by Plaintiffs only
19 became available to Plaintiffs recently. For instance, Plaintiffs did not have access to Exhibit 5,
20 Exhibit 7, Exhibit 11, Exhibit 12, Exhibit 14, Exhibit 15, Exhibit 16, Exhibit 18, Exhibit 19,
21 Exhibit 20 or Exhibit 21 until July 13, 2011, after Plaintiffs had successfully compelled
22 production of those documents over Defendants' objections and assertions of privilege.
23 (Declaration of Devin M. Storey at ¶ 10.) Plaintiffs could not possibly have relied on such

24
25 ¹ Paradoxically, Watchtower concedes that it is entitled to the protections of Code of Civil
26 Procedure § 425.14, but also claims that Plaintiffs could have included a claim for punitive
27 damages at the time of the filing of the complaint, before it obtained documents in discovery or
28 took any depositions. Also inconsistent are Watchtower's divergent positions that Plaintiffs had
enough evidence to file the instant motion to amend months, if not a year, ago (Watchtower
Opposition at 2-3), yet that Plaintiffs have still failed to present enough evidence to satisfy the
requirements of Code of Civil Procedure § 425.14 and Civil Code § 3294. (Watchtower
Opposition at 15.)

1 documents before they had won access to them.

2 Defendant claims that some of the documents listed above were provided to Plaintiffs on
3 October 10, 2010, and others were produced on July 13, 2011. While true, this statement is also
4 incomplete and misleading. As Defendant is well aware, the documents produced on October 11,
5 2010 were produced subject to protective order. (PE 23, December 16, 2010 Protective Order.)
6 Plaintiffs' use of such documents was limited "to the sole and exclusive purpose of Plaintiffs'
7 preparation for mediation." (PE 23, December 16, 2010 Protective Order, at ¶ 4.) Pursuant to
8 that stipulated order, Plaintiffs could not rely on said documents for any other purpose (including
9 making a motion to amend) until they were provided by Playa Pacifica and Watchtower on July
10 13, 2011 following an order of this Court. Next, due to his flight from the Country, the
11 deposition of Gonzalo Campos was not taken until September 2, 2011. (Storey Dec. at ¶11.)
12 Excerpts from Campos' deposition are attached as Exhibit 2 to Plaintiffs' motion to amend.

13 After obtaining the documents referenced above and taking the deposition of Campos,
14 Plaintiffs' motion to amend was ready to be filed on October 13, 2011. (Storey Dec. at ¶12.) In
15 the days preceding the completion of Plaintiffs' motion, Plaintiffs' Counsel was informed by the
16 Court that the first available date for the hearing of such a motion was on December 2, 2011.
17 (Storey Dec. at ¶13.) Plaintiffs appeared ex parte on October 13, 2011 to specially set a hearing
18 date on Plaintiffs' motion for November 10, 2011, which would have resulted in the motion
19 being decided two and a half months prior to trial. (Storey Dec. at ¶14.) Plaintiffs also indicated
20 willingness to have a motion for summary adjudication of the issue of punitive damages heard on
21 short notice. (Storey Dec. at ¶14.)

22 Defendants opposed Plaintiffs' request to specially set the hearing date and the ex parte
23 was denied. (Storey Dec. at ¶15.) Plaintiffs' motion was consequently filed on November 7,
24 2011, which allowed for the statutorily required notice to Defendants of the December 2, 2011,
25 hearing. (Storey Dec. at ¶15.) Plaintiffs acted diligently in preparing and filing this motion to
26 amend, particularly in light of when much of the evidence relied upon by Plaintiffs was obtained.

27 **B. Defendant will Suffer no Prejudice from the Amendment**

28 Defendant will suffer no prejudice as a result of allowing Plaintiffs to amend this

1 complaint to assert claims for punitive damages, but Plaintiffs would be severely prejudiced if
2 this amendment was denied on procedural bases. Defendant is entitled to assert objections and
3 privileges in response to a request for production of documents, but in this case, those assertions
4 of privilege precluded Plaintiffs from accessing the evidence supporting their claims for punitive
5 damages until July of this year. Additional relevant evidence was obtained in September. If this
6 Court were to find that Plaintiffs' motion is untimely and deny Plaintiffs the opportunity to
7 amend their complaint, it would be doing so because Plaintiffs were required to bring a motion to
8 compel to obtain relevant and unprivileged documents supporting the motion. This would
9 reward Defendant for declining to produce relevant and unprivileged documents, while punishing
10 Plaintiffs despite their diligent pursuit of their claims.

11 **1. Watchtower will suffer no cognizable prejudice**

12 Defendant claims that if Plaintiffs' motion to amend is granted, it will be prejudiced
13 because: 1) a continuance of the trial would be needed so it could "study its exposure for punitive
14 damages"; 2) witnesses would need to be re-interviewed or re-deposed to obtain further details in
15 light of this new exposure; 3) expert witness designations would need to be amended to address
16 the issue of punitive damages; 4) new costs associated with responding to Plaintiffs' claim for
17 punitive damages would be incurred; and 5) Watchtower would be precluded from bringing a
18 motion to strike or motion for summary judgment challenging the new allegations as a result of
19 the motion cutoff date. (Defendant's Opposition at 4.) None of these arguments demonstrate any
20 recognizable prejudice that would require the denial of Plaintiffs' motion.

21 As to the claim that Defendant will need to "study its exposure for punitive damages," it
22 is difficult to believe that Watchtower has not already done so. Counsel for Watchtower was
23 informed months ago that after Plaintiffs filed their motion to compel, a motion to amend to
24 allege punitive damages was contemplated. (Storey Dec. at ¶6; PE 24, Plaintiffs' April 14, 2011
25 Case Management Conference Statement.) If Defendant chose not to consider that such liability
26 was possible, any resulting prejudice was of its own making. Regardless, Plaintiffs' motion to
27 amend is being heard on December 2, 2011, eight full weeks prior to the scheduled trial date. No
28 continuance is necessary and no prejudice inures to the detriment of Watchtower since Defendant

1 has ample time to study its exposure prior to the commencement of trial.

2 As to the need to re-interview or re-depose witnesses, it is a doubtful proposition. The
3 punitive damage claims will encapsulate the same facts that support the underlying action. This
4 discovery has already been largely completed. Moreover, re-interviewing witnesses would pose
5 no burden to Watchtower since Defendants produced every witness who has given testimony in
6 this case other than Plaintiffs. Most of those witnesses were represented by the same Counsel
7 who represents Playa Pacifica, and who represented Watchtower at the time of many of the
8 depositions in this matter. Defendant will suffer no prejudice if the Plaintiffs' motion is granted.

9 Nor does Defendant's argument that it will experience additional costs as a result of the
10 amendment establish the type of prejudice that would warrant the denial of Plaintiffs' motion.
11 An analogous argument was made and rejected in *Hirsa*, where defendant claimed that if an
12 amendment was permitted, it would allow otherwise inadmissible evidence to become admissible
13 at trial. 118 Cal.App.3d at 490. The court noted: "At oral argument counsel conceded that if
14 plaintiff had included the negligent entrustment theory in his original complaint, the evidence of
15 defendant Fred Vickers' driving record would be relevant and admissible. Such evidence is not
16 transmuted to a 'prejudicial' matter by later amendment to the pleadings." *Id.*

17 The same is true here. If Plaintiffs had obtained evidence to support their motion to
18 amend at an earlier date, Defendant would have had to expend the same resources dealing with
19 the claim. The fact that the need to expend such resources will arise as a result of the instant
20 motion does not transmute the matter into prejudice. Defendant's related argument that it will be
21 prejudiced by the need to supplement its expert witness designation is similarly unavailing since
22 Defendant has ample time to do so prior to trial and will enjoy the right to completely defend
23 itself, simply with one more expert witness.

24 As to Defendant's claim that it would be prejudiced by the inability to file a motion for
25 summary adjudication or motion to strike the punitive damages claim, it is wholly unclear that
26 the inability to bring such a motion is "prejudice." Amendments to add new theories are
27 routinely allowed during trial. *See Daum Development Corp.*, 11 Cal.App.3d 65; *Deetz*, 232
28 Cal.App.2d 851. Obviously, such a motion cannot be heard in such circumstances.

1 Moreover, if Defendant would suffer prejudice, it has invited it. Plaintiffs sought an ex
2 parte order of this Court specially setting the hearing of the instant motion for November 10,
3 2011. This would have allowed Defendant sufficient time to bring a motion to strike prior to the
4 motion cut off, or to file a motion for summary judgment on stipulated short notice. Defendant
5 opposed the ex parte request that would have allowed it ample time to proceed with a motion to
6 strike prior to the motion cutoff date. (Storey Dec. at ¶15.) Defendant should not be allowed to
7 create its own prejudice and then use it against Plaintiffs. Defendant made its bed, and should
8 now be required to sleep in it.

9 **III. WATCHTOWER RATIFIED CAMPOS' SEXUAL ABUSE OF CHILDREN**

10 The failure to discharge an agent or employee despite knowledge of his unfitness is
11 evidence tending to show ratification and may expose the principal to punitive damages. *See*
12 *McChristian v. Popkin* (1946) 75 Cal.App.2d 249, 256. "The theory of ratification is generally
13 applied where an employer fails to investigate or respond to charges that an employee committed
14 an intentional tort, such as assault or battery." *Baptist v. Robinson* (2006) 143 Cal.App.4th 151,
15 170; *see also Murillo v. Rite Stuff Foods* (1998) 65 Cal.App.4th 833, 852 (finding that defendant
16 ratified assault and battery in a sexual harassment context.)

17 **A. Campos Was an Agent of Watchtower When he Molested Plaintiffs**

18 Watchtower claims that Campos was not its agent when Dorman was molested. This
19 position is not supported by the law, or the facts of this case. "An agency relationship may be
20 informally created. No particular words are necessary, nor need there be consideration. All that
21 is required is conduct by each party manifesting acceptance of a relationship whereby one of
22 them is to perform work for the other under the latter's direction." *Malloy v. Fong* (1951) 37
23 Cal.2 356, 372. "To constitute the relation of master and servant, the one for whom the service is
24 rendered must consent or manifest his consent to receive the services as a master."² Rest. 2d
25 (Agency) § 221.

26 Elders in local Jehovah's Witness Congregations are agents of Watchtower. (PE 26,
27

28 ² "One who volunteers services without an agreement for or expectation of reward may be
a servant of the one accepting such services." Rest. 2d (Agency) § 225.

1 Stipulation.)³ These agents have authority and responsibility over the local congregation.
2 (Watchtower Opposition at 5.) These agents of Watchtower also oversee the meeting for field
3 service that precedes door-to-door preaching. (Watchtower Opposition at 6.) During field
4 service, members of the community are engaged in discussion and invited to meetings at the local
5 congregation. (PE 27, Depo of Preciado at pp. 57:16-58:2.) Thus, field service is a means by
6 which Watchtower and local congregations entice new members to join the Jehovah's Witness
7 faith. (PE 27, Depo of Preciado at pp. 57:16-58:2.)

8 While Campos engaged in field service, he was essentially recruiting new members to the
9 Jehovah's Witness faith. Watchtower and Linda Vista accepted that benefit. Watchtower,
10 through its agents, the Elders at Linda Vista, had the ability to control Campos' ability to
11 participate in the faith and could expel Campos. (Plaintiffs' Motion at 1-3.) Since Watchtower
12 both had the ability to control Campos, and accepted the benefit of his service, a jury could find
13 that Campos was the agent of Watchtower.

14 **B. Watchtower Ratified Campos' Molestation of Children**

15 In April of 1994, Watchtower became directly aware of a complaint that Dorman had
16 been sexually molested by Campos. (PE 15, April 13, 1994 letter.) Watchtower delegated the
17 responsibility for investigating the charge to Playa Pacifica. (PE 16, June 9, 1994 letter.)
18 Watchtower did not receive a response from Playa Pacifica for almost one full year, and when a
19 response was received Playa Pacifica conceded the molestation had taken place, but no action
20 would be taken because a judicial committee punished Campos for the abuse of some
21 unidentified victim in 1986. (PE 5, March 29, 1995 letter.) In short, despite a confession that the
22 abuse had taken place, Watchtower took no corrective action in response to the Dorman
23 complaint. By failing to act, Watchtower ratified the sexual abuse of Dorman by Campos.

24 **IV. WATCHTOWER WAS GUILTY OF MALICE**

25 A plaintiff may recover punitive damages against a defendant who has been guilty of
26 oppression, fraud, or malice. Civil Code § 3294(a). The words oppression, fraud, and malice as
27 used in Civil Code section 3294(a) are disjunctive, and proof of any of them will support an

28 ³ Thus, Watchtower concedes Campos was its agent when Gamboa was molested.

1 award of punitive damages. *Oakes v. McCarthy Co.* (1968) 267 Cal.App.2d 231, 262-63.

2 According to *Weeks v. Baker & McKenzie*:

3 Subdivision (b) [of Civil Code § 3294] authorizes the imposition of punitive
4 damages on an employer in three situations: (1) when an employee was guilty
5 of oppression, fraud or malice, and the employer with advance knowledge of the unfitness
6 of the employee employed him or her with a conscious disregard of the rights and safety
7 of others, (2) when an employee was guilty of oppression, fraud or malice, and the
8 employer authorized or ratified the wrongful conduct, or (3) when the employer was itself
9 guilty of the oppression, fraud or malice. (1998) 63 Cal.App.4th 1128, 1151.

7 Thus, “[I]f the employer after knowledge or opportunity to learn of the agent’s
8 misconduct retains the wrongdoer in service, the employer may make himself liable in punitive
9 damages.” *Coats v. Construction & General Laborers Local No. 185* (1971) 15 Cal.App.3d 908,
10 914. Malice does not require actual intent to harm. *Angie M. v. Superior Court* (1995) 37
11 Cal.App.4th 1217, 1228. “A conscious disregard for the safety of others may constitute the
12 malice necessary to sustain a claim for punitive damages.” *Taylor v. Superior Court* (1979) 24
13 Cal.3d 890, 895.

14 Watchtower acknowledges that it received written notice of the molestation of John
15 Dorman in April of 1994. (Defendant’s Opposition at 8; PE 14, April 11, 1994 letter; PE 15,
16 April 13, 1994 letter.) Notwithstanding that knowledge, Watchtower did not contact Playa
17 Pacifica about the complaint until June 9, 1994. (PE 16, June 9, 1994 letter.) During the
18 intervening 50 days, Joel Gamboa continued to be molested by Campos. (PE 7, June 9, 1995
19 letter; PE 3, Campos Depo at p. 78:8-15.).

20 Following its June 9, 1994, letter instructing Playa Pacifica to look into the allegations
21 and report back with its findings, Watchtower received no responsive contact until March 29,
22 1995, at which time Playa Pacifica stated that enough time passed between abuse allegations in
23 1986 and Campos’ elevation to ministerial servant in December 1988. (PE 5, March 29, 1995
24 letter.) Watchtower accepted this result. Moreover, following the Dorman complaint,
25 Watchtower knew that Campos continued to serve as an Elder, Secretary of the Congregation,
26 and as an Auxiliary Pioneer until at least April of 1995. (PE 17, April 4, 1995 letter; PE 5,
27 March 29, 1995 letter; PE 3, Campos Depo at pp. 104:18-110:19.) For at least six months
28 following Watchtower’s June 9, 1994 letter, Joel Gamboa continued to be molested while

1 Watchtower declined to follow up on its letter. (PE 7, June 9, 1995 letter; PE 3, Campos Depo at
2 p. 78:8-15.) Based on this evidence, a jury could, and almost certainly would, find that
3 Watchtower acted with a conscious disregard for the safety of Joel Gamboa and others and that
4 sufficient evidence has been submitted to support an award of punitive damages.


5 As to Plaintiff Dorman, the same facts demonstrating that Watchtower ratified his abuse
6 by Campos similarly support a finding of malice. Notwithstanding the abuse, Watchtower
7 allowed Campos to retain his position as an Elder and Congregation Secretary until an additional
8 complaint was received. This failure to act evidences a conscious disregard for the rights of
9 others, including John Dorman and justifies the addition of a claim for punitive damages.

10 **V. CONCLUSION**

11 For the foregoing reasons, this Court should grant Plaintiffs' motion to amend to allege
12 punitive damages against Defendant Watchtower.

13
14 Dated: 11-23-11

Respectfully submitted,


Devin M. Storey, Esq.
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1 **PROOF OF SERVICE**

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

14 On November 23, 2011, I caused to be served:

15 **PLAINTIFFS REPLY TO DEFENDANT WATCHTOWER BIBLE AND TRACT**
16 **SOCIETY OF NEW YORK, INC.'S OPPOSITION TO PLAINTIFFS' MOTION TO**
17 **ALLEGE PUNITIVE DAMAGES**

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

20 **SEE ATTACHED SERVICE LIST**

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

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

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

(BY FAX) I caused to be transmitted to the above-described document by facsimile
machine to the fax number(s) as shown. The transmission was reported as complete
and without error. (Service by Facsimile Transmission to those parties on the attached
List with fax numbers indicated.)

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

31 Dated: 11-23-11

32 
33 Lisa E. Maynes

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