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9 Society of New York, Inc.

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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **COUNTY OF SAN DIEGO**

13 JOSE LOPEZ, Individually,

14 Plaintiff,

15 vs.

16 DEFENDANT DOE 1, Linda Vista Church;  
17 DEFENDANT DOE 2, Supervisory Organiza-  
18 tion; DEFENDANT DOE 3, Perpetrator; and  
DOES 4 through 100, inclusive,

19 Defendants.

Case No.: 37-2012-00099849-CU-PO-CTL

**DEFENDANT WATCHTOWER'S  
OBJECTIONS TO PROPOSED STATE-  
MENT OF DECISION**

**IMAGED FILE**

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21 TO THE COURT AND TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

22 PLEASE TAKE NOTICE THAT, pursuant to California Rules of Court, Rule 3.1590  
23 and California Code of Civil Procedure § 632, Defendant Watchtower Bible and Tract Society  
24 of New York, Inc. ("Watchtower") hereby objects to Plaintiff's proposed Statement of Decision  
25 filed and served by regular U.S. mail and personal service on May 30, 2014.

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1 This Court ordered Plaintiff to prepare a proposed Statement of Decision. However,  
2 California Rules of Court, rule 3.1590 must be followed when addressing proposed statements  
3 of decisions. Watchtower reserves all of its rights under Rule 3.1590 of the California Rules of  
4 Court to make any further objections beyond the objections set forth below. In particular,  
5 Watchtower reserves the right pursuant to Rule 3.1590, subdivision (g). to any proposed state-  
6 ment of decision that the trial court may subsequently issue.

7 It is Watchtower's position that no statement of decision, final order, or judgment can be  
8 issued until the statement of decision process has been properly concluded pursuant to Rule  
9 3.1590. Therefore, the trial court is required to follow the procedural requirements of Code of  
10 Civil Procedure section 632 and Rule 3.1590 of the California Rules of Court. The procedures  
11 being followed by the current proposed Statement of Decision fail to meet those fundamental  
12 procedural requirements.

13 Despite being called their attention, Plaintiff's counsel refused to follow the procedural  
14 requirements set forth above. Additionally, Watchtower objects to the proposed Statement of  
15 Decision since it is ambiguous, fails to state any factual or legal basis for the Court's determina-  
16 tion, and omits critical evidence and findings.

17 Specifically, Defendant objects to the proposed Statement of Decision on the following  
18 grounds:

19 **I. OBJECTIONS AND GROUNDS FOR OBJECTIONS TO PROPOSED STATE-**  
20 **MENT OF DECISION**

21 1. Watchtower objects to the statements made on page 2, ¶¶ 3 and 4.

22 Grounds for Objection:

23 Although the proposed Statement of Decision discusses Watchtower's objections to dis-  
24 covery referee Judge Di Figlia's recommendations, it *does not* disclose that the trial court was  
25 unaware of the objections being filed and admitted to not reviewing them at the ex parte hear-  
26 ing.

27 2. Watchtower objects to the statements made on page 2, ¶ 4.

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1           Grounds for Objection:

2           The proposed Statement of Decision states that the trial court “considered the recom-  
3 mendations of the discovery referee” as opposed to simply adopting those recommendations in  
4 full without further changes or comment. The proposed Statement of Decision further fails to  
5 cite to the evidence that was considered or independently reviewed in light of Watchtower’s  
6 multiple assertions of privilege and objections.

7           3.       Watchtower objects to the statements made on page 10. ¶ 3.

8           Grounds for Objection:

9           With respect to the “Decision” section of the proposed Statement of Decision, the recita-  
10 tion that Watchtower asserted it was “simply exercising appellate rights” is misleading and in-  
11 complete. Watchtower specifically laid out for the trial court and the Court of Appeal that it  
12 was *obligated*, by law, to protect certain privileged (attorney-client and minister-communicant)  
13 materials, and was put in to the position of either violating those privileges to comply with the  
14 court’s order (and possibly incurring additional liability if it did so) or pursuing appropriate ap-  
15 pellate relief to preserve those privileges. This Faustian choice was imposed upon Watchtower  
16 when the trial court refused to stay its discovery orders in order to allow Watchtower a mean-  
17 ingful opportunity during the interim to seek review of those orders before their enforcement  
18 was compelled. Watchtower’s position further undercuts the proposed conclusion in the pro-  
19 posed Statement of Decision that “there is no basis in the law for Watchtower to not fully com-  
20 ply with these orders” while also seeking appellate relief, as Watchtower had no other choice  
21 than to do what it did.

22           4.       Watchtower objects to the statements made on pages 9-11.

23           Grounds for Objection:

24           There is no reference in the proposed Statement of Decision to the trial court’s obliga-  
25 tions under Code of Civil Procedure sections 643, subdivision (c), and 644, subdivision (b), to  
26 make an independent evaluation of Watchtower’s objections and assertions of privilege *prior to*  
27 adopting the discovery referee’s recommendations. Watchtower further objects to the complete  
28 absence of any citation to the record which supports the assertion that the trial court did in fact

1 review and consider Watchtower's objections and assertions of privilege before adopting the  
2 discovery referee's recommendations.

3 5. Watchtower objects to the statements made on pages 4, 5.

4 Grounds for Objection:

5 The proposed Statement of Decision provides no reference or finding of whether or not  
6 the privileged material should have been produced for an "in camera" inspection to confirm the  
7 Defendants' objections, particularly, whether the privileges asserted by Watchtower can be rec-  
8 onciled with the proscriptions of Evidence Code section 915. Once the assertions of privilege  
9 were made by Watchtower, the materials claimed to be privilege were presumed to be so, con-  
10 sistent with Evidence Code section 917. In view of the fact that the burden then shifted to  
11 Lopez to demonstrate that the compelled discovery was *not privileged*, pursuant to Evidence  
12 Code section 917, the proposed Statement of Decision was deficient. The Statement of Deci-  
13 sion fails to reflect that Lopez produced no factual or legal analysis evidence to satisfy that bur-  
14 den.

15 6. Watchtower objects to the statements made on page 10, ¶ 2.

16 Grounds for Objection:

17 The trial court's finding that Gerrit Lösch is Watchtower's "managing agent" is asserted  
18 as a conclusion without any predicate factual support. The trial court provides no explanation of  
19 why or how Mr. Lösch could possibly be a "managing agent" of Watchtower. No legal authori-  
20 ty supporting the "finding" of his alleged agency is provided.

21 7. Watchtower objects to the statements made on page 11.

22 Grounds for Objection:

23 The proposed Statement of Decision fails to make reference to the overwhelming burden  
24 imposed upon Watchtower to comply with the orders compelling discovery. Rather than setting  
25 forth conclusions, the Statement should be amended to cite specific evidence in the record  
26 demonstrating the burdensome cost to Watchtower to comply with the Court's order to produce  
27 the requested documents. Whether or not the trial court considered and agreed with the evi-  
28 dence, the Statement should have fairly acknowledged its presentation to the Court.

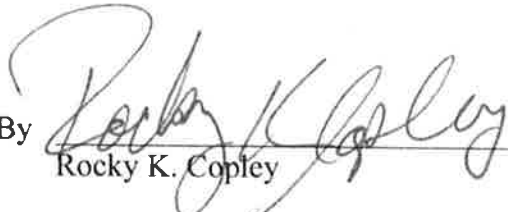
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II. DEFENDANTS REQUEST THAT THIS COURT AMEND THE PROPOSED STATEMENT OF DECISION

Since Plaintiff refused to follow the correct procedure and failed to adequately address this Defendant's objections, Watchtower respectfully requests that the Court consider the objections set forth herein and issue an Amended Statement of Decision accordingly.

Dated: June 11, 2014

Law Office of Rocky K. Copley

By   
Rocky K. Copley

Attorney for Defendant Watchtower Bible and Tract Society of New York, Inc.

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PROOF OF SERVICE  
(Code Civ. Proc., §§ 1013a, 2015)

*Jose Lopez v. Doe 1, Linda Vista Church, et al.*  
Case No. 37-2012-00099849-CU-PO-CTL

STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

I, the undersigned, 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 Law Office of Rocky K. Copley, 225 Broadway, Suite 2100, San Diego, California, 92101.

On June 11, 2014, I served the foregoing document described as Defendant Watchtower's Objections to Proposed Statement of Decision on the other parties in this action in the manner indicated below as follows:

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Attorneys for Defendant Linda Vista Spanish Congregation

**By Overnight Carrier:** I am readily familiar with the practice of Law Office of Rocky K. Copley for collection and processing correspondence for overnight delivery and know that the document(s) described herein will be deposited in a box or other facility regularly maintained by for overnight delivery.

**By Email or Electronic Transmission:** I caused a copy of the document(s) to be sent from email address tstant@rkc-rocklaw.com to the persons and at the email addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on June 11, 2014, at San Diego, California.

  
Tomi Lee Stant