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8 Attorneys for Defendant Watchtower Bible and Tract Society of
New York, Inc., sued herein as Doe 2, Supervisory Organization
9

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

12 JOSE LOPEZ, an Individual,
13 Plaintiff,

14 v.

15 DOE 1, LINDA VISTA CHURCH, DOE
2, SUPERVISORY ORGANIZATION;
16 DOE 3, PERPETRATOR; and DOES 4
through 100, inclusive,

17 Defendants.
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CASE NO. 37-2012-00099849-CU-PO-CTL

**DECLARATION OF RICHARD ASHE, JR. IN
SUPPORT OF DEFENDANT
WATCHTOWER'S SUR-REPLY IN
OPPOSITION TO PLAINTIFF'S MOTION
FOR SANCTIONS**

IMAGED FILE

Date: May 2, 2014
Time: 8:30 a.m.
Dept: C-65
Judge: Joan M. Lewis

Complaint Filed: June 29, 2012
Trial Date: June 27, 2014

21 I, Richard Ashe, Jr., declare as follows:

22 1. I am over 21 years of age, of sound mind, and competent to make this Declaration.

23 I have personal knowledge of the matters contained herein and they are all true and correct. If
24 called to testify I could and would completely testify as follows:

25 2. I reside in Patterson, New York, and have served as an elder in the faith of
26 Jehovah's Witnesses since 1982.

27 3. On November 25, 1999, I began serving at the U.S. branch offices of Jehovah's
28 Witnesses in New York, and I have served in the Service Department of the U.S. branch offices

1 (hereinafter "Service Department") since that date. I, along with a select few other qualified
2 elders, provide spiritual assistance, guidance, and answer questions raised by elders in the U.S.
3 congregations of Jehovah's Witnesses who may call or write to the Service Department for help or
4 encouragement. The elders in the Service Department also monitor the functioning and
5 organization of congregations of Jehovah's Witnesses, including reviewing the qualifications for
6 the appointment of elders to congregations of Jehovah's Witnesses in the United States.

7 4. I have received and reviewed a copy of Plaintiff's request for documents attached
8 to the Watchtower PMK notice seeking the production of all documents or reports of allegations
9 of child abuse against one of Jehovah's Witnesses received by Watchtower between 1978 and the
10 present.

11 5. The documents responsive to Plaintiff's broad request include correspondence from
12 congregation elders seeking spiritual advice and counsel from Service Department elders about
13 how to care for an allegation of child abuse situation in harmony with the religious beliefs and
14 practices of Jehovah's Witnesses, responses from congregation elders to the Service Department
15 elders' letter to all bodies of elders dated March 14, 1997, that had requested information on any
16 individual who previously served or was currently serving in an appointed congregation position
17 who had committed child abuse in the past, and copies of confidential letters from one body of
18 elders to another body of elders when a known child molester moves to a new congregation.

19 6. The confidential spiritual reports from local congregation bodies of elders in
20 response to the March 14, 1997 letter allowed the Service Department elders to evaluate whether
21 the individual that was serving in an appointed congregation position was spiritually qualified to
22 serve in that appointed congregation position or should be removed based on the facts and
23 circumstances of the conduct involved when viewed in conjunction with the religious beliefs and
24 practices of Jehovah's Witnesses. These responses from congregation elders also provided the
25 Service Department the necessary background information on individuals who previously served
26 in an appointed congregation position who had committed child molestation in the past, so that if
27 they were ever recommended for an appointed congregation position in the future the Service
28 Department would have all the facts needed to determine whether the individual spiritually

1 qualifies for appointment based on the religious beliefs and practices of Jehovah's Witnesses.
2 Should a known child molester move to a new congregation, copies of confidential letters from
3 one body of elders to the body of elders of the new congregation that provide background
4 information on a known child molester allow the Service Department elders to provide the elders
5 of the new congregation with spiritual counsel and advice regarding the known child molester and
6 provides the Service Department elders with necessary background information about the known
7 child molester so that if the individual is ever recommended for an appointed congregation
8 position in the future, the Service Department will have all the facts needed to determine whether
9 the individual spiritually qualifies for appointment based on the religious beliefs and practices of
10 Jehovah's Witnesses.

11 7. All reports of child abuse allegedly committed by any congregation member
12 received from local congregation elders are filed in the individual confidential congregation files
13 maintained by Service Department elders for each congregation of Jehovah's Witnesses in the
14 United States. At present there are more than 14,400 confidential congregation files maintained
15 by Service Department elders for United States congregations of Jehovah's Witnesses. These files
16 all have other confidential spiritual correspondence from the bodies of elders and individual
17 congregation members, as well as other confidential spiritual reports from traveling overseers
18 (traveling ministers known in the faith of Jehovah's Witnesses as "Circuit Overseers") who visit
19 each congregation twice per year. These confidential documents contain information about other
20 spiritual matters and the governance and organization of congregations of Jehovah's Witnesses,
21 including reviews of the qualifications of individuals recommended for the appointment as
22 congregation elders and ministerial servants to congregations of Jehovah's Witnesses in the
23 United States. Thus, the vast majority of the documents in the Service Department's congregation
24 files are totally unrelated to the issue of child abuse or child molesters and are not responsive to
25 Plaintiff's request. The typical congregation Service Department file has hundreds of pages, most
26 of which are unrelated to the issue of child abuse or child molesters.

27 8. I have also received and reviewed a copy of the Plaintiff's reply in support of
28 motion for sanctions against Watchtower and the supporting declaration of plaintiff's SharePoint

1 expert. Contrary to the suggestion in Plaintiff's reply and the declaration of Plaintiff's SharePoint
2 expert, in order to search for and retrieve all the confidential correspondence and reports of child
3 abuse that Service Department elders received from bodies of elders, it would be necessary for
4 Service Department elders to review each of the more than 14,400 congregation Service
5 Department files to determine if among the hundreds of pages of confidential spiritual documents
6 in each file there is document related to child abuse. The fact that these files are in an electronic
7 format does not change this fact. The reasons why it would be necessary for Service Department
8 elders to review each of the more than 14,400 congregation Service Department files to fully
9 comply with plaintiff's request are the following:

10 a. A search for the term "child abuse" will not provide all the documents responsive
11 to Plaintiff's request because they are not listed or indexed as such. A number of terms are used
12 depending on the Scriptural description used by the elders reporting the matter to describe the sin
13 e.g., porneia, loose conduct, fornication, uncleanness. Most of the documents in congregation
14 Service Department files regarding the sin of porneia, loose conduct, fornication, or uncleanness
15 involve consensual conduct between adults or similar age teenagers and do not involve child
16 abuse. Thus, in order to accurately provide the information requested a painstaking study of each
17 file would be required to ensure the correct information is provided because a search for these
18 other terms used by the elders will pull up documents that are not related to child abuse.

19 b. Using the search term "DND" is also not a suitable search criteria because a
20 plethora of files would be returned that have nothing to do with child abuse. This is because any
21 matter considered notorious or scandalous from a spiritual viewpoint, such as bad business deals
22 involving fraud, adulterous remarriage, and treacherous divorce is marked "DND" by Service
23 Department elders. Thus, in order to accurately provide the information requested a painstaking
24 study of each congregation Service Department file would be required to ensure the correct
25 information is provided.

26 c. Not all records received from congregation elders are in the English language.
27 Therefore, any search would have to be modified accordingly and each file checked as previously
28 described. For example we presently have 4,214 Spanish Congregations and over 960 other

1 foreign language congregations in the United States Branch territory.

2 d. With the introduction of our current electronic correspondence system on
3 November 15, 2013, not all documents sent by congregation elders to Service Department elders
4 are recognized by optical character recognition (OCR). For example some documents are sent as
5 only pictures or images. Thus, the format is not searchable.

6 9. In addition, Plaintiff's SharePoint expert's estimates of how long it will take
7 Watchtower to comply with Plaintiff's request fails to take into consideration that after
8 correspondence and reports sent by congregation elders are searched for and confirmed by Service
9 Department elders as being related to child abuse, the documents will need to be redacted by
10 Service Department elders to protect the privacy rights of third parties who are not parties to this
11 case before disclosure. SharePoint will not do this painstaking redaction work.

12 10. Plaintiff's SharePoint expert's time estimates also fails to take into consideration
13 that the Service Department elders will also have to spend additional time meeting and conferring
14 with Watchtower attorneys on each confidential document related to child abuse to determine
15 whether each document or any part thereof is privileged under the attorney-client privilege or the
16 clergy-penitent privilege before disclosure. In the case of some documents the Service
17 Department elders will also have to consult with Watchtower attorneys to determine whether the
18 matter described involved child abuse under the laws of the state where the sin took place.

19 11. Plaintiff's reply incorrectly suggests that since the Service Department operations
20 continued when it recently converted from paper files to electronic files, complying with
21 Plaintiff's request to search for reports of child abuse in the 14,400 confidential congregation
22 Service Department files would have little impact on the work on the Service Department.
23 However, it should be noted that the vast majority of the work of converting approximately 14,400
24 congregation files from paper to electronic form was not performed by Service Department elders.
25 Rather, elders were brought into the Service Department from other departments at the United
26 States branch offices and from nearby congregations on a temporary basis to scan the confidential
27 records in the congregation Service Department files. In this way the tremendous workload of the
28 Service Department could continue to be accomplished during this project that began in 2011 and

1 took over three years to complete using automated scanning machines that permitted the
2 documents to be fed in like a copy machine. Elders who were not part of the Service Department
3 could be used for majority of the work involved in this project because they did not have to read
4 the contents of the documents they scanned.

5 12. There are about 35 Service Department elders called a "Service Desk" who among
6 other duties, review and approve the appointments of elders and ministerial servants, and who
7 provide spiritual advice and counsel both orally and in writing to bodies of elders and members of
8 the more than 14,400 congregations of Jehovah's Witnesses in the United States. There are about
9 an equal number of elders who assist them in a secretarial capacity to carry out this religious work.
10 At a minimum, it would take an average of three to four hours to go through each of the over
11 14,400 confidential congregation files maintained by Service Department elders. That would
12 mean that it would take one Service Department elder between 43,200 to 57,600 hours which
13 works out to be 5,400 to 7,200 days, assuming he searched for the requested documents for 8
14 hours per day. Assuming a 40 hour work week, it would take one Service Department elder 20.77
15 to 27.69 years without any vacation time.

16 13. Only a handful of the Service Department elders could be used to go through more
17 than 14,400 confidential congregation files in the Service Department. Assuming the Service
18 Department elders who first reviewed the files were paid a minimum wage of \$8.00 per hour, the
19 value of their time would be \$345,600 to \$460,800.

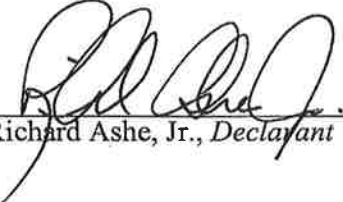
20 14. As can be discerned from the above, given the spiritual responsibilities and
21 workloads of the elders in the Service Department it would not be possible to accomplish these
22 file reviews without all of 35 Service Desk elders stopping all of their other current religious work
23 and responsibilities for 6 to 8 months. This would cripple or severely hamper the religion of
24 Jehovah's Witnesses in the United States by halting operations of the Service Department and be a
25 complete impediment to the spiritual advice, counsel, guidance and governance provided by
26 Service Department elders to the more than 14,400 congregations of Jehovah's Witnesses in the
27 United States.

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1 15. In conclusion, a document search using "child sexual abuse" would not produce all
2 reports of child abuse due to the way the information is submitted by congregation elders to
3 Service Department elders. While it is true that a search of SharePoint using a search criteria such
4 as "DND" would produce a number of reports of child abuse, the documents produced by such a
5 search term would still have to be individually reviewed or sorted for content to determine if it
6 was related to child abuse or one of the other sins or matters that are also marked "DND" by
7 Service Department elders. A significant number of files are submitted in a language other than
8 English and would require specific search criteria and each file would also have to be reviewed.
9 SharePoint will not redact the documents so this work would still have to be done by Service
10 Department elders. The elders used to convert the congregation files in the Service Department to
11 electronic form were not Service Department elders. Elders who are not Service Department
12 elders cannot be used to search for, review, redact, and produce documents responsive to
13 plaintiff's request because based on the religious beliefs and practices of Jehovah's Witnesses only
14 Service Department elders are authorized and qualified to read and review the confidential
15 spiritual documents received from congregation elders.

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

18 Executed on April 29, 2014 at Patterson, New York.

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Richard Ashe, Jr., *Declarant*

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