

## **Watchtower ordered to pay a fine of \$4000 dollars a day**

SUPERIOR COURT OF CALIFORNIA, MINUTE ORDER TIME: 09:00:00 AM JUDICIAL OFFICER PRESIDING: Richard E. L. Strauss COUNTY OF SAN DIEGO CENTRAL

EVENT TYPE: Summary Judgment / Summary Adjudication (Civil)  
MOVING PARTY: PLAYA PACIFICA SPANISH CONGREGATION CAUSAL Summary Judgment / Summary Adjudication (Civil) MOVING PARTY: WATCHTOWER BIBLE AND TRACT SOCIETY OF NEW YORK, INC

"The power to impose discovery sanctions is a broad discretion subject to reversal only for arbitrary, capricious, or whimsical action. [Citations.]

Only two facts are absolutely prerequisite to imposition of the sanction:

- (1) there must be a failure to comply ... and
- (2) the failure must be wilful...."

On February 15, 2016, Mr. Sharkey issued Recommendation that Watchtower comply with the court's March 13, 2015 order and "produce all documents in its possession, custody or control that are responsive to the March 14, 1997 Body of Elders letter regardless of whether addressed to Watchtower or CCJW, redacting therefrom only the names and identifying information of victims of childhood sexual abuse, other than plaintiff, and the names of the elders who authored the responses to the March 14, 1997 Body of Elders letter."

(Storey Dec., Ex. 12.) Watchtower timely objected to the Recommendation, Plaintiff filed a response and on March 25, 2016, the court adopted the Recommendation. At the March 25, 2016 hearing, the court set a status conference to hear from Watchtower regarding a timeline for production in compliance with the Recommendation. (Storey Dec. ¶30.)

At the April 8, 2016 hearing, counsel for **Watchtower stated, unequivocally, that it would not comply with the order.** Plaintiff then sought a hearing date on a motion for terminating sanctions. The court set that motion for April 29, 2016. Plaintiff filed its moving papers on April 11, 2016. On April 11, 2016, the Fourth District Court of Appeal issued a published decision in *Lopez v. Watchtower Bible and Tract Society of New York, Inc.* (2016) 246

Watchtower has unequivocally stated it will not comply. By the time of the hearing on the motion for sanctions, ***it will have been over a year since the initial order and almost three months since the Recommendation was adopted.*** In the period since the Recommendation was adopted, **Watchtower has shown no effort or willingness to comply with the discovery order.**

Based upon the history in this case and Watchtower's statements at the April 8, 2016, the **court finds that Watchtower's failure to comply is willful.**

Watchtower argues that its failure is not willful because it has no control over CCJW documents. However, Watchtower clearly has control over the documents it has already

produced and could revise the redactions with regard to those documents. This is obviously and clearly within the scope of Watchtower's powers which it chooses not to exercise. Continuing to repeat its prior unsuccessful arguments in opposition to the discovery order further illustrates Watchtower's obstinacy in compliance.

Further, based upon the unambiguous statements made by Watchtower's counsel, there is no reasonable dispute that **Watchtower is simply refusing even to attempt to comply with the court's order.**

Much of Watchtower's opposition focuses on the jurisdiction of this court to order the production at issue and, essentially, seeks reconsideration of the discovery order.

Specifically, Watchtower contends the court's order violates third party privacy rights. As a preliminary issue, this motion is not a motion for reconsideration. Watchtower has had its opportunity to seek review and did so. At this point, the court's order is valid and binding.

***Reconsideration is not appropriate at this juncture. In addition, Watchtower has had ample opportunity to brief the issues underlying this discovery dispute, particularly since it involved multiple underlying hearings. Thus, the court will not consider any new or further arguments on the merits of the discovery order when determining whether sanctions are appropriate.***

**The court grants the request to impose monetary sanctions against Watchtower.**

**The court orders monetary sanctions of \$2,000 per day for every day that Watchtower does not produce responsive documents and an additional \$2,000 per day for every day that Watchtower does not search for responsive documents.**

In view of the acknowledged substantial net worth of Defendant, the court determines that the total daily amount of sanctions of \$4,000 per day should be sufficient to determine if Defendant will comply with the discovery order and is not overly harsh.

The court sets a status conference for July 22, 2016 to hear from the parties whether the monetary sanctions have been effective.

Defendant should not benefit from its refusal to comply with the discovery order by having a determination on the merits which could potentially be in its favor. Defendant's evidentiary objections are overruled.

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Defendant Playa Pacific Spanish Congregation's Motion for summary Judgment or, in the Alternative, Summary Adjudication is denied.

Here, Defendant has failed to meet its burden by setting forth sufficient undisputed material facts that it had no special relationship between itself, Campos and/or Defendant. In addition, Defendant has failed to meet its burden that it did not owe a duty to Plaintiff or negate the contention that Defendant was the proximate cause of Plaintiff's injuries. In addition, with regard to the fifth and sixth causes of action, Defendant has failed to establish

the absence of ratification.

Defendant's evidentiary objections are overruled. Sealed exhibits are returned to Plaintiff's counsel. Court and counsel will discuss trial dates at next hearing.

The Civil Jury Trial set for 8/19/16 at 8:50 a.m. is vacated. The Trial Readiness Conference (Civil) set for 8/5/16 at 8:55 a.m. is vacated.