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SUPERIOR COURT OF CALIFORNIA

COUNTY OF ALAMEDA

BEFORE THE HONORABLE JUDGE ROBERT MCGUINESS

DEPARTMENT 22

JANE DOE,)	No. HG115588324
)	
Plaintiff,)	
)	ASSIGNED FOR ALL PURPOSES TO
v.)	JUDGE ROBERT MCGUINESS,
)	DEPARTMENT 22
WATCHTOWER BIBLE AND)	
TRACT SOCIETY OF NEW)	
YORK, INC., a)	
corporation, et al.,)	
)	
Defendants.)	
)	
_____)	

JURY TRIAL

MAY 29, 2012

DAY 1

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THE COURT: All right. We are back on the record in the matter of the Candace Conti versus Watchtower Bible and Tract Society, New York, Inc., a corporation, and the Fremont, California Congregation of Jehovah's Witnesses, North Unit, and Jonathan Kendrick.

All counsel are here. Counsel arrived promptly at 8:00 o'clock this morning.

I am going to ask Mr. Schnack if he has unedited versions of the letters explaining the purpose as to what my rulings were. And I will recite the agreement on the things we decided, the terms, Mr. Schnack.

MR. McCABE: Your Honor, with respect to the letter from the North Congregation to Watchtower Bible and Tract Society, dated November 15, 1993, the entire last paragraph of the first page has been redacted by agreement among counsel.

On the second page, the first paragraph at the top, the language that will remain in the document are, quote: "Here are the facts as best as we can present them."

And the rest of that sentence has been

1 redacted, according to your ruling.

2 The bullet point Number 1 on the second page
3 of that letter has been redacted by agreement among
4 counsel.

5 The second bullet point, the following words
6 are being redacted by agreement of counsel:

7 "We assume that Brother Kendrick does not
8 qualify any longer as ministerial servant."

9 Let me back up. The word "ministerial
10 servant" stays in, and following sentence stating:

11 "We will announce to the congregation that he
12 is no longer serving as such. If this is incorrect,
13 please inform us."

14 And with respect to Item Number 3, the
15 following words stating:

16 "The Legal Department has given us some
17 direction."

18 And the balance of that sentence is being
19 redacted, according to your ruling.

20 THE COURT: I think that is an accurate
21 statement as to the rulings, counsel.

22 Do you agree, Mr. Simons?

23 MR. SIMONS: I do.

24 THE COURT: Okay. Next letter.

25 MR. McCABE: Then with respect to the letter,

1 dated December 20, 2009, from the North Congregation to
2 the Oakley Congregation, the last three sentences of the
3 second paragraph have been redacted, pursuant to
4 agreement of counsel.

5 The last paragraph on the first page of that
6 December 20, 2009 letter, the first sentence that reads:
7 "Her biggest concern seems to be protecting other
8 children from harm" will stay in.

9 The balance of that paragraph will be
10 redacted at this point in time with respect to opening
11 argument through ruling of the court.

12 Turning to the second page, the defense
13 objected to all but the first sentence of the first
14 paragraph, the second page.

15 The court ruled that the entire first
16 paragraph on the second page shall remain in.

17 The parties redacted by agreement, from the
18 end of that first paragraph down to the heading
19 "12-16-09" by agreement.

20 And that covers that letter.

21 THE COURT: And I would agree.

22 Mr. Simons?

23 MR. SIMONS: I do as well.

24 THE COURT: Counsel raised other issues with
25 the court, including motion in limine regarding Dr.

1 Applewhite, which I will read during my lunch hour; and
2 likewise, I will look at Plaintiff's Number 10.

3 MR. McCABE: And we also had a brief
4 discussion, your Honor, about no mention of a duty to
5 warn during the opening statements.

6 Can that be addressed to the court?

7 THE COURT: Agreed.

8 MR. SIMONS: Agreed.

9 (Whereupon, the following proceedings
10 were heard in the presence of jurors)

11 THE COURT: All right. Several things.
12 First of all, thank you for your time.

13 Because of all the activity going on around
14 here, I started with counsel and I, making decisions
15 since 8:00 o'clock this morning, relative to this
16 particular matter.

17 In the future, and starting tomorrow morning,
18 Wednesday, you will have your own jury room. So you are
19 welcome to come early, go about your business, do
20 whatever you need to do. Hill will take you to your
21 jury room so you know where it is.

22 I will ask you not to come in between 8:00
23 and 8:30 because, again, I may be in the middle of
24 making some decisions.

25 As you work, I work. I work outside the

1 province of the jury, making decisions and other
2 decisions and things of that nature. So Hill will
3 educate you as to that.

4 I expect, other than today -- we have had to
5 set up the courtroom, and I had to make a number of
6 decisions regarding today and the presentation
7 circumstances.

8 Tomorrow, I would expect to have you in those
9 chairs at 8:30. Hopefully, you had a nice Memorial Day
10 weekend.

11 I have indicated to all counsel -- Mr. Simons
12 has been hobbling a little bit. But it comes with a
13 territory as some part of the aging process.

14 So I have invited each counsel to either
15 stand or sit, depending upon what they would like to do.
16 I thought I would make some mention of that.

17 I inferred -- I have also mentioned that
18 during the course of the trial, either Ms. Conti or any
19 party -- today we have Mr. Clarke and Mr. Abrahamson --

20 Gentlemen, why don't you stand up.

21 -- on behalf of the Congregation. And that
22 may change daily.

23 So Plaintiff and Defendants, to the extent
24 somebody comes that I feel a need to introduce to you, I
25 will. I just want you to understand that it happens all

1 the time in civil trials that the parties may be here
2 for a portion, all of it at their choice, and subject to
3 any other demands they have. And so I will say that.

4 Now, in a minute I'm going to give you the --
5 what I call pre-flight instructions, including about no
6 taping and whatnot.

7 You know, all judges have their own different
8 assessments of these things. Most now -- and I insist
9 upon giving you the assess of what your duties are and
10 what is going to happen here, so you are not thinking
11 about as to what is going to happen all through the
12 case.

13 I call it pre-flight and I do it because I am
14 concerned the jurors will assess what your duties are,
15 you know, in terms of how you evaluate things, the
16 burden of proof.

17 So that having been said, let me give you
18 some of what I call pre-flight instructions.

19 JURY INSTRUCTIONS

20 THE COURT: All right. Casey 100:
21 Preliminary Admonitions. Before I read this, when I
22 started as a lawyer, a number of years ago, there was a
23 lot of Latin going on in the courtroom. There were a
24 whole different set of jury instructions. California
25 spent eight years trying to make the process more

1 intelligible and understandable by those who sit as
2 jurors.

3 And in terms of the use of language, don't
4 think for a minute that there is a hundred percent
5 success. I can tell you and look you all in the eye,
6 collectively and individually, that you don't hear much
7 Latin around here. The only word you'll hear is the
8 voir dire process, which is seeking impartial jurors,
9 that's a Latin phrase, of course. But you rarely hear
10 Latin in the State of California any longer. You rarely
11 hear it anywhere.

12 Let me give you the preliminary admonitions:

13 You each have now been sworn as jurors in
14 this case. I wanted to impress on you the seriousness
15 and importance of serving on a jury.

16 Trial by jury is a fundamental right in
17 California. The parties have a right to a jury that is
18 selected fairly, it comes to the case without bias, and
19 it will attempt to reach a verdict based upon evidence
20 presented.

21 Before we begin, I need to explain how you
22 must conduct yourself during the trial.

23 I just violated my first rule. And when I do
24 that, I fine myself and put it in the kitty for the
25 department. And so forgive me. I will fine myself.

1 Forgive me.

2 All right. Before we begin again I need to
3 explain how you must conduct yourself during the trial.
4 Do not allow anything that happens outside this
5 courtroom to affect your decision. During the trial, do
6 not talk about this case or the people involved in it
7 with anyone, including family and persons living in your
8 household, friends and co-workers, spiritual leaders,
9 advisors or therapists or anyone else for that matter,
10 whatever their title.

11 This prohibition is not limited to
12 face-to-face conversations. It also extends to all
13 forms of electronic communications.

14 Do not use any electronic device or any media
15 such as cell phone or Smart phone, PDA, computer, the
16 internet, any internet service, any text or instant
17 messaging service, any internet chat room, blog or
18 website, including social networking websites or online
19 diaries to send or receive any information to or from
20 anyone about this case or your experience as a juror
21 until after you have been discharged from your jury
22 duty.

23 We had a little monologue about that. Please
24 do not do it. It imperils the fairness of the trial and
25 it doesn't matter as to what it is. It really imperils

1 the fairness as to each party involved in this matter.

2 Upon contact, you may say you are on a jury
3 and how long the trial may take, but that is all. You
4 must not even talk about the case with the other jurors
5 until after I tell you it is time for you to decide the
6 case.

7 During the trial, you must not listen to
8 anyone else talk about the case or the people involved
9 in the case.

10 You must avoid any contact with the parties,
11 the lawyers, the witnesses and anyone else who may have
12 a connection to the case.

13 If anyone tries to talk to you about the
14 case, tell that person that you cannot discuss it
15 because you are a juror.

16 If he or she keeps talking to you, simply
17 walk away and report the incident to the court,
18 Mr. Martin, my attendant, as soon as you can.

19 After the trial is over and I release you
20 from your jury duty, you may discuss the case with
21 anyone, but you are not required to do so.

22 During the trial, do not read, listen to or
23 watch any news reports about this case.

24 And I have no information that there will be
25 news reports about the case. But, again, please do not

1 read, watch or listen to any.

2 This prohibition extends to use of the
3 internet in anyway, including reading any blog about the
4 case or have anyone involved with it or using internet
5 maps or mapping programs or any other program or device
6 to search for or to view any place discussed in the
7 testimony.

8 Do not do any research on your own or as a
9 group. Do not use dictionaries, the internet or other
10 reference materials.

11 Do not investigate the case or conduct any
12 experiments.

13 Do not contact anyone to assist you, such as
14 family, accountant, doctor or lawyer.

15 Do not visit or view the scene of any event
16 involved in this case.

17 If you happen to pass by the scene, do not
18 stop or investigate.

19 If you do view the scene during trial, you
20 will be taken as a group with proper group supervision.

21 You must decide this case based only on the
22 evidence presented in the trial and instructions of the
23 law that I will provide.

24 Nothing that you see, hear or learn outside
25 this courtroom is evidence, unless I specifically tell

1 you it is.

2 If you receive any information about this
3 case from any source outside of the courtroom, promptly
4 report it to Mr. Martin, my court attendant.

5 It is important that all jurors see and hear
6 the same evidence at the same time.

7 It is important to keep an open mind about
8 this trial. Evidence can only be presented a piece at a
9 time.

10 Do not form or express an opinion about this
11 case while the trial is going on.

12 You must not decide on the verdict until
13 after you have heard all the evidence and discuss it
14 thoroughly with your fellow jurors in deliberations.

15 Do not concern yourselves with the reasons
16 for the rulings I will make during the course of this
17 trial.

18 Do not guess about anything your verdict
19 should be from anything I might say or do.

20 When you begin your deliberations, you may
21 discuss this case only in the jury room and only when
22 all the jurors are present.

23 You must decide what the facts are in this
24 matter. And I repeat, your verdict must be based only
25 on evidence you hear or see in this courtroom.

1 Do not let bias, sympathy, prejudice or
2 public opinion affect your verdict.

3 At the end of the trial, I will explain the
4 law you must follow to reach your verdict. You must
5 follow the law as I explain to you, even if you do not
6 agree with the law.

7 101: Overview of Trial.

8 To assist you in your cast as jurors, I will
9 now explain how the trial proceeds.

10 I have previously identified counsel and the
11 parties in this lawsuit.

12 Ms. Conti is called a Plaintiff. She seeks
13 damage from the Defendants in this matter.

14 I have indicated to you that the Defendants
15 in this matter are the Defendant, Watchtower Bible and
16 Track Society of New York Inc, and the North
17 Congregation of Jehovah's Witnesses, Fremont,
18 California.

19 First, each side may make an opening
20 statement, but neither side is required to do so.

21 MR. McCABE: Your Honor, sorry to interrupt
22 but Jonathan Kendrick is also a defendant in this case.

23 THE COURT: Forgive me. And Mr. Jonathan
24 Kendrick, as I indicated, is also a defendant in the
25 case.

1 First, each side may make an opening
2 statement, but neither side is required to do so. An
3 opening statement is not evidence. It is simply an
4 outline to help you understand what that party expects
5 the evidence will show.

6 Also, because it is often difficult to give
7 you evidence in the order we prefer, the opening
8 statement allows you to keep an overview of the case in
9 mind during the presentation of the evidence.

10 Next, you will hear the evidence. Ms. Conti,
11 through her counsel, will present evidence first. When
12 she is finished, the defendants -- I have just named
13 them, including Mr. Kendrick -- presuming he is here.
14 He is not here up to this point -- will have an
15 opportunity to present evidence.

16 Each witness will first be questioned by the
17 side that asks the witness to testify. This is called
18 direct examination. And the other side is permitted to
19 question the witness. This is called cross-examination.

20 Documents are obviously referred to during
21 the trial, are called exhibits. Exhibits are given
22 either a number or letter so they may be clearly
23 identified. The exhibits are not evidence until I admit
24 them into evidence.

25 During your deliberations, you will be able

1 to look at all exhibits admitted into evidence. There
2 are many rules that govern whether something will be
3 admitted into evidence. As one side presents evidence,
4 the other side has a right to object and to ask me to
5 decide if the evidence is permitted by the rules.

6 Usually, I will decide immediately, but
7 sometimes I may have to hear arguments outside your
8 presence.

9 After the evidence has been presented, I will
10 instruct you on the law that applies to the case and the
11 attorneys will make closing arguments.

12 What the parties say in closing argument is
13 not evidence. The arguments are offered to help you
14 understand the evidence and how the law applies to it.

15 Casey 102: Taking notes during the trial.
16 You have been given notebooks and may take notes during
17 the trial. Please do not take the notebooks out of the
18 courtroom or jury room at any time during the trial.
19 You may take your notes into the jury room during
20 deliberations.

21 You should use your notes only to remind
22 yourself of what happened during the trial. Do not let
23 your note taking interfere with your ability to listen
24 carefully to all the testimony and to watch the
25 witnesses as they testify, nor should you allow your

1 impressionable witness or other evidence to be
2 influenced by whether or not other jurors are taking
3 notes.

4 Your independent recollection of the evidence
5 should govern your verdict and you should not allow
6 yourself to be influenced by the notes of other jurors
7 if those notes differ from what you remember.

8 The court reporter is making a record of
9 everything that is said. If during the deliberations
10 you have a question about what the witness said, you
11 should ask that the court reporter read that to you.
12 You must accept the court reporter's record as accurate.

13 At the end of the trial your notes will be
14 collected and destroyed.

15 Multiple Parties 103. There is one plaintiff
16 in this trial. You should decide the case of the
17 plaintiff separately as if it were a separate lawsuit.
18 The plaintiff is entitled to separate consideration of
19 her claims.

20 There are three defendants in this trial.
21 You should decide the case against each defendant
22 separately as if it were a separate lawsuit. Each
23 defendant is entitled to separate consideration of his
24 or their own defenses.

25 Unless I tell you otherwise, all instructions

1 apply to the Plaintiff and each Defendant.

2 104: Non-person Parties.

3 A corporation is a party to this lawsuit.
4 The corporation is entitled to the same fair and
5 impartial treatment you would give to an individual.
6 You must decide this case with the same fairness that
7 you would use if you were deciding the case between
8 individuals.

9 When I use words like "person" or "he" or
10 "she" in any instructions -- in these instructions -- to
11 refer to a party, these instructions also apply to the
12 corporation involved.

13 105: Insurance. You must not consider
14 whether any of the parties in this case have any
15 insurance. The presence or absence of insurance is
16 totally irrelevant. You must decide this case based
17 only upon the law and the evidence.

18 Casey 106: Evidence. Sworn testimony,
19 documents or anything else may be admitted into
20 evidence.

21 You must decide what the facts are in this
22 case from the evidence you see or hear during the trial.
23 You may not consider as evidence anything that you see
24 or hear when court is not in session, even something
25 done or said by one of the parties, attorneys or

1 witnesses.

2 What the attorneys say during the trial is
3 not evidence. In their opening statements and closing
4 arguments, the attorneys will talk to you about the law
5 and the evidence. What the lawyers say may help you
6 understand the law and the evidence, but their
7 statements and arguments are not evidence.

8 The attorney's questions are not evidence.
9 Only the witnesses' answers are evidence.

10 You should not think that something is true
11 just because an attorney's question suggests that it is
12 true.

13 However, the attorneys for both sides can
14 agree that certain facts are true. This agreement is
15 called a "stipulation."

16 No other proof is needed, and you must accept
17 those facts as true in this trial.

18 Each side, again, has a right to object to
19 evidence offered by the other side. If I do not agree
20 with the objection, I will say it is overruled.

21 If I overrule an objection, the witness will
22 answer and you may consider the evidence.

23 If I agree with the objection, I will say,
24 it's sustained. If I sustain an objection, you must
25 ignore the question.

1 If the witness did not answer, you must not
2 guess what he or she might have said or why I sustained
3 the objection.

4 If the witness has already answered, you must
5 ignore the answer.

6 An attorney may make a motion to strike
7 testimony that you heard. And if I grant the motion,
8 you must totally disregard that testimony, and you must
9 treat it as though it did not exist.

10 Casey 107: Witnesses.

11 A witness is a person who has knowledge
12 related to this case. You will have to decide whether
13 you believe each witness and how important each witness'
14 testimony is to the case. You may believe all, part or
15 none of the witness' testimony.

16 In deciding whether to believe a witness'
17 testimony, you may consider among other factors, the
18 following:

19 (A) How well did the witness see, hear or
20 otherwise sense what he or she described in court?

21 (B) How well did the witness remember and
22 describe what happened?

23 (C) How did the witness look, act and speak
24 while testifying?

25 (D) Did the witness have any reason to say

1 something that was not true? Did the witness show any
2 bias or prejudice? Did the witness have a personal
3 relationship with any of the parties involved in the
4 case? Does the witness have a personal stake in how
5 this case is decided?

6 (E) What was the witness' attitude toward
7 this case about giving testimony?

8 Sometimes the witness may say something that
9 is not consistent with something else he or she said.

10 Sometimes different witnesses will give
11 different versions of what happened. People often
12 forget things or make mistakes in what they remember.

13 Also two people may see the same event but
14 remember it differently. You may consider --- but do
15 not decide the testimony is untrue just because it
16 differs from other testimony.

17 However, if you decide that a witness has
18 deliberately testified untruthfully about something
19 important, you may choose not to believe anything the
20 witness said.

21 On the other hand, if they think the witness
22 testified untruthfully about some things but told the
23 truth about others, you may accept what you think is
24 true and ignore the rest.

25 Please do not make any decisions simply

1 because there were more witnesses on one side than the
2 other. If you believe it is true then a testimony of a
3 single witness is enough to prove a fact.

4 You must not be biased in favor of or against
5 any witness because of his or her disability, gender,
6 race, religion, ethnicity, sexual orientation, age,
7 national origin or socioeconomic status.

8 111: Instructions to Alternate Jurors.

9 As an alternate juror -- or as alternate
10 jurors, you are bound by the same rules that govern the
11 conduct of the jurors who are sitting on the panel. You
12 will observe the same trial and should pay attention to
13 all of my instructions just as if you were sitting on
14 the panel.

15 Sometimes a juror needs to be excused during
16 a trial for illness or some other legitimate reasons.
17 If that happens, an alternate will be selected to take
18 that juror's place.

19 112: Questions from Jurors.

20 If during the trial you have a question that
21 you believe should be asked of a witness, you may write
22 out the question and send it to me through my staff. I
23 will share your question with the attorneys and decide
24 whether it may be asked.

25 Do not feel disappointed if your question is

1 not asked. Your question may not be asked for a variety
2 of reasons.

3 For example: The question may call for an
4 answer that is not allowed for legal reasons. Also, you
5 should not try to guess a reason why a question is not
6 asked or speculate about what the answer might have
7 been.

8 Because the decision whether to allow the
9 question is mine alone, please do not hold it against
10 any of the attorneys or their clients if your question
11 is not asked.

12 Remember, you are not an advocate for one
13 side or the other. Each of you is an impartial judge of
14 the facts.

15 Your question should be posed in as neutral a
16 fashion as possible. Please do not discuss the question
17 asked by any juror or any other juror until after the
18 deliberations can be done.

19 113: Casey, Bias.

20 Each of us has biases about or certain
21 perceptions or stereotypes of other people. We may be
22 aware of some of our biases, though we do not share them
23 with others. We may not be fully aware of some of our
24 other biases. Our biases are in effect when we act
25 favorable or unfavorably towards someone.

1 Bias can enter our thoughts, how we remember,
2 what we see and hear, whom we believe or disbelieve and
3 how we make important decisions.

4 As jurors, you are being asked to make very
5 important decisions in this matter. Please do not let
6 bias, prejudice or public opinion influence your
7 decision.

8 Your verdict, again, must be based solely on
9 the evidence presented. You must carefully evaluate the
10 evidence and resist any urge to reach a verdict as
11 influenced by bias for or against any partner -- any
12 party or witness.

13 114: Bench Conferences and Conference in
14 Chambers.

15 From time to time during the trial, it may
16 become necessary for me to talk with the attorneys out
17 of the presence of the jury either by having a
18 conference at the bench, when you are present, or by
19 calling a recess to discuss matters outside of your
20 presence.

21 The purpose of these conferences is not to
22 keep relevant information from you, but to decide how
23 certain evidence is to be treated under the rules of
24 evidence. Please do not be concerned about our
25 discussions or try to guess what is being said.

1 I might deny an attorney's request for a
2 conference. Do not consider my granting or denying a
3 request for a conference as any indication of my opinion
4 about the case or my view of the evidence.

5 116: Why Electronic Communications and
6 Research are Prohibited.

7 I know that many of us are used to
8 communicating, perhaps even learning by electronic
9 communication or research. However, there are good
10 reasons why you must not electronically communicate or
11 do any research on anything having to do with this trial
12 or parties.

13 In court, jurors must make important
14 decisions that have consequences for the parties. Those
15 decisions must be based only on the evidence that you
16 hear in this courtroom.

17 The evidence that is presented in court can
18 be tested. It can be shown to be right or wrong by
19 either side. It can be questioned and it can be
20 contradicted by other evidence, which might be either
21 right or wrong, out of date or inapplicable to this
22 matter.

23 The parties can receive a fair trial only if
24 the facts and information upon which you base your
25 decisions are presented to you as a group with each

1 juror having the same opportunity to see and hear all
2 the evidence.

3 Also, the trial is a public process and
4 depends on disclosure of important facts and evidence.
5 Using information gathered in secret by one or more
6 jurors undermines the public process and violates the
7 rights of the parties.

8 Casey 200: Obligation to Prove are Likely
9 True or Not True.

10 A party must persuade by evidence presented
11 in court that what he or she is required to prove is
12 more likely to be true than not true. This is referred
13 to as, quote, the burden of proof, end of quote.

14 After weighing all of the evidence, if you
15 cannot decide if something is more likely to be true
16 than not true, you must conclude that the parties did
17 not prove it.

18 You should consider all the evidence no
19 matter which party produced the evidence.

20 In criminal trials, the prosecution must
21 prove that the defendant is guilty beyond a reasonable
22 doubt. But in civil trials, such as the one before you,
23 the burden is to prove something, only prove that it is
24 more likely to be true than not true.

25 Mr. Simons, do you have an opening statement?

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MR. SIMONS: I do, your Honor.

OPENING STATEMENT BY MR. SIMONS

MR. SIMONS: Ladies and Gentlemen, Candace Conti was sexually abused repeatedly by Jonathan Kendrick when she was nine and ten years old. Mr. Kendrick gained access to Candace Conti through their years of involvement together in the North Fremont Congregation of Jehovah's Witnesses.

She, as a young girl was raised in the Jehovah's Witnesses family. Mr. Kendrick, was a trusted and respected adult member of that congregation.

Ladies and Gentlemen, what Candace Conti, her parents and the good people who were members of that congregation did not know, but what was known and documented and kept secret by a few elders of the North Congregation and by the people at the Watchtower New York Corporation that supervised and instructed and provided the rules for North Fremont Congregation.

What was known and kept secret by them was that only two years earlier, Jonathan Kendrick had sexually molested another member.

And because of the policy of secrecy that Watchtower New York had adopted and instructed it's local elders to follow, and which they did follow, that

1 information was not provided to your shared group, but
2 was kept secret from the people who in that congregation
3 could have seen and prevented the sexual abuse of young
4 Candace.

5 Now, back in 1993, you will learn that it was
6 already well-known by religious organizations and
7 professionals of all kinds, that childhood sexual
8 abusers used religious organizations to gain access to
9 their victims.

10 The family atmosphere of the religious
11 organization, the trust that comes with being a fellow
12 member of a congregation were devices that sexual
13 predators could use to gain access to their victims.

14 And this was well known and it was well
15 established and it was even reflected in publications
16 issued by Watchtower through its magazines, Awake and
17 Watchtower Magazines.

18 It was known also at that time that policies
19 were necessary to prevent child sexual abusers from
20 using religious organizations as the vehicle to molest
21 victims.

22 These policies that had been adopted by the
23 major religions throughout the country; Methodist,
24 National Council of Churches, the Catholic Church, they
25 didn't always follow their policies, but the need for

1 policies to protect children from childhood sexual abuse
2 was well established by that time.

3 And these policies were necessary and
4 included a need that when a childhood sexual abuser was
5 identified, as it was with Mr. Kendrick, that that
6 individual not be given the opportunity to molest any
7 other children within the religious organization.

8 There is no single more important fact to be
9 known at that time in the prevention of childhood sexual
10 abuse in the religious context than that an individual
11 has previously molested a child. That was the single,
12 most important thing to know, because when that was
13 known, it was also known that there was a high risk that
14 that individual would molest again.

15 Jonathan Kendrick had molested, in 1993, his
16 stepdaughter, 13 year old Andrea. And this was before
17 he ever layed a hand on Candace. And the abuse was
18 serious, and it involved skin-to-skin contact with his
19 hand on Andrea's breast and putting his hand under her
20 underwear into her pelvic area.

21 That information, which was told to the
22 elders, is what was kept secret in 1993 and '94 and '95
23 and '96, during the time that Candace was being abused.

24 I would like to show you a photograph of
25 Candace at that time. And apologize if we are in the

1 way. Space is limited.

2 You will see during the trial, once
3 technology is sorted through, that Candace as a nine and
4 ten years old was much as she shows herself today,
5 freckle-face red-head girl, and she was a memorable
6 girl. She was the only child of Neal and Kathleen
7 Conti.

8 She was born in Fremont, raised in Fremont.
9 The family was of humble origins. Kathy Conti,
10 Candace's mother, was a high school dropout, and had a
11 variety of different jobs, one failed marriage and while
12 working in National Semiconductor met Neal.

13 Neal was also on his second marriage. He met
14 Kathy at work, and they had fallen in love and got
15 married in 1985. That's when Candace was born,
16 November 1985.

17 And Candace, by the time that she was a baby
18 was active in the Jehovah's Witnesses religion in the
19 North Fremont Congregation with her parents, and on
20 occasions with an older stepbrother, Neal's son from his
21 first marriage.

22 But by 1995, Candace's life was marked really
23 by three things. One is chaos. One is her resiliency,
24 and one is her vulnerability.

25 And when I say "chaos," you will learn that

1 Candace's mother, Kathy, had also been sexually abused
2 as a child. And in this time period in 1994 she began
3 to exhibit severe mental breakdown, bizarre activity,
4 and was no longer functioning.

5 She was unable to care for Candace. And
6 Neal, who was an unemotional man in many ways, not given
7 to strong attachments.

8 And, in fact, you are going to learn that he
9 has no relationship with Candace at all anymore, and
10 really has not since she was high school age.

11 Emotionally distant man was not able to
12 provide for Candace and was not able to provide for
13 Kathleen. This was a family in chaos.

14 And Kathleen and Neal relied on the people in
15 the congregation to give them some help because they
16 were unable to take care of themselves and their family.

17 And when I say "resiliency," Candace, you
18 will see when you meet her, is a person of spirit. One
19 of the elders in a deposition in this case called her
20 spunky.

21 She is a person who comes back from trouble.
22 And would get up in the morning and even though her
23 parents' home life was very, very difficult and unhappy
24 in the morning, you know, Candace would start a new day.

25 And she was often a smiling, young child,

1 even with this trouble around her. And people remember
2 that about her. And she was a child that people in the
3 congregation loved.

4 That spirit of resiliency has marked, really,
5 her entire life. And you are going to learn a little
6 bit about what she has been through and how she has come
7 out of it and why she is here today.

8 But you are also going to learn that at that
9 time she was extremely vulnerable child. She was
10 vulnerable because there was no parental ability to
11 manage her, and they needed and relied on others in the
12 Jehovah's Witnesses Congregation family to help. And
13 people could see that in her, and Jonathan Kendrick saw
14 that in her.

15 Now, Jonathan Kendrick was a big man. He was
16 physically big. He was an iron worker. He had come to
17 the Jehovah's Witnesses later in life. Late thirties,
18 early forties. And he had been with the congregation
19 for only eighteen years.

20 But yet, he was well-liked. He was a
21 flamboyant man. He was a loud man. He expressed his
22 opinions and talked and sometimes bragged a lot. And he
23 was the kind of person that people took to.

24 And he rose through the Jehovah's Witnesses
25 to become what is called a ministerial servant. And

1 that's a position of technical assistance, in the way
2 of -- it is not a religious position, but it is the men
3 who helped the elders, they pass the microphone at
4 meetings or gather books and the magazines, the
5 publications and pass them out.

6 Jonathan Kendrick had achieved that position
7 which required not only recommendation by the local
8 elders, but also approval by Watchtower New York.

9 And Jonathan Kendrick was a part -- together
10 with his then wife, Evelyn Kendrick -- of the Jehovah's
11 Witnesses family.

12 And it was a family atmosphere. They not
13 only call each other brother and sister, but it is a
14 family atmosphere because they spend a lot of time
15 together.

16 There are usually meetings at the Kingdom
17 Hall, which is a church.

18 There are meetings in homes where Bible study
19 is done.

20 There are the field service where Jehovah's
21 Witnesses go out into the neighborhood to spread the
22 word of their beliefs and their religion. And many
23 times four and five days a week.

24 And part of their family situation is that
25 the Jehovah's Witnesses did not mix much with other

1 faiths or other people.

2 Their lives centered around the congregation
3 and their fellow members. And so because they didn't
4 celebrate things like birthdays and Christmas as part of
5 their beliefs, Candace and her family were much more
6 tied into the other families of the congregation than
7 might be seen in other situations.

8 And there was a trust placed in the fellow
9 members of the congregation. And the North Fremont
10 Congregation was not a particularly large one. Hundred
11 members, maybe a hundred and twenty, including the
12 children. But like in all small congregations, the
13 people knew each other.

14 The Jehovah's Witnesses are not an
15 organization that is unstructured. They are very
16 structured. There is a group, a small group of men
17 called the "governing body." And the governing body is
18 at the top of the hierarchy of the Jehovah's Witnesses.

19 And the governing body operates, sets all the
20 policies. It sets and instructs all of the elders
21 throughout the country and all the congregations on what
22 policies they follow. And it acts through a series of
23 different corporations.

24 In this time, the 1990s, Watchtower New York
25 was the principal corporation that the governing body

1 acted through and which directed the activities of the
2 Jehovah's Witnesses throughout the United States.

3 And a number of various positions, certain
4 overseers and et cetera, kept this hierarchy in place
5 and allowed communications from the governing body
6 through the Watchtower, through the bodies of elders and
7 into the congregation itself.

8 And that's how instructions were disseminated
9 and that's how policies were made and enforced from the
10 top down.

11 Now, Jehovah's Witnesses is not a youth
12 organization. It is not Campfire Girls, but it is an
13 organization where children and adults engage in all of
14 the activities together. They are together in the home
15 services, they get together in the homes of members
16 doing Bible study. They are together in the field doing
17 service work, and they are together in many, many ways
18 and activities.

19 And because of that togetherness, there is no
20 real border, and there is no real one place that the
21 Jehovah's Witnesses would be together. They could be in
22 a neighborhood anywhere in the congregation. And they
23 would go sometimes to activities in the district level,
24 et cetera, and participate together there.

25 And so this family was together very much,

1 brothers and sisters, looked on each other as a family
2 and felt that that was part of their responsibility.
3 And there was a togetherness there and a trust. And
4 that's what was abused by Jonathan Kendrick in this
5 case.

6 The Jehovah's Witnesses were notified. The
7 Fremont elders were notified by Evelyn Kendrick in
8 November 1993 that Jonathan has sexually molested her
9 daughter from her first marriage, Andrea.

10 First, the Kendricks, they tried to deal with
11 this at home, in the family. But that wasn't
12 successful.

13 And so Evelyn turns to the elders, to Elder
14 Abrahamson and to Elder Clarke. But in particular,
15 Elder Abrahamson, you are going to hear from, because
16 that was the Jehovah's Witnesses' way, not to go to
17 police or the outsiders, but to go to elders for safety,
18 protection and guidance. And that's what she did.

19 And there was a family meeting with Andrea
20 and Evelyn and Jonathan Kendrick and Elders Clarke and
21 Abrahamson in November 1993, and a written report of
22 that meeting was sent to Watchtower New York so that
23 instructions could be received.

24 And in that meeting, Andrea and Evelyn told
25 that there had been an argument about Andrea's

1 involvement with a boy, and that the argument had ended
2 and Jonathan had given Andrea some Vicodin, and she had
3 gone to bed and she had gone to her bedroom with her to
4 sit and watch TV.

5 And when she was half asleep, he placed his
6 hands under her bra and into her underwear. And she was
7 aware of that and got up and went to the bathroom,
8 cried, and then went and told her mother.

9 And that's what was told to the elders. That
10 conduct was described to the elders in the family
11 meeting.

12 Jonathan Kendrick did not agree with that
13 version and claimed that it had only been a brief touch
14 outside the clothes.

15 And that's the version that was reported to
16 Watchtower New York by Elders Abrahamson and Clarke.
17 But even that conduct was described in the report as
18 child abuse and recognized as child sexual abuse.

19 Now, Jonathan Kendrick no longer served as a
20 ministerial servant by 1995 when the abuse of Candace
21 was ongoing, but he was still a member in good standing
22 with the congregation.

23 He still went to Kingdom Hall. He was still
24 there with all the members. He was still a trusted
25 member. And no one was told that he had sexually

1 molested a child. It was kept secret.

2 And Jonathan Kendrick continued to do field
3 service, and he continued to go to homes for Bible study
4 and meetings.

5 And the reason no one was told was a written
6 policy issued in 1989 by Watchtower New York. And that
7 policy, which the elders had no discretion to depart
8 from, that policy mandated that certain matters,
9 including child abuse, be kept confidential, secret.

10 And the reason for that policy, which you
11 will get to read -- and it is a long several-pages of
12 policy -- but the reason stated time and again within
13 that policy was to avoid lawsuits and financial
14 penalties.

15 The governing body, through this policy, had
16 made a determination that its own needs would be placed
17 above protection of children and an indifference to
18 children like Candace who were placed at risk by the
19 presence of known sexual abusers within the
20 congregations and the secrecy that surrounded it.

21 That is what this case is about.

22 Now, I just want to talk a little bit about
23 the harm that Candace has suffered. She suffered in
24 silence, abuse that occurred on many, many occasions.

25 It was very serious and intrusive abuse. And

1 it is sad to say that it involved not only skin-to-skin
2 contact, but nudity and oral sex and the insertion of a
3 foreign object, a pen, into her. It is the most
4 horrific kind of abuse, and it happened on many
5 occasions.

6 And these occasions would arise when Jonathan
7 Kendrick, being the helpful person that he was, would
8 take Candace when her parents were unable to deal with
9 her. They were too distracted by their own problems.
10 And he would take her for a ride or babysit her or take
11 her rollerblading or play or take her home from a
12 meeting and or stop by, run an errand.

13 Sometimes the congregation members came to
14 the Conti house. Neal had a paint booth and they would
15 come over and they would paint cars and they painted a
16 car for Sister Crawford on one occasion. And all the
17 elders helped this sister who was unable to take care of
18 her own needs.

19 And so they were all used to each other,
20 being in each other's lives. It was part of the
21 congregation.

22 And this abuse that she kept silent was
23 because there was no one who was safe for her to share
24 it with.

25 Soon after, 1996, after a year,

1 year-and-a-half of the abuse, Candace's parents
2 separated and divorced.

3 And Candace was placed in family therapy,
4 primarily for herself, with a woman named Laura Fraser,
5 a family therapist.

6 And Laura Fraser is now down in San Diego.
7 She is going to appear in this case by videotape
8 deposition. And so we know what her evidence will be
9 because we have all been down there and heard.

10 And she described Candace's vulnerability at
11 that time. That Candace was a girl who was not getting
12 the love of her father, she was competing with Jehovah's
13 Witnesses, and her mother was unable to care for her.

14 In fact, Candace was really the caretaker, in
15 many ways, of the family. Candace was living, as Laura
16 Fraser will testify, in a family that really had three
17 children in it.

18 And there was no safe place for her to go.
19 She could not go to her mother. She could not go to her
20 father. And she went nowhere, and suffered this in
21 silence for some years.

22 And that is not unusual in child sexual abuse
23 victims. You are going to hear something called the
24 "Child Sexual Abuse Accommodation Syndrome" what
25 professionals call "Delayed Disclosure." Children don't

1 tell. Some do -- Andrea did -- if they feel they have a
2 safe place to go. And many do not. And Candace did
3 not. So she suffered this in silence.

4 And she did not tell anyone until -- the
5 first person she told was when she was 16 years old.
6 She was battling depression, and she told a doctor that
7 she saw on one occasion, Dr. Afruma, Bay Valley Medical
8 Group about it. That's the first reporting of it that
9 she told anyone.

10 2003, when she was 18, she told her parents
11 separately. Her mother was moving out of state and was
12 really of no support to her. Her father, then on his
13 fourth marriage, indifferent. Didn't get involved at
14 all.

15 And Candace turned, during her high school
16 years, to self-medicating for treating her trauma and
17 treating her own feelings that she couldn't share with
18 anyone.

19 She self-medicated with drugs. And she
20 self-medicated with a very bad drug, methamphetamine.
21 And she took it for some time. For years she was using
22 on and off.

23 And she hid from the trauma. But over time
24 she began to be able to face what had happened to her
25 and to face her trauma.

1 She suffers from a post-traumatic stress
2 disorder. She has gone through depression. She has
3 gone through some dark times.

4 But that resilient Candace Conti has now been
5 sober for two years and is on the track to become a
6 veterinary tech, to become a productive member of
7 society, to become the good person that has been inside
8 of her all of this time.

9 She will need therapy. She will need a lot
10 of help over the years. And there will be times when
11 she is again vulnerable to the emotional harm resulting
12 from this abuse. But she is a resilient person, and she
13 does have the ability to stand up.

14 And when she met with the elders in Fremont
15 to tell them about her abuse, in 2009, she told them the
16 very same thing that you will learn as to why we are
17 here, and that's to make sure that children are
18 protected.

19 I appreciate your attention and I appreciate
20 your service. And on behalf of Ms. Conti and myself,
21 thank you.

22 THE COURT: All right. Mr. McCabe, do you
23 have an opening statement on behalf of North
24 Congregation Jehovah's Witnesses, Fremont, California.

25 MR. McCABE: I do, your Honor.

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OPENING STATEMENT BY MR. McCABE

MR. McCABE: Thank you all for your patience and your endurance to getting to this point. It is very important in our system of justice that you are here to serve. And this is a very important trial. It's important for Ms. Conti, as her attorney has just outlined for you. She is a young woman who has been through an ordeal and suffered a lot. And she is trying to heal. So it is an important case for her.

But this case is also about some very good, hard-working, everyday, ordinary, common people. And I want to tell you what the evidence is going to show about that.

My clients, they are -- as Mr. Simons pointed out a hundred or hundred and twenty or so people who associate together at the Fremont Congregation.

Their official title is Fremont Congregation of Jehovah's Witnesses, the North Unit. But that is a big mouthful to get out. So I'm just going to call them the Fremont Congregation.

This is a civil lawsuit. No filters. You file a lawsuit, and unless prior to, you settle, it comes before a court or a jury like this.

In this case, Ms. Conti and her lawyers are suing the Fremont Congregation for negligence. But I

1 think the evidence will show that no one in the
2 congregation, no elder, no member, no one, saw
3 Mr. Kendrick ever act inappropriately with Ms. Conti.

4 Not only did no member see it, but Ms.
5 Conti's own parents did not see anything inappropriate.

6 The evidence will show you that, and Mr.
7 Simons has pointed out, that Ms. Conti didn't tell the
8 anyone in the congregation until 12 years after the
9 abuse had stopped.

10 It goes without saying, I think, based on all
11 the experiences we have had together the past few days
12 through the juror questionnaire and the conversations
13 you have had with the jurors that child abuse is always
14 tragic. It is horrible.

15 This lawsuit, though, isn't just about child
16 abuse. It is what the congregation knew and when they
17 knew it.

18 The evidence will show that the Fremont
19 Congregation was a small group of people, about a
20 hundred, hundred twenty, it varies over the year
21 depending on economic situation, people moving in and
22 out of the area.

23 And presiding over the congregation is not a
24 priest or one minister or a religious leader, but it is
25 an elder.

1 And in the congregation of Jehovah's
2 Witnesses, it is not just one elder, but it is what they
3 call the body of elders, made up of three, maybe as many
4 as ten, twelve, depending upon the circumstance of the
5 congregation.

6 And this case is important to them. They
7 spend a good lot of time caring for the congregation.
8 But it is also important to members of the congregation,
9 as you will see.

10 And I think it is important for members of
11 the congregation regardless of what their religious
12 denomination is.

13 It is important for associations like Little
14 League or Oakland Soccer Club or any organization that
15 involves families.

16 It is important because the allegations here
17 essentially say the organization, any organization can
18 be held responsible for what a rank and file member of
19 the organization does, even when the behavior doesn't
20 have anything to do with the organization, doesn't
21 happen within the organization, doesn't happen on the
22 organization's activities.

23 Now, the evidence will show that Ms. Conti
24 and her attorneys are claiming that my client, the
25 Congregation, represented by the elders, is responsible

1 for the horrendous actions of someone who simply
2 attended the church.

3 Now, it is not a case where the pastor or
4 clergy or religious leader perpetrated some of this. It
5 was a rank and file member. It is not a case where the
6 abuse happened at church or in church activities.

7 It is not a case where the pastor, the
8 religious leaders saw something happening and didn't do
9 anything about it. It is not that kind of case.

10 That's why we are here. That's why I stand
11 up for some good people and try to present to you what
12 they knew and when they knew it. People did not know or
13 did not have a way of knowing that Ms. Conti was being
14 abused.

15 And you will see testimony from the members
16 and the elders from the Fremont Congregation. They will
17 tell you about themselves.

18 The evidence will show they are people just
19 like everyone else. They are like your neighbors, like
20 the people you work with, friends.

21 The evidence will show that they're mothers,
22 fathers, they're grandfathers, grandmothers. I even
23 have one great-grandmother who will testify.

24 And we will present to you and having them
25 testify what they saw, or more importantly what they

1 didn't see and didn't hear.

2 I would like to take a few minutes just to
3 outline the case, just for the purpose of giving you a
4 thread to weave through the testimony that you are going
5 to hear in the next few days. So at the end of the case
6 you will be able to use that thread and kind of tie it
7 all together and deliberate to a just conclusion.

8 First, I would like to talk just a little bit
9 about Jehovah's Witnesses, who they are and what they
10 believe.

11 And next I would like to talk about what
12 happens with Mr. Kendrick with his 15-year-old
13 stepdaughter. And you have heard a lot about that
14 already. But we will talk about that just a little bit.

15 But keep in mind this lawsuit is not about
16 what happened between Jonathan Kendrick, his wife
17 Evelyn, and Jonathan Kendrick's stepdaughter,
18 15-year-old Andrea. This case is about the abuse of Ms.
19 Conti.

20 And you will see that the congregation didn't
21 know about it until years after Mr. Kendrick had moved
22 away, Ms. Conti had moved away, and they brought the
23 abuse to their attention.

24 Now, the evidence will show that Jehovah's
25 Witnesses are pretty normal in some ways and pretty

1 unique in others.

2 You will see that they base their beliefs and
3 practices on the Bible as they understand it. They have
4 two meetings a week currently in a church that they call
5 Kingdom Hall. I guess because they talk about God's
6 kingdom.

7 And you will see that, like other
8 congregations, we would expect if we took a microscope
9 and looked into their religious services, they open
10 their meetings with where they all stand up sing a song,
11 have a prayer, and then they discuss the Bible in
12 various ways. They end the meeting same way. Sing a
13 song, say a prayer.

14 And the instruction, the sermons, if you
15 will, is usually provided by the elders who are the
16 teachers, the shepherds, the religious leaders in the
17 congregation.

18 That all seems ordinary and common. But what
19 is really unique about Jehovah's Witnesses is they don't
20 have Sunday school. They don't have church camp. They
21 don't have Vacation Bible School. They don't offer any
22 programs that separate children from their parents. The
23 religion is family-based.

24 You will hear that they all meet together.
25 You will see a picture of the auditorium where they all

1 meet together. No separation of children from their
2 parents.

3 And this is important because the parents are
4 the main source of instruction, guidance and protection
5 from their children.

6 I think when you hear the elders testify, you
7 will see that they are very ordinary men. They don't
8 wear special garb or clothing, they don't wear collars
9 or anything. They are not paid for the 10 to 20 hours
10 that they spend serving the congregation each week of
11 their lives. They are all peers.

12 They work to prepare meetings of instruction.
13 They visit the sick. They respond when somebody in the
14 congregation has a problem.

15 They do what most ministers or pastors do in
16 any religious congregation regardless of the
17 denomination. Pretty ordinary. They help guide and
18 teach those that attend the church.

19 But they also support themselves and their
20 families, because most are, like I said, married, and
21 have children or grandchildren of their own. They
22 support themselves working in the community.

23 For example, the elders that will, I believe,
24 testify in this case, Michael Clarke, does clerical work
25 for a parts company.

1 Gary Abrahamson is a janitor, works nights
2 cleaning offices.

3 Larry Lamerdin, a pool cleaner, been doing
4 that for a number of years, just humble hard-working men
5 trying to take care of their families, support their
6 families, live in the community and worship God with
7 their congregation.

8 They are a little bit unusual too. I think
9 everybody here on this jury panel raised their hand and
10 said Jehovah's Witnesses had called on them and some of
11 us here were irritated with it. Some weren't.

12 But if that's all we know about Jehovah's
13 Witnesses, it is not enough. There is a whole lot more.
14 They are just normal people. Church, their religious
15 mission is part of their life, but there is more to
16 them. They are human beings with jobs. They live in
17 typical neighborhoods. They have typical neighbors,
18 typical friends.

19 You know, it is kind of funny, but I wouldn't
20 say this probably, wouldn't have to say this about
21 anybody else, but they go to public school. They go to
22 high school. They get trades.

23 We wouldn't have to say that about Lutherans,
24 Methodists or Atheists, but Jehovah's Witnesses are just
25 typical people.

1 The bottom line is, they're just like Jewish
2 people. They're just like Buddhists. They're just like
3 any denomination. They are like Atheists too. They are
4 people.

5 But the elders are a little different. They
6 meet some scriptural qualifications. They get to
7 preside, teach in the congregation. That is only
8 difference there is.

9 The thing is, they are not therapists, they
10 are not social scientists, they are not medical doctors,
11 they have no special training in law enforcement or
12 psychology. They are simply men who study the Bible and
13 associate with the congregation in Fremont. That is the
14 background. They take the lead, provide spiritual
15 encouragement.

16 That's what Mr. Clarke and Mr. Abrahamson did
17 on November the 11, 1993. They were invited to the
18 Jonathan Kendrick home by Mr. Kendrick because, as he
19 put it when he talked to Michael Clarke, he
20 inadvertently touched his 15-year-old stepdaughter.

21 The Kendricks invited the elders to come to
22 their home and provide spiritual encouragement. You'll
23 hear testimony how they arrived with Bibles in hand, sat
24 at the kitchen table, offered prayer, and they listened.
25 They listened to what Kendricks had to say.

1 And I don't think anybody will testify that
2 knows exactly what was said verbatim in that meeting,
3 almost 20 years ago.

4 But the elders will tell you what they heard,
5 how they responded. They knew immediately from talking
6 to Evelyn, Andrea and Jonathan this was no inadvertent
7 touching. This was a sexual touching. And they knew
8 right away that Jonathan Kendrick needed to be removed
9 as a ministerial servant.

10 And that's what they did. They went back and
11 they met with the rest of the body of elders. And Mr.
12 Simons talked about it and he also mentioned about the
13 type of worship service worker, or someone who assists
14 them to -- passes the microphone when people make
15 comments or seats latecomers, takes care of the parking
16 lot, things like that. Well, Mr. Kendrick no longer
17 qualified for even that position in the organization.

18 And after the elders met together as a body
19 and discussed what Mr. Kendrick told them, Mrs. Kendrick
20 told them, Andrea told them, they announced to the
21 congregation that he had been removed as a ministerial
22 servant.

23 And remember when the event took place, the
24 meeting with the two elders, Mr. Abrahamson and
25 Mr. Clarke, the event that is being discussed, that

1 happened four months earlier. The family was still
2 together. They wanted it to be that way. They hadn't
3 gone to the police. They were choosing not to do that
4 and keep the matter confidential and within the family.

5 And that's what Mr. Clarke and Mr. Abrahamson
6 allowed them to do, didn't try to force them to go to
7 the police and didn't want to make it public.

8 But you will hear that when Mr. Kendrick was
9 removed as a ministerial servant, that's a significant
10 event, it doesn't happen every day, that's a signal that
11 something is wrong.

12 But from that point on, after admonishing Mr.
13 Kendrick, in that meeting with his wife and
14 stepdaughter, from the scriptures about how
15 inappropriate his conduct was, you will hear testimony
16 from the elders that they watched him. They observed
17 him. They counseled him to stay away from children.
18 Avoid being with them. And when he was at the church,
19 Kingdom Hall or related functions, they observed him.

20 The Kendrick family, of course, continued to
21 have problems. There were no more reports of any
22 inappropriate activity between Jonathan Kendrick and his
23 stepdaughter, Andrea.

24 But eventually Mrs. Kendrick and her daughter
25 decided to make a report to the police. So a meeting

1 took place with the elders in November 1993, but the
2 police in Fremont were notified in February of 1994, and
3 Mr. Kendrick was prosecuted, dealt with.

4 What you will find is, as we go through the
5 testimony of various witnesses, is the Kendricks
6 eventually separated about August, September, October
7 1996, and they divorced sometime after that.

8 You will also hear testimony that Mr.
9 Kendrick took a job in San Diego following the
10 separation, and then moved in with another family in the
11 Fremont congregation, a family of father, Rod Francis,
12 his wife Claudia, and two teenage boys. You will hear
13 the family cared for Jonathan. Never suspected he was
14 abusing anyone.

15 Eventually, Jonathan moved away in the year
16 1997. The entire time that Jonathan Kendrick was
17 attending the congregation meetings in North Fremont, no
18 one heard anything about the abuse of Candace Conti. No
19 one saw anything that made them suspicious and reported
20 it to the elders. No one made any allegations.

21 Like I said, no one reported anything going
22 on between Jonathan Kendrick and Candace Conti or any
23 other child.

24 You can imagine the shock when the lawsuit
25 comes to the congregation.

1 Mr. Simons mentioned that you will hear
2 testimony about policy. It is kind of hard to pinpoint
3 policy sometimes, but policy, in this particular
4 organization, comes from the governing body in the form
5 of letters to the bodies of elders.

6 It also comes in the form of magazines that
7 they distribute publically and they use in their
8 congregation at the worship services. It is called the
9 Watchtower Magazine and Awake Magazine.

10 And one of the letters that you will see as
11 evidence, and you will have an opportunity to look at it
12 and to scrutinize it was a July 1, 1989 letter to all
13 bodies of elders.

14 It was a letter about confidentiality and
15 about the responsibility of elders who receive personal
16 and confidential information about people that they are
17 shepherding and caring for in the congregation needs to
18 be kept confidential.

19 And you will see the letter explaining why.
20 Lawsuits results from defamation, child custody matters,
21 divorce proceedings. Lawyers can get embroiled in these
22 things through subpoenas or other techniques where
23 people want to have an elder or minister come in and
24 testify he said/she said in divorce proceedings.

25 You will see by the letter. No policy and

1 secrecy there. Just common sense, confidentiality,
2 maintained by lawyers and their clients, doctors and
3 their patients, ministers and their congregants in every
4 religion.

5 Now, the elders were finally informed about
6 the abuse of Ms. Conti from Ms. Conti herself. They met
7 with her. They did what they did before to prepare for
8 the meeting to try to comfort and encourage her. And
9 that's what you would expect for a member who was dearly
10 loved as a child.

11 So why are my clients being sued? Well,
12 Candace will tell you, Ms. Conti will tell you that the
13 elders should have known what was going on, and they
14 should have known what was happening to her, and they
15 should have protected her. But there was no evidence
16 that anyone saw any of the activity that she will
17 testify about.

18 Certainly no one reported to the elders that
19 something was going on with Jonathan Kendrick and
20 Candace Conti.

21 They will tell you that -- we will bring them
22 in, the mothers and grandmothers that were there and in
23 tune, and they were in tune to this issue because they
24 had policy information that was given to them from the
25 Watchtower organization in the form of their magazines.

1 But they will tell you that they never saw
2 Candace Conti sitting on Jonathan Kendrick's lap. They
3 will tell you they never her giving big bear hugs to
4 Jonathan Kendrick. It would be inappropriate.

5 And they will never tell you that they saw
6 her leaving week after week with Jonathan Kendrick alone
7 from the Kingdom Hall.

8 The evidence will tell you that this isn't an
9 easy case. It is a difficult case. We all feel for
10 someone who comes from a troubled family background like
11 Candace Conti did. I think everyone who testifies feels
12 horrible that anything bad would happen to Candace
13 Conti.

14 We find it tragic what she's been through.
15 Eight years of methamphetamine abuse, troubled thoughts,
16 the nightmares.

17 But I think we can all agree, we are all
18 grateful to see that she is on the right track now.
19 Clean and sober. She has made a lot of progress.

20 We can certainly testify, as Mr. Simons did,
21 as to her resilience, that she is glad she has her life
22 together, career plans, education plans.

23 Now, you will hear a lot of evidence and you
24 will see articles themselves, will be put up on the
25 screen here what Watchtower has published in the form of

1 information about the child abuse. And I think you will
2 be impressed.

3 The evidence will show that they have been
4 publishing for over 30 years about this subject. They
5 are not an organization that puts their head in the sand
6 and say it doesn't exist.

7 And what they have done, you will see in the
8 evidence is, they educate the parents. First line of
9 defense. The parents. The ones that guide, direct,
10 teach, and protect their children.

11 Some might argue, well, if they published all
12 those materials, it certainly must be a problem unique
13 to Jehovah's Witnesses. No it's not. It is a societal
14 problem.

15 And the fact that Jehovah's Witnesses write
16 about it indicates that they are trying to address a
17 societal problem for their membership, like they would
18 alcohol abuse and drug abuse and any other plague in
19 society today.

20 This problem is not a unique problem to the
21 Catholics or the Jehovah's Witnesses or the Boy Scouts,
22 it is a societal problem. That is what the evidence
23 will show.

24 Now the matters with Andrea, the 15-year-old
25 stepdaughter of Jonathan Kendrick, that took place

1 sometime during the summer of 1994, it is going to be
2 disputed what was said at that meeting, evidently from
3 what Mr. Simons has outlined.

4 My clients didn't hear anything about
5 Vicodin. They didn't hear anything about going below
6 the belt. They didn't hear that.

7 And they made a report immediately after
8 that, which they had no motivation to fabricate, and
9 send to the Watchtower. You will hear about that too.

10 But you know, looking back, which every
11 account you will find most credible, listening to the
12 witnesses, that account, or that abuse of the
13 15-year-old stepdaughter today gives us the vantage
14 point of hindsight. And you know what they say about
15 hindsight, it is 20/20.

16 But as you hear the testimony, try to listen
17 to the evidence in terms of what Mr. Clarke and Mr.
18 Abrahamson knew, what they were told by the family, and
19 how they were working on it.

20 Now, clearly, they weren't fooled by Mr.
21 Kendrick saying it was an inadvertent touch. It was
22 clearly wrong behavior. And they acted accordingly and
23 removed him from his minor position in the congregation.

24 Everyone's demeanor and everyone's
25 conversation that day in November 1993 was that the

1 family had worked out the problem, they were working it
2 out. They didn't want to go to the police. But they
3 eventually did. Didn't change anything. Wouldn't
4 change anything the elders would do.

5 But for a minute just try to put the
6 situation with Andrea in a little box. Let's focus on
7 the claims of Candace Conti.

8 This case is not about Andrea. And the
9 evidence will show this. It is about what the elders
10 thought, heard, did, and when they did it and when they
11 knew it.

12 I think the evidence will show you that they
13 didn't see or hear anything. Because no one reported it
14 to them. They didn't hear it from the parents, Neal and
15 Kathleen Conti.

16 So I want to make sure that we don't make any
17 mistake here. There is a villain in this case. It is
18 Mr. Kendrick. It is not Gary Abrahamson, Michael Clarke
19 or Larry Lamerdin.

20 The questions that you will have to decide at
21 the end of the trial is: Were my clients negligent?
22 Michael Clarke, Gary Abrahamson, Larry Lamerdin? The
23 people in the Fremont Congregation, were they so
24 oblivious and so uncaring and so unconcerned that they
25 let something important happen right in front of their

1 eyes? I think the evidence will show that they weren't.

2 Essentially, the Plaintiff, even though no
3 one heard or saw anything -- and that includes not only
4 Neal and Kathleen Conti, but Laura Fraser who was doing
5 weekly therapy with Candace Conti, apparently, during
6 the time that some of this abuse was allegedly going on.

7 It wasn't apparent to her school counselor.
8 It wasn't apparent to her grandmother, Neal's mother,
9 who she lived with.

10 So that is what this case is about, what the
11 elders knew and saw, when they knew it.

12 I want to thank you for going through the
13 screening process. And it was important that we do
14 that. It might have been a little burdensome, and we
15 had, maybe, some confusing questions in there.

16 And we did that because there is some
17 delicate things that are going to be talked about in
18 this case, and there are some serious questions that are
19 going to be raised. And we wanted people who could do
20 it dispassionately and objectively by weighing the
21 evidence. And I am confident you are that group of
22 people. Mr. Simons is too.

23 I think you will see as the evidence develops
24 the elders had nothing to hide, they had nothing to
25 conceal. They did their job to the best of their

1 ability.

2 And sitting here today in 2012 with 20/20
3 vision, hindsight, we all wish Candace Conti could have
4 been spared the scourge of child abuse, the plague of the
5 earth.

6 In a perfect world, every child should be
7 loved and cherished by a mother and father that cares
8 for her. Candace Conti didn't live in a perfect world.
9 And we don't either. Her family was quite troubled.
10 She suffered.

11 But I think when you look at all the evidence
12 and sum it all up, you will see that the elders in the
13 congregation didn't do it.

14 I think you will see from the evidence at the
15 end of this trial that the blame for Candace Conti's
16 problems needs to be put where it properly belongs, and
17 that's on the broad shoulders of this perpetrator,
18 Jonathan Kendrick.

19 THE COURT: Do you have an opening statement
20 on behalf of the Watchtower Bible and Tract Society,
21 Inc.?

22 MR. SCHNACK: I do, your Honor.

23 THE COURT: All right.

24 Let's take a 15-minute break, and we will
25 have opening statement for Bible and Tract Society of

1 New York.

2 (Break taken)

3 (Whereupon, the following proceedings
4 were heard outside the presence of jurors)

5 MR. SIMONS: One of the jurors was having a
6 chat with Mr. Clarke. Mr. McCabe had a chance to talk
7 to him.

8 MR. McCABE: I inquired of Mr. Clarke and he
9 said there was some more conversation than that.

10 THE COURT: Referring to this department?

11 MR. SIMONS: Yes.

12 THE COURT: Okay. I will admonish the jurors
13 once again.

14 MR. McCABE: I have told Mr. Clarke not to
15 talk to them.

16 (Whereupon, the following proceedings
17 were heard in the presence of jurors)

18 THE COURT: All right. If I can remind the
19 jurors that no conversations whatsoever with lawyers,
20 parties, or witnesses. I can't say that enough. Like I
21 said, let your conscience lead your conduct.

22 So even if I don't reference it every
23 session, you are under a continuing duty to observe that
24 order as to no-contact discussions. Certainly a good
25 warning is appropriate. Anything beyond that, though,

1 could be looked askance by this court with appropriate
2 action taken.

3 All right. Mr. Schnack.

4 MR. SCHNACK: Thank you, your Honor.

5

6 OPENING STATEMENT BY MR. SCHNACK

7 MR. SCHNACK: Ladies and Gentlemen, I too,
8 like Mr. Simons, want to thank you for your service. We
9 appreciate your patience in getting through this process
10 this far. We appreciate that you are giving this matter
11 your attention.

12 I represent Watchtower Bible and Tract
13 Society of New York. As Mr. Simons referred to several
14 times, it is a corporation and that's technically
15 correct.

16 What Watchtower Society basically is, is the
17 national church entity. It is a New York corporation,
18 it is a religious non-profit corporation that was set up
19 so that the Jehovah's Witnesses faith could practice
20 their faith in the United States like other religious
21 corporations, like other denominations do.

22 Let's turn to what the case is really about.
23 What Ms. Conti is claiming here is that Jonathan
24 Kendrick criminally and sexually assaulted her for,
25 perhaps, two to three years, starting sometime in '94 or

1 '96 to '97, when she was age nine to 11. And she wants
2 Mr. Kendrick to pay her for that.

3 And, indeed, if Mr. Kendrick did that, I
4 don't think that there is any dispute from Watchtower or
5 even from North Congregation, that if Mr. Kendrick
6 criminally and sexually assaulted her for that time
7 period, he should obviously pay for it.

8 But that's not why Mr. McCabe and why I am
9 here today. Ms. Conti, as you are aware, is also suing
10 the North Congregation and Watchtower. She is suing
11 the church, the national church. And she wants the
12 congregation and the entire church to pay her for Mr.
13 Kendrick's criminal conduct.

14 And that's why we are here today, Mr. McCabe
15 and I, to talk about our clients' involvement or their
16 lack of involvement in this matter.

17 So specifically, what do Ms. Conti's claims
18 really involve? This starts in November of '93. And as
19 Mr. Simons explained, partially correctly, and Mr.
20 McCabe has referenced, Jonathan Kendrick went to the
21 elders in the North Fremont Congregation to tell them
22 that back in July of '93, he had in a single time
23 inappropriately touched his stepdaughter. That's Evelyn
24 Kendrick's daughter, Andrea.

25 Andrea was 14 or 15 years old at the time,

1 and they tried to deal with it within the family, and
2 then Mr. Kendrick went to the elders in early November,
3 I think it was November 10.

4 And in the very next day in the afternoon,
5 two elders -- consistent with their religious practices,
6 two of them went to the Kendrick household to meet with
7 Mr. Kendrick, with Evelyn, and with Andrea.

8 It was at that meeting first of all, like Mr.
9 McCabe stated, they took their Bibles, they started with
10 a prayer. And then Mr. Kendrick confessed to what he
11 called an inadvertent touching.

12 But again, you will see in the letter that
13 was sent, they still labeled that as child molestation.
14 They weren't fooled by Mr. Kendrick that it had been
15 merely an inadvertent touching.

16 They also talked with family that day, they
17 offered them some spiritual counseling. But the elders
18 also told Evelyn and Andrea that if they wanted to go to
19 police, they could. That was their option.

20 And, indeed, what Mr. Simons didn't tell you,
21 that within a couple months, they did go to the police.
22 They went to the police, they reported it. The police
23 and Child Protective Services conducted an
24 investigation. That happened in mid-February.

25 You will probably hear from the police

1 officer that conducted that investigation as to what was
2 said.

3 With respect to the Vicodin issue, Andrea
4 told the police that she had a bad back, she took the
5 Vicodin, and that later these things happened.

6 Again, there is going to be some disputes as
7 to what was said there.

8 But nonetheless, after that meeting with Mr.
9 Kendrick and his family in November 1993, the local
10 elders removed Mr. Kendrick from his position as a
11 ministerial servant.

12 You have heard a brief description of what a
13 ministerial servant does. There is two appointed
14 positions within a local congregation. There is an
15 elder, and there is a ministerial servant.

16 A ministerial servant, essentially, is a
17 church assistant, is a church helper. They will get the
18 literature ready for the sermon. They will get the
19 microphones set up for the services, kind of like what
20 Mr. Martin did last week, when we were getting the
21 microphones set up.

22 If latecomers show up to the service, the
23 ministerial servants will help them find their seats.
24 They will help in the parking lot, things like that.

25 Ministerial servants don't give sermons, they

1 don't conduct Bible studies, and, again, they function
2 as helping the church elders.

3 Again, I don't think we can repeat this
4 enough, that once Mr. Kendrick confessed to the elders
5 on November 11, 1993, he was removed from his position
6 as ministerial servant.

7 That is an appointed position. Once again,
8 there is only two appointed positions within each
9 congregation, elders and ministerial servants. But he
10 was removed, and there was an announcement made to the
11 congregation that he no longer held that position, that
12 he had been removed.

13 He never again served in any appointed
14 position in the church. And that's up to the present
15 time. Mr. Kendrick still lives in Alameda County. He
16 still works in the county.

17 For whatever reason, he has chosen not to
18 come here and defend himself today, but nonetheless, Mr.
19 Kendrick never served in any appointed position within
20 any congregation, including the North Fremont
21 Congregation after he was removed as a result of that
22 November 1993 incident.

23 Now, again the elders, on November 11, 1993,
24 told Evelyn and Andrea and, indeed, Mr. Kendrick, that
25 it was their choice as to whether to report it to the

1 police.

2 Now, the judge will instruct you later that
3 as of 1993, clergy, including ministers, elders, rabbis,
4 pastors, whatever, are not what we call mandated
5 reporters under California law.

6 That means that if someone is a mandated
7 reporter, such as therapist or a doctor, someone like
8 that, receives a report of the child abuse, they have to
9 go to authorities.

10 Clergy were not included within that, under
11 state law, as of January 1, 1997. So the fact that the
12 elders did not go to police at that point can't be held
13 against them because, again, they weren't required to.

14 But they did tell the family they had a right
15 to report the matter to the police. And, indeed, within
16 a couple months they did go to the police. And Evelyn
17 and Andrea went to the police.

18 And you will see the police report in
19 evidence here. The police conducted a thorough
20 investigation. They talked to Andrea, they talked to
21 Evelyn, they talked to Jonathan Kendrick. They were
22 told that the story had been told to the elders.

23 But the police never let the elders know that
24 they were conducting an investigation. The police did
25 not talk to the elders. Andrea and Evelyn did not tell

1 the elders that they had gone to the police.

2 But nonetheless, the police did their
3 investigation, Child Protective Services was involved in
4 the investigation, a report was made to the district
5 attorney. The district attorney charged Mr. Kendrick in
6 this, and there was a conviction.

7 So this was all prior to the time that
8 Candace will tell you that Jonathan Kendrick abused her.

9 Let me now turn, again, just to repeat a
10 couple key factors here, because I think a lot of focus
11 from Mr. Simons' part is going to be on this report
12 about Andrea, and indeed that did happen? No one
13 disputes it.

14 There is going to be some discussion about
15 what was said at that November 11th meeting, but again
16 the elders were not fooled by Jonathan Kendrick's
17 contention that it was inadvertent.

18 You will see in the report they sent to
19 Watchtower back in New York that they called it a child
20 molestation.

21 So again, Mr. Kendrick, at the time that
22 Candace alleges he abused her, again in '94 to '96 or
23 '97, he was not in a position of authority with the
24 church. He was simply a rank and file member of the
25 North Congregation.

1 Two, as Mr. McCabe mentioned, from that point
2 forward, from November '93 forward, the elders were
3 watching him at the Kingdom Hall. Candace will testify
4 as she testified earlier in her deposition that at the
5 Kingdom Hall, Mr. Kendrick would bear hug her. She
6 would squirm to get away. But he held her
7 inappropriately on his lap.

8 The elders were watching. You'll hear the
9 elders will testify that they never saw any such conduct
10 at the Kingdom Hall.

11 You will hear from other members of the
12 congregation at the time, from mothers and grandmothers,
13 from others, that they also did not see any such conduct
14 like that at the Kingdom Hall. And indeed Ms. Conti's
15 own parents will tell you they never saw that at the
16 Kingdom Hall.

17 The bottom line in this regard, is that no
18 one in the church saw Mr. Kendrick do anything
19 inappropriate with Candace or the children at the
20 Kingdom Hall.

21 Indeed it wasn't until sometime in 2009 or
22 thereabouts that anyone with the North Fremont
23 Congregation or even Watchtower, back in New York, had
24 heard or saw anything that signaled that Mr. Kendrick
25 had abused Candace.

1 The other folks have covered some of this. I
2 will just page through and save us some time.

3 You will learn in this case about the
4 Jehovah's Witnesses's faith, that like many other
5 Christian religions, they hold church services on
6 Sunday.

7 They hold these at the Kingdom Hall. And
8 again, the Kingdom Hall is like the church that the
9 Jehovah's Witnesses use. It is no different than the
10 Catholic, calling their church a cathedral, the Jewish
11 religion calling their house of worship a synagogue.
12 The Kingdom Hall is just a name for their physical
13 church for the building.

14 They hold Sunday services at the church. One
15 night during the week they will have Bible studies
16 there. There was a period of time where those Bible
17 studies were held at elder's houses. And you will hear
18 some testimony about that.

19 But you will also hear something that is very
20 unique to the Jehovah's Witnesses' faith that is unlike
21 a lot of other religions.

22 The Jehovah's Witnesses, they do not offer or
23 sponsor any services or programs that separate children
24 from their parents. That is unlike a lot of other
25 churches.

1 Let me say that again. The Jehovah's
2 Witnesses do not sponsor any program or any activity
3 where they separate children from their parents.

4 So what does that mean? Unlike the church I
5 attend, there aren't any Sunday School classes for
6 children. Those of you who are familiar with Sunday
7 School classes, the children are separated in a separate
8 room, they are taught by a teacher. The parents aren't
9 involved in that. The Jehovah's Witnesses faith does
10 not separate children from their parents that way.

11 Also, different from the church I attend,
12 there is not a teen fellowship group that might meet on
13 a Thursday nights with a youth pastor.

14 The Jehovah's Witnesses don't segregate
15 teenagers. They don't segregate children separately for
16 services, like a youth fellowship group.

17 Also, unlike my church, there is no Vacation
18 Bible School classes in the summer. A lot of churches
19 will do that, where the kids are out of school for the
20 summer, they set up a week where there is Vacation Bible
21 School classes. The Jehovah's Witnesses don't have that
22 type of class setup where the children are separated
23 from there their parents.

24 They also don't operate a summer camp where
25 children attend for a week where the parents drop them

1 off with camp counselors maybe older teenagers, people
2 in their twenties. The Jehovah's Witnesses don't have
3 summer camps like that.

4 So what does this mean? This means that
5 adults within the congregation don't have any special or
6 unique access to children, like, for example, Boy Scouts
7 might do, where a scout master will take some scouts out
8 on an overnight camp.

9 There aren't, like, youth sports programs.
10 You have soccer. You have baseball, Little League,
11 basketball. Parents drop off their kids at these
12 practices. The coach works with them for an hour, hour
13 and a half or whatever and the parents pick them up
14 afterwards.

15 The Jehovah's Witnesses faith doesn't have
16 any kind of activities like that where the children are
17 separated from their parents.

18 So in that sense, the Jehovah's Witnesses are
19 a different from a lot of churches, they are different
20 from Boy Scouts, they are different from public schools.

21 It is, again, not a situation where the
22 children are separated, such as someone like Kendrick
23 would have unique access to Candace or any other
24 children.

25 If you ask the Jehovah's Witnesses why they

1 do that, why do they function this way, it is because
2 they consider they are worshiping a family activity. It
3 not only brings families closer to God, but closer to
4 each other.

5 And they view it as a scriptural
6 responsibility for parents to educate their children
7 about their religion. And that's why again, the
8 children aren't separated from their parents in all the
9 activities.

10 So keep that in mind when you hear it.
11 Because Mr. Kendrick, again, was just a rank and file
12 member of church at the time Candace said that he abused
13 her. He didn't have any type of unique access to her.
14 He didn't have unrestricted as access to her either as
15 Sunday school teacher or out in field service or
16 anything like that. They simply do not separate their
17 children from their parents.

18 Some other evidence you are going to hear
19 includes that Candace Conti's parents -- and you heard a
20 little bit about Kathleen and Neal Conti, they will each
21 testify that Candace never went to the Kingdom Hall
22 unless one or both of them were in attendance.

23 She was never sent there with a friend. If
24 Candace was at the Kingdom Hall, she went with her
25 parents, one or both of them.

1 Both Neal and Kathy Conti will testify that
2 they never allowed Candace to leave the Kingdom Hall
3 alone with Jonathan Kendrick.

4 Candace will testify that for several times a
5 month, over a two or three-year period, that she was
6 allowed to leave the Kingdom Hall with Jonathan
7 Kendrick, that he would take her to his home and from
8 there, he would sexually abuse her.

9 The parents are going to tell you that never
10 happened on their watch. And again they are going to
11 tell you that she was never at the Kingdom Hall unless
12 one or both of them was there.

13 You are going to hear from other persons in
14 the North Fremont Congregation, the mothers and
15 grandmothers, they will testify that they never saw
16 Kendrick bear hug Candace at the Kingdom Hall.

17 They never saw Kendrick have Candace on his
18 lap, they never saw her trying to squirm to get away
19 from him, because they just didn't see that happen.

20 Let me shift gears here just a little bit.
21 Mr. Simons referred to policy of secrecy and Mr. McCabe
22 addressed that briefly. There is going to be testimony
23 about that. And there was no policy of secrecy here.
24 There will be evidence to the effect through the
25 witnesses.

1 There has also been some mention about
2 Watchtower and Awake Magazines. For over 30 years
3 Watchtower has published educational articles that go
4 out to all of the parents in the congregation, they go
5 out to all the members of the congregation. They are
6 available at the kingdom halls. They go to the elders.
7 The elders use the publications within their sermons,
8 within their Bible studies.

9 And this is all part of the educational
10 services that Watchtower provides to its members, to the
11 parents, and indeed to people outside the church as
12 well.

13 The first one we have up here is from a June
14 22nd, 1982 Awake.

15 And again, as I mentioned, they have been
16 doing this for about 30 years.

17 You will hear some testimony that the
18 Jehovah's Witnesses were indeed in the forefront of
19 publishing these types of materials and putting this
20 information into the hands of parents.

21 The next one is a January 22, 1985 article.
22 You have got another one that has come up on October 8,
23 1991. And then a final one, October 8th, 1993.

24 This is just a rough sample of the types of
25 things that Watchtower was putting into the hands of its

1 members. Educating parents.

2 You will even read one of these articles from
3 1985 that tells parents to be alert to your own
4 religious leaders, that you might think twice before you
5 leave your children with your elders, with your
6 ministers. That was the type of information that was
7 being disseminated to the congregation.

8 And as Mr. McCabe mentioned, they didn't
9 publish these articles, they didn't put this information
10 into the hands of the parents and the members of the
11 congregation because they had a unique or serious
12 problem any more than any other organization, it is
13 simply because the church acknowledges at the time, and
14 correctly so, that there was a societal problem.

15 Churches don't operate like that. They
16 function within society as a whole. And the Jehovah's
17 Witnesses acknowledged this and decided to put this
18 information out there so that the parents could get it,
19 the parents could be educated, the elders could have it
20 to work with, they could incorporate it into their
21 sermons, whatever needed to be done.

22 It is somewhat ironic that plaintiff
23 appears -- you know, if they hadn't published these
24 materials and put this information out there, I'm sure
25 Mr. Simons would say Watchtower was negligent and that

1 the congregation was negligent.

2 Now, the fact that these materials are put
3 out there, that they do educate parents about their own
4 responsibilities, they equip the elders with this
5 information, that is negligent too. It is something,
6 you just can't have it both ways.

7 Let me just sum up a few things that I think
8 the evidence will show in this case, going back again to
9 November 11, 1993. Mr. Kendrick confessed to the two
10 elders in the North Fremont Congregation that back in
11 July, he had inappropriately and sexually touched
12 Andrea, his 15-year old stepdaughter.

13 Secondly, the elders provided scriptural
14 guidance to the family, and told the family that they
15 could, indeed, report it to the police. That's not a
16 policy of secrecy, telling them that they could report
17 it to the police.

18 Third, the elders removed Mr. Kendrick right
19 away after receiving this confession from this one-time
20 incident.

21 They removed him from his position as a
22 ministerial servant, and they announced that fact to the
23 congregation.

24 And after that, the elders also monitored Mr.
25 Kendrick when he was at the Kingdom Hall performing any

1 church-related activities.

2 And fourth, Andrea and Evelyn Kendrick did
3 report this to the police. And as I have mentioned, the
4 police investigated, they conducted the investigation,
5 they interviewed the people involved. It was reported
6 to the district attorney. Child Protective Services got
7 involved. And there was a criminal prosecution of
8 Mr. Kendrick. And this was all in 1994.

9 And then fifth, the Jehovah's Witnesses do
10 not separate the children from the parents -- I have
11 gone over that several times -- so there was no
12 unrestricted access that Mr. Kendrick had to either
13 Candace or any other child at the time.

14 Without question, child sex abuse is a
15 horrendous societal problem. I don't think anybody
16 disputes that. Unfortunately, pedophiles have learned
17 to hide their behaviors quite well.

18 In this case, if Jonathan Kendrick criminally
19 and sexually abused Candace, he should pay for it.
20 There is no dispute about that. He should pay for it
21 financially or criminally because of the damage he has
22 caused her.

23 But Watchtower should not be responsible for
24 things that they did not know or could not know. They
25 also should not be held responsible simply because they

1 are a religious corporation, to use Mr. Simons' words.

2 Whatever criminal and sexual abuse Jonathan
3 Kendrick perpetrated against Candace, he should be
4 responsible for. And, again, he is the villain here.
5 It is not the church. It is not the congregation.

6 Like all organizations, whether they are
7 churches or youth organizations, when there is a member
8 who commits abuse against another member, it just wrong
9 to hold the organization liable.

10 Again, Mr. Kendrick wasn't an elder. He
11 wasn't like a scout master. He wasn't like a priest.
12 He wasn't like a school teacher. He wasn't a coach,
13 where he had unique and truly unfettered and
14 unrestricted access to kids for a period of time.

15 Holding the organization responsible for the
16 criminal misconduct of someone like Kendrick is just
17 wrong, and it shouldn't be done here.

18 MR. SIMONS: Object, your Honor. This is
19 argumentative.

20 THE COURT: Strike the last comment.

21 MR. SCHNACK: Thank you, your Honor.

22 Finally, in closing, I am asking that you
23 place the blame in this case where it really lies. It
24 should go on Jonathan Kendrick. He should have to pay
25 for what he did, and by returning your verdict, you can

1 tell him that.

2 Find that Jonathan Kendrick was responsible
3 for whatever abuse he perpetrated against Candace. But
4 the blame does not fall on Watchtower. It does not fall
5 on the congregation.

6 Again, like the other attorneys, I appreciate
7 your time and attention. Thank you.

8 THE COURT: All right. Thank you.

9 Mr. Simons, do you have a witness for us?

10 MR. SIMONS: Yes, your Honor. Pursuant to
11 Evidence Code 776, we call Mr. Gary Abrahamson.

12 THE COURT: All right. Under 776, the
13 plaintiff is calling Mr. Abrahamson as a so-called
14 adverse witness. He is obviously appearing on behalf of
15 the congregation this morning. But I wanted to alert,
16 he is being called under a specific evidentiary section
17 as an adverse witness.

18

19 GARY ABRAHAMSON,

20 WAS DULY SWORN TO TELL THE TRUTH BY THE CLERK

21 AND TESTIFIED AS FOLLOWS:

22

23 THE CLERK: Would you please state and spell
24 your first and last name for the record?

25 THE WITNESS: My name is Gary Abrahamson.

1 G-A-R-Y, A-B-R-A-H-A-M-S-O-N.

2 THE COURT: All right. Mr. Simons.

3

4 DIRECT EXAMINATION

5 BY MR. SIMONS:

6 Q. Thank you, your Honor. Mr. Abrahamson, we
7 have met on several occasions including two sessions of
8 your deposition. Correct?

9 A. Correct.

10 Q. And you are an elder at the North Fremont
11 Congregation?

12 A. Yes, I am.

13 Q. And you have been an elder for many years
14 there. When did you start as an elder in Fremont?

15 A. In Fremont, 1986.

16 Q. And is it correct that before Fremont you had
17 served as an elder at a different location?

18 A. Yes.

19 Q. When did you first become an elder anywhere?

20 A. 1982, I believe.

21 Q. Is it correct that there are no paid clergy
22 within Jehovah's Witnesses?

23 A. That is correct.

24 Q. And so the persons who have administrative
25 responsibility for each congregation are the elders?

1 A. Correct.

2 Q. And the elders -- I use the word "plural"
3 because there is more than one elder in each
4 congregation, typically.

5 A. Typically, correct.

6 Q. And in Fremont, there may be somewhere
7 between maybe six or eight or ten elders at any given
8 time?

9 A. That's true.

10 Q. And those elders, when they meet together,
11 that's called the body of elders?

12 A. Yes, correct.

13 Q. And the congregation itself, even though
14 people may come and may leave, generally speaking it is
15 about a hundred -- hundred and twenty people?

16 A. That would be a good estimate.

17 Q. And that includes both adults and children.
18 Correct?

19 A. That includes adults and children that are
20 actually publishing the "Good News."

21 Q. And by "publishing," that means children who
22 are going out into the neighborhoods to promote the
23 Jehovah's Witnesses beliefs?

24 A. Yes, correct.

25 Q. And some of those publishers are baptized?

1 A. Some of them are.

2 Q. And some are not?

3 A. They are called unbaptized publishers.

4 Q. And some of the -- in your experience at
5 least -- some of the baptized publishers may be as young
6 as six years old?

7 A. That is rare, but that could be true, very
8 serious six-year old person with parental training.

9 Q. And there are a number of different meetings,
10 if you will, that go on within the Jehovah's Witnesses
11 congregations, including Fremont?

12 A. Correct.

13 Q. There will be meetings at, for example, the
14 Kingdom Hall?

15 A. Correct.

16 Q. And those meetings involve both children and
17 adults together?

18 A. Yes. We don't separate our children.

19 Q. Now, we have heard a little that it is always
20 parents and children, but isn't it true, Mr. Abrahamson,
21 that there are children who will become involved in
22 these congregations whose parents are not involved?

23 A. Again, it is probably rare.

24 Q. But it happens?

25 A. And by children, we are thinking what age

1 group?

2 Q. Eight? Ten? Twelve? Fourteen?

3 A. A little older where they can -- obviously it
4 is with the parents' permission that they would come.

5 Q. But there are children who are involved
6 without their parents?

7 A. That could happen, yes.

8 Q. And sometimes there is children who are
9 involved, but for different reasons their parents may
10 not be able to attend a particular event. Isn't that
11 something that you experienced?

12 A. That's true.

13 Q. Now, the Fremont Congregation itself, we
14 called it a congregation, and that's how we all referred
15 to it, but it is actually a corporation?

16 A. That would be true.

17 Q. And the directors and officers of this
18 corporation are taken from the elders within the
19 congregation?

20 A. Correct.

21 Q. And as elders, isn't it correct that you are
22 required to follow any instructions or policies that are
23 provided to you from Watchtower New York?

24 A. Yes. We follow those policies, but they are
25 always scriptural-based and they are always within the

1 law.

2 Q. And do you have any ability to create
3 exceptions to the policies that are provided to you by
4 Watchtower New York?

5 A. Well, I don't know what you mean by -- what
6 area of exceptions. For example, they may say conduct a
7 meeting, but they may not tell you what date. So you
8 are at liberty to choose the date to conduct the
9 meeting.

10 Is that what you mean?

11 Q. No. I mean, do you depart or deviate from
12 the policies that are provided to you by Watchtower New
13 York?

14 A. No. Like I said, they are scripturally
15 based. They're within the realm of the law. They're
16 legal. So I would want to follow them.

17 Q. Is it accurate to say that there are often
18 five or more meetings a week within the Jehovah's
19 Witnesses congregations?

20 A. That's what we have. Five days a week.

21 Q. Some of these meetings occur in people's
22 homes -- the homes of members?

23 A. Back at that time they did. Yes. Now they
24 all occur at the Kingdom Hall.

25 Q. And back then, some of the meetings might

1 occur in the Kingdom Hall, of course?

2 A. Correct.

3 Q. And the door-to-door work, the field service,
4 that would occur in neighborhoods throughout -- in the
5 case of this congregation, at least -- Fremont?

6 A. The public canvassing, that would be correct.
7 Generally, our meetings for field service is also done
8 at the Kingdom Hall.

9 Q. And then the groups would go out from there
10 to neighborhoods. Correct?

11 A. Yes.

12 Q. And that service would be a brief service
13 before publishers go out to the neighborhoods?

14 A. Correct.

15 Q. And all of these activities are engaged in
16 with adults and children together?

17 A. Yes.

18 Q. Usually the parents, but sometimes not?

19 A. It would be rare, again, but usually with the
20 parents, absolutely.

21 Q. But sometimes not?

22 A. It would be rare. And if it got to be the
23 practice of the parent, then I would talk to the parent,
24 "You need to be out with your child."

25 Q. All right. Did you ever talk to Kathleen

1 Conti about being present more at Jehovah's Witnesses
2 congregations with Candace?

3 A. If her husband, Neal, were there, that would
4 be all right. But I never saw Candace without either
5 her parents or -- well, either her mom or dad.

6 Q. Actually, you have no recollection whatsoever
7 of Candace; isn't that true?

8 A. Well, at the deposition you did show me a
9 photograph of her, and I thought, boy, I can't picture
10 her. But as soon as I saw her today I knew it was
11 Candace.

12 Q. But when you testified in this matter before
13 on the occasion of your deposition, you told us you had
14 absolutely no recollection whatsoever of Candace Conti?

15 A. Well, I don't believe I stated that. If I
16 stated that, that's not what I meant.

17 Q. Well, let's take a look at your testimony at
18 page 67 of the deposition from lines 3 through 19.

19 (Whereupon, the video recording was played)

20 BY MR. SIMONS:

21 Q. When did you first meet Candace Conti?

22 A. My recollection of Candace Conti is that she
23 was Neal Conti's daughter from a previous marriage. And
24 so occasionally she would come with Neal and his new
25 wife to the meetings. You have pictures there. I don't

1 even know. I can't recall what she even looks like.

2 Q. All right. And that was going to be,
3 actually, the purpose of these pictures. Let me just
4 show you a photograph marked as Exhibit 11, because we
5 have some other documents there that we have not yet
6 attended to but which I have marked 1 through 10, and
7 ask if seeing that photograph refreshes your
8 recollection as to Candace Conti?

9 A. I'm sorry it does not. No.

10 (Whereupon, the video recording was stopped)

11 BY MR. SIMONS:

12 Q. Now, you have since learned that Candace
13 Conti is not the stepdaughter of Neal Conti from a prior
14 marriage. Correct?

15 A. Correct.

16 Q. And your recollection of her from seeing her
17 today is not the basis that you are telling us that she
18 was always there with Neal Conti, is it?

19 A. Obviously not, no.

20 Q. So you are telling us that, although you
21 don't really remember her, you remember that whenever
22 she was at the meetings, she was always there with her
23 father -- her stepfather, you thought?

24 A. Yes. If she wasn't with her parents, one
25 parent, then it would be, "Where did she come from?"

1 I would have noticed her more at that point
2 and tried to find out her circumstances.

3 Q. Well, you were aware, Mr. Abrahamson, that
4 sometimes the parents might not attend and that, if they
5 didn't, that usually they would make arrangements for
6 their child, if she was going to attend something, to
7 get transportation with somebody else from the
8 congregation; isn't that true?

9 A. You kind of lost me in that whole dialogue.
10 Could you rephrase the question please and
11 repeat it?

12 Q. Yeah. You testified that if the parents
13 weren't able to bring the child to some of the Jehovah's
14 Witnesses activities, that undoubtedly the parents would
15 arrange transportation with another congregation member
16 at times?

17 A. At times, correct.

18 Q. And so back in the 1990s, you knew that there
19 were times that arrangements would be made by parents to
20 have another congregation member transport their child
21 to Jehovah's Witnesses events?

22 A. That could be true.

23 Q. Did you use the word "undoubtedly" in your
24 testimony?

25 A. Probably. I do that from time to time, yes.

1 Q. Do you still stand by that?

2 A. Undoubtedly? On rare occasions, sure.

3 Q. Do you remember Jonathan Kendrick?

4 A. Yes, I do.

5 Q. How did you first meet him?

6 A. He came to the Kingdom Hall.

7 Q. And did he come alone?

8 A. I don't have a recollection if he came alone
9 or not. I assume that he did.

10 Q. Did you like him when you met him?

11 A. He was a likeable fellow, yes.

12 Q. How would you describe him -- his
13 personality?

14 A. Well, he was, as you mentioned, an iron
15 worker, so he was kind of gruff. And he kind of came
16 across that way too. He appeared gruff and he seemed
17 gruff too.

18 Q. Was he loud?

19 A. Yes.

20 Q. But is it fair to say that he, in a somewhat
21 short time, became fairly popular within the
22 congregation?

23 A. Well, we always like it when someone comes in
24 and changes their personality.

25 Q. And he become active in the congregation?

1 A. He was active in the congregation, true.

2 Q. And you recommended him soon after his
3 baptism to Watchtower New York to be accepted as a
4 ministerial servant?

5 A. He was making good progress, yes.

6 Q. Now, we have heard about ministerial
7 servants. Is a ministerial servant, as Mr. Schnack told
8 us, a person who helps out at the services, in the
9 parking lot, with microphones and books and literature?

10 A. Right. That would be his duty.

11 Q. Not a religious position.

12 A. It would be more of an assistant position as
13 was mentioned.

14 Q. What was the duties that Mr. Kendrick had as
15 a ministerial servant?

16 A. He would distribute literature to friends and
17 would keep account of that.

18 Q. Did he do a good job of that?

19 A. He did an adequate job, good job, sure.

20 Q. If a ministerial servant did not do a good
21 job with providing books, for example, was irregular in
22 their attendance, or had some other reasons, personality
23 or otherwise, would they be subject to being removed
24 from that position?

25 A. They could be removed for that.

1 Q. So the fact that a person is removed as a
2 ministerial servant does not necessarily tell anyone
3 that that person has committed an act of child abuse?

4 A. Well, you first have to realize that they
5 would have been trained to -- if there was some reason
6 they weren't able to fulfill their job, then that comes
7 on us. Why didn't they have the training? So we would
8 train him properly.

9 And if it lack of meetings, then you know the
10 friends that are attending, and so you can have an
11 assistant that can help you. But if neither of you can
12 be here, you have to make arrangements and you have to
13 try to be here.

14 Q. Back to my question, the fact that a person
15 is removed as a ministerial servant could be for many,
16 many reasons. Correct?

17 A. Yes.

18 Q. And it does not tell anyone that because a
19 person has been removed as a ministerial servant that
20 they have committed some kind of child sexual abuse?

21 A. It would not be limited to that, no.

22 Q. Was Mr. Kendrick ever reprovved for loud and
23 boisterous conduct?

24 A. No.

25 Q. Now, do you recall back in November of 1993

1 being contacted by Evelyn Kendrick concerning Jonathan?

2 A. Yes. I was at that meeting. They actually
3 contacted by Michael Clarke and then he and I went to
4 their house.

5 Q. Did you receive a phone call first from
6 Evelyn Kendrick?

7 A. Not to my knowledge. I think it was Mike
8 Clarke that received that phone call.

9 Q. Did you have a relationship with Evelyn
10 Kendrick?

11 A. Yes.

12 Q. And how would you describe that relationship?

13 A. As a shepherd to a sheep?

14 Q. And was she eligible to be a ministerial
15 servant or elder?

16 A. Women are not allowed to be ministerial
17 servants or elders.

18 Q. Did you socialize, you and your family, in
19 any way, with Mr. and Mrs. Kendrick?

20 A. We had meals together.

21 Q. And how often would you estimate that you
22 would have social interactions with the Kendricks?

23 A. Well, we are all so busy that most of our
24 social interacting, besides meals, takes place at the
25 Kingdom Hall. But we would do other things on the side,

1 occasionally, with other members -- not just with them,
2 but other members of the congregation as well.

3 Q. Approximately how many families were involved
4 in this congregation?

5 A. Well, a hundred and twenty. Probably that
6 would represent, maybe 60, 50 families, I'm thinking.

7 Q. Some of the families have children?

8 A. That's what I was thinking as families. Most
9 of them with children, yes.

10 Q. I think there were four people in your family
11 at that time?

12 A. Four children. Correct.

13 Q. Yes.

14 A. But myself and my wife, that would be six.

15 Q. And some of the families were as large as
16 your family, or maybe two or three children?

17 A. Yes.

18 Q. So is it fair to say there may be two dozen
19 families or so in that congregation at that time?

20 A. I'm not very good at doing the math in my
21 head, but that sounds reasonable.

22 Q. And you would socialize, not just with the
23 Kendricks, but with many of the other families as well?

24 A. Correct.

25 Q. And the same would be true for the other

1 elders?

2 A. That would be true.

3 Q. Is that part of your responsibility as an
4 elder is to become acquainted with the families and
5 learn who they are as people?

6 A. Right. And we usually do that on shepherding
7 visits.

8 Q. And does that mean that you go to their home?

9 A. Correct.

10 Q. So you had been to the Kendrick home?

11 A. Yes.

12 Q. And you had been to the Conti home?

13 A. Uh, yes.

14 Q. And is it true that within -- at least from
15 your experience within the congregation, that families
16 will socialize with each other to a certain extent in
17 the ways that you described?

18 A. Yes.

19 Q. Even if there is not an elder involved?

20 A. That's true.

21 Q. Do you recall Mr. Conti having a paint booth
22 out in his garage?

23 A. When you mentioned that, a vague memory of
24 that came across my mind. But I'm not much of a
25 painter. I wasn't involved in that project with the

1 Crawford car.

2 Q. But you remember the project?

3 A. I remember that it was done. I don't
4 remember where it was done.

5 Q. Now, when you had that family meeting, Evelyn
6 Kendrick was there. Correct?

7 A. Correct.

8 Q. And Andrea was there?

9 A. Correct.

10 Q. Do you remember if she was there for the
11 whole meeting or came in partly through?

12 A. From my recollection, I would think she was
13 there for the whole meeting. They knew we were coming,
14 and I'm sure, hopefully, she was there for the whole
15 meeting.

16 Q. And Jonathan Kendrick was there?

17 A. Yes.

18 Q. Yourself and Elder Clarke?

19 A. Yes.

20 Q. Had you already spoken to Jonathan Kendrick
21 at that time about what the meeting was going to be
22 about?

23 A. Michael told me -- informed me what the
24 meeting was going to be about prior to us going to the
25 meeting.

1 Q. Had you spoken to Jonathan Kendrick at all?

2 A. Michael had spoken to Jonathan about it.

3 Q. What did you understand, when you went to the
4 meeting, that the meeting was going to be about?

5 A. Abuse of Andrea. Sexually abusing Andrea.

6 Q. And what did Jonathan Kendrick say in this
7 meeting that he had done to Andrea?

8 A. He had said that the house was dark. She was
9 sleeping on the couch. He walked in. And he used the
10 word "inadvertently" touched her breast. But it was
11 more deliberate than that.

12 Q. And how did you determine in your own mind
13 that it was more deliberate than that?

14 A. Well, it had occurred four months before.
15 And now he's saying that it is bothering his conscious.
16 And if you raised your hand and inadvertently hit a
17 woman's breast, you would say, "Excuse me. I'm sorry."
18 And I don't think four months later you worry about it,
19 and you would say, Oh, this is keeping me awake at night
20 because I inadvertently touched a woman's breast.

21 Q. Let's look at the report. You remember that
22 a written report was prepared after this. Correct?

23 Can we see Exhibit 9?

24 Now, are you able to see that there where you
25 are, Mr. Abrahamson?

1 A. Not clearly, no.

2 Q. First of all, your Honor, Exhibit 9 is in
3 evidence, I believe.

4 THE COURT: So Number 9 is evidence by
5 agreement.

6 BY MR. SIMONS:

7 Q. Now, this is a letter that yourself and Mr.
8 Clarke sent to Watchtower New York on November 15, of
9 1993. Correct?

10 A. Yes.

11 Q. And it was sent after the meeting had been
12 held in the Kendrick family home?

13 A. Correct.

14 Q. And you did, as you said, recognized that the
15 subject matter was, was a case of child abuse?

16 A. Yes.

17 Q. Why were you reporting this to Watchtower New
18 York?

19 A. To get direction.

20 Q. And in all of your work as an elder that
21 involves anything in this type of matter, you would get
22 your direction and instruction from New York. Correct?

23 A. In a lot of these cases that legal matters
24 are involved, we are always encouraged to call the Legal
25 Department because how could we know all the laws. And

1 the laws change from state to state, but our Legal
2 Department could help us through this.

3 Q. And you used the word "encouraged" but
4 actually you are required to call New York?

5 A. You might put it that way. Yes.

6 Q. I did put it that way. Do you agree?

7 A. I agree you put it that way.

8 Q. Do you agree that you were required to call
9 New York?

10 A. Yes.

11 Q. Now, the confession that you refer to in the
12 next paragraph:

13 "We met on November 11 with Jonathan
14 Kendrick, a ministerial servant, who confessed
15 to child abuse with his 15-year-old
16 step-daughter."

17 Did that occur in the meeting with Andrea and
18 Evelyn, and yourself and Elder Clarke all present?

19 A. That is what we are referring to. Correct.

20 Q. And it says:

21 "And he confessed to touching the
22 breast of his stepdaughter while she was
23 sleeping. She awoke, et cetera, et cetera."

24 You did not put in the letter, the word
25 "inadvertent." Is that true?

1 A. Mike actually composed the letter. And my
2 recollection of the letter, I don't know if it was used
3 or not.

4 Q. You signed the letter. If we see page 2, you
5 signed the letter.

6 MR. McCABE: Objection; the document speaks
7 for itself.

8 THE COURT: Let's let the witness take a look
9 at the document.

10 THE WITNESS: Michael Clarke signed the
11 letter.

12 BY MR. SIMONS:

13 Q. Did you review the letter before it was sent?

14 A. I don't have a recollection that I reviewed
15 it, but I'm sure I did.

16 Q. So your recollection is that Mr. Kendrick
17 said "inadvertent." The report does not refer to that.
18 Do you have a specific recollection as you sit here
19 today, many years later, that Mr. Kendrick said that
20 this was an inadvertent touching?

21 A. Yes. That was the impression that I got
22 during the meeting many years later.

23 Q. And your impression of that, is that, based
24 on a specific recollection, that that is what he told
25 you?

1 A. Yes.

2 Q. Even after this time, you recall that he told
3 you that it was inadvertent?

4 A. That's what I recall.

5 Q. And so you knew that he had lied to you about
6 that?

7 A. He did not divulge the full truth. That's
8 true.

9 Q. Is that another word for "lie"?

10 A. It probably is.

11 Q. Reading here:

12 "Brother Kendrick thought since he
13 was sorry and his family was willing to forget
14 the abuse, he would not have to report it to
15 the congregation elders."

16 Did you think that was a lie?

17 A. That -- I believe that's the way he explained
18 it to Mike. That's the way he felt.

19 Q. Do you recall him saying that with you
20 present?

21 A. I don't think that became an issue because he
22 had already confessed to Mike.

23 Q. More to the focus of my question, which I
24 apologize for being unclear about, but did you think he
25 lied when he said that he was sorry?

1 A. I believed him when he said he was sorry.

2 Q. It says that:

3 "He said that his conscience
4 continued to bother him."

5 And I think you have already told us that you
6 did not believe that.

7 A. Well, it didn't line up with what the
8 circumstances were. It seemed more was involved.

9 Q. And so you knew that was a lie as well?

10 A. That he was not being completely truthful.
11 Correct.

12 Q. And we call that a lie?

13 A. You could. You could call it not being
14 truthful and trying to protect himself.

15 Q. All right. Thank you.

16 Did you report to Watchtower New York that
17 Mr. Kendrick had not been truthful with you?

18 A. We did not address that issue, no.

19 Q. Why not?

20 A. Well, we felt that it wasn't -- wasn't --
21 probably, we had the idea that it wasn't necessary at
22 that time.

23 Q. Do you recall specifically why you did not
24 report that Mr. Kendrick was not being truthful with you
25 to Watchtower New York?

1 A. No.

2 Q. Did you feel some degree of sympathy for your
3 friend, Mr. Kendrick?

4 A. No. If he is a child abuser, he should be
5 dealt with, without a doubt.

6 Q. What did Andrea tell you had happened?

7 A. Andrea agreed with the situation that
8 Jonathan -- I think we encouraged Andrea to come, and
9 she did not contradict anything that was said between
10 either Evelyn, Jonathan or Andrea. They agreed.

11 Q. Do you recall Andrea saying anything?

12 A. I can't recall any specific thing that she
13 said.

14 Q. But your general recollection is that she
15 agreed with everything that Jonathan Kendrick said?

16 A. Yeah. If there was anything out of the
17 ordinary, I would have remembered that she said, "Hey,
18 that's not the way that it happened."

19 Q. Was Andrea a quiet girl?

20 A. Probably. Around me, she was quiet.

21 Q. Isn't it true that Andrea told you that Mr.
22 Kendrick had given her some Vicodin that night?

23 A. No. That never came up in that meeting.

24 Q. Isn't it true that she told you that this
25 abuse happened in her bed and not on the couch?

1 A. No, that didn't happen.

2 Q. Isn't it true that she said that Jonathan
3 Kendrick was watching TV next to her?

4 A. They never brought that up.

5 Q. Isn't it true that Andrea told you in this
6 meeting, and Elder Clarke, that Jonathan Kendrick had
7 touched her breast skin-to-skin?

8 A. He didn't say that.

9 Q. Did she say that?

10 A. She didn't say that.

11 Q. And isn't it true that she said that he had
12 put his hand into her underwear?

13 A. No. That never came up.

14 Q. What did Evelyn say in this meeting?

15 A. She corroborated the story. There was never
16 any objection that we fielded on her part or Andrea's
17 part.

18 Q. Isn't it true that Evelyn told you that
19 shortly after the abuse occurred that Andrea had come
20 out of the bathroom crying and told her mother what had
21 happened?

22 A. I don't remember that during the meeting. I
23 think Evelyn was asleep, the impression I'm getting, and
24 I don't know when she found out about it. Maybe she
25 went in and woke her up.

1 Q. Did Evelyn disagree with anything that Mr.
2 Kendrick said?

3 A. Not to my recollection.

4 Q. Did you feel that it was important for you to
5 get to the truth of what had happened?

6 A. Yes.

7 Q. And did you talk to Andrea separately from
8 Jonathan Kendrick?

9 A. No, we did not.

10 Q. Did you talk to Evelyn separately from
11 Jonathan Kendrick?

12 A. No, we did not.

13 Q. Now, as we have already heard, you had
14 received, over the years, quite a bit of information
15 from Awake and Watchtower Magazines on the subject of
16 child and sexual abuse. Correct?

17 A. Yes.

18 Q. And if we could look at Exhibit 17. Before
19 we show it. Exhibit 17 is in evidence as well, from
20 January 22, '85?

21 Do you have any objection --

22 MR. SCHNACK: No.

23 MR. SIMONS: -- to showing it.

24 THE COURT: Mr. Simons, is it for
25 identification only?

1 MR. SIMONS: Well, it is more of admission,
2 and if there is an objection, I will have to do
3 foundation.

4 MR. McCABE: There is no objection, your
5 Honor.

6 MR. SIMONS: May it be admitted?

7 MR. McCABE: It may be.

8 THE COURT: 17 is now in.

9 (Whereupon, Defendant's Exhibit Number 17
10 was admitted into evidence)

11 BY MR. SIMONS:

12 Q. During the time that you were an elder, would
13 you read every Awake?

14 A. I would try to.

15 Q. It is part of your obligation as an elder,
16 isn't it?

17 A. Yes.

18 Q. And part of the weekly Bible studies and the
19 studies that you do is to study the Awake and the
20 articles in it?

21 A. To read them over, yes.

22 Q. So you would have read and been familiar with
23 this 1985 Awake issue. Correct?

24 A. Correct.

25 Q. And if we could look at page 4. Do you have

1 page 4?

2 A. I do.

3 Q. Down at the bottom it says:

4 "Sue was molested by a man who was
5 running a church group. He ran a youth club.
6 Everybody agreed that he was very pleasant.
7 But he sexually abused Sue and other girls."

8 You knew, in 1993, when you went to the
9 Kendrick home, that persons in religious groups can use
10 the religious group as a way to get children for sexual
11 molestation.

12 A. Yes.

13 Q. And sad as it is, that is a fact of life,
14 that you knew long before the meeting in the Kendrick
15 house?

16 A. Yes.

17 Q. And you knew these people can be very
18 pleasant, like Mr. Kendrick?

19 A. Yes.

20 Q. And you knew that --

21 Let's look at page 5.

22 At the top of page 5 in that first column,
23 you knew that, in most cases, children were molested by
24 people they know and trust. Correct?

25 A. That's what research shows, yes.

1 Q. And you knew back in '85 and from then on
2 that that made protecting children more difficult.

3 A. Yes.

4 Q. And you also knew that sexual abuse may be
5 described as playful or affectionate conduct. Correct?

6 A. Correct.

7 Q. Did Jonathan Kendrick ever have playful or
8 affectionate conduct with other children in the
9 congregation?

10 A. No. Not that I was aware of.

11 Q. Something you never observed?

12 A. Right.

13 Q. You did try, after this meeting at the Conti
14 house, to observe him closely?

15 A. Yes.

16 Q. But that's not something that you ever
17 observed?

18 A. Correct.

19 Q. Let's look at page 8. In this part that
20 says: If the Worst Should Happen.

21 You knew in 1985 and thereafter that:

22 "First, the child and other children
23 too must be protected from any further abuse.
24 This must be done whatever the cost."

25 You were aware of that.

1 A. Yes.

2 Q. What did you do to protect Andrea from
3 further abuse?

4 A. We removed Jonathan as a ministerial servant.
5 And at that meeting, we tried to comfort Andrea and let
6 her know that she was simply a victim. She wasn't at
7 fault. She wasn't the reason. But we are very sad that
8 she had become a victim of child abuse.

9 Q. Because this abuse occurred in the home of a
10 congregation member and members, how would removing Mr.
11 Kendrick as a ministerial servant have protected Andrea
12 from further abuse?

13 A. Well, we hoped that our meeting protected
14 Andrea from further abuse.

15 Q. Did you provide any advice to Evelyn Kendrick
16 in how to keep Andrea safe in the future?

17 A. I can't -- it is hard to remember everything
18 way back there. But I would assume that I told her that
19 it is important to set propriety in the house, rules of
20 conduct, and that it would be inappropriate for Jonathan
21 to be in a room alone with Andrea.

22 But I can't remember saying that. But I hope
23 I would have.

24 Q. Did you tell Evelyn Kendrick at that meeting
25 that this was her fault?

1 A. No.

2 Q. Did you tell her any words to the effect that
3 it was partly her fault?

4 A. No.

5 Q. Let us look at the October -- before we bring
6 it up, the October 8, 1993 Awake Magazine, that is
7 Exhibit 37.

8 Is that stipulated into evidence?

9 MR. McCABE: So stipulated, your Honor.

10 THE COURT: All right. Thirty-seven is in.

11 (Whereupon, Plaintiff's Exhibit Number 37
12 was admitted into evidence)

13 BY MR. SIMONS:

14 Q. This issue of Awake is dated October 8, 1993.
15 Correct?

16 A. Correct.

17 Q. And you would have received it and reviewed
18 it?

19 A. Yes.

20 Q. Studied it?

21 A. Yes.

22 Q. Tried to do what is taught in there?

23 A. Correct.

24 Q. And this was just about a month before your
25 meeting at the Kendrick household?

1 A. Correct.

2 Q. And if we could look at page 4.

3 You knew looking down on page 4 here on the
4 second paragraph that:

5 "Adult society often unwittingly
6 corroborates with child abusers. How so? By
7 refusing to be aware of this danger and by
8 fostering a hush-hush attitude about it."

9 You knew that. Right?

10 A. Yes.

11 Q. And did you tell anyone in the congregation,
12 the parents in the congregation who have an obligation
13 to protect their children, that Jonathan Kendrick had
14 sexually molested a child?

15 A. There was no need to. If we, upon observing
16 Jonathan Kendrick, we saw him isolating a child, we saw
17 him getting close to a child, then we would inform the
18 parents.

19 Q. Well, you didn't see anything with regards to
20 how Jonathan Kendrick had abused Andrea. Correct?

21 A. Yes.

22 Q. And you knew from these publications that
23 child abusers operate in secret. Correct?

24 A. Correct.

25 Q. And you knew that they don't usually have

1 witnesses to child sex abuse. Correct?

2 A. Correct.

3 Q. And you knew that Jonathan Kendrick was
4 continuing to be active in the congregation. Right?

5 A. He was removed as a ministerial servant.

6 Q. But he was still a member in good standing?

7 A. After he was removed, he was placed on
8 restrictions.

9 Q. Was he a member in good standing?

10 A. No, not at that time.

11 Q. Did the congregation know that he was on
12 restrictions?

13 A. They probably were aware of it because he
14 would be restricted from commenting. They probably
15 noticed that.

16 Q. Were they aware of the fact that he posed a
17 threat to children of sexual abuse?

18 A. We didn't see that he posed a threat to
19 children.

20 Q. And you, therefore, kept a hush-hush attitude
21 about his sexual abuse of Andrea?

22 MR. McCABE: Objection; argumentative.

23 THE COURT: Overruled.

24 THE WITNESS: Well, you are trying to use the
25 "hush-hush attitude" as if we were a secret society, but

1 we are the ones that published this. And it --

2 Let me get back to my thought.

3 It --

4 Could you repeat your last thought? I lost
5 my thought.

6 BY MR. SIMONS:

7 Q. Let me just withdraw it.

8 Let's look at the last sentence of this
9 paragraph we are looking at:

10 "Ignorance and misinformation and
11 silence give safe haven to abusers, not their
12 victims."

13 You knew that. Correct?

14 A. Yes.

15 Q. Now, we have heard that the parents are the
16 primary protectors of their children in Jehovah's
17 Witnesses. Correct?

18 A. Correct.

19 Q. And to do that, parents need to know what
20 risks they are going to protect their children against?

21 A. Correct.

22 Q. But they did not know in this congregation
23 that one of the risks to protect their children against
24 was that Jonathan Kendrick had already sexually molested
25 one child?

1 A. They do know this material that we are
2 referring to, and they should have studied this and been
3 aware. And if they saw any danger in the congregation,
4 that this would alert them to the danger.

5 Q. Well, we know that these child sexual abusers
6 -- and we knew in 1993 from the article in the Awake
7 that these child sexual abusers don't necessarily give
8 out clues. They operate in secret.

9 Didn't we know that?

10 A. Yes.

11 Q. And so the best way to allow parents to
12 protect their children in the congregation is to
13 identify for them the individuals who are positively
14 identified already as having sexually molested a child.

15 Don't you agree?

16 A. How about identifying the traits of
17 individuals. And you can look at a person, and if he
18 shows those traits, and then you have a suspicion, don't
19 let your child go with that. If you have a suspicion,
20 you are under no obligation to let your child go with
21 that person.

22 Q. Well, from the last Awake Magazine that we
23 looked at, we know that one of those traits might be
24 they are a pleasant, well-liked church group leader?

25 A. That's true. That has happened.

1 Q. Wouldn't it have been much more helpful to
2 the parents in the congregation to know what to look for
3 with Jonathan Kendrick and to protect their own children
4 if they knew that he had sexually molested a child?

5 A. I think this information gives them good
6 ammunition to look at individuals to see how they line
7 up to these situations, and if they would want to trust
8 their children with them. And they can make a call on
9 that.

10 Q. Let's look up the next part of page 4.
11 Sexually Molested.

12 This references:

13 "The Catholic Conference of Bishops
14 concluded that it was a general conspiracy of
15 silence that allowed gross child abuse to
16 persist among the Catholic clergy for
17 decades."

18 And you knew that in 1993 of October.
19 Correct?

20 A. Correct.

21 Q. That's all for that exhibit. Thank you.

22 Did you know in 1993 that sexual molestation
23 of a child was a secular crime?

24 A. Yes.

25 Q. And did you know -- I think it was said

1 earlier that you offered to the Kendricks -- Evelyn and
2 Andrea -- that they could go to the police if they
3 chose. Correct?

4 A. Correct.

5 Q. Did you encourage them to go to the police?

6 A. We didn't encourage them; we didn't
7 discourage them. It was up to them.

8 Q. If the police had contacted you regarding
9 what was admitted by Jonathan Kendrick in this meeting,
10 would you have told them?

11 A. I would first call Legal.

12 Q. Now, Mr. Abrahamson, in fairness to you, all
13 of your instruction and training and education in how to
14 address child sexual abuse when it came to your
15 congregation came to you through Watchtower New York?

16 A. Correct.

17 Q. And it is true that this was not the first
18 instance of child sexual abuse that you had been called
19 upon to look into?

20 A. I believe it may have been one of the first.

21 Q. All right. Let's see if your deposition at
22 page 130, line 3 through 7?

23 MR. McCABE: Can we have a minute before that
24 is shown, your Honor.

25 THE COURT: Sure.

1 MR. McCABE: What line it is, counsel?

2 MR. SIMONS: Three through seven.

3 MR. McCABE: 130?

4 MR. SIMONS: Yes. Page 130. Am I on the
5 right page? Sexual abuse.

6 MR. McCABE: I don't seem to have it. Sexual
7 abuse.

8 Your Honor, I'm going to object. Can we
9 approach the bench?

10 THE COURT: You may.

11 (Sidebar discussion at the bench)

12 (Whereupon, video recording was played)

13 BY MR. SIMONS:

14 Q. All right. Had there been other
15 investigations that you had participated in, in your
16 years of service as an elder, which involved allegations
17 of sexual abuse of a child?

18 A. Yes.

19 (Whereupon, video recording was stopped)

20 BY MR. SIMONS:

21 Q. After this meeting in the Kendrick home, did
22 Jonathan Kendrick continue to go into field service?

23 A. Yes, he did.

24 Q. And he would go into field service with other
25 members of the congregation?

1 A. Yes.

2 Q. And on occasions, that would include
3 children?

4 A. No.

5 Q. Never?

6 A. Never.

7 Q. And was Jonathan Kendrick continued to be
8 called "brother" within the Jehovah's Witnesses?

9 A. Yes.

10 Q. And he continued to go to homes of people for
11 Bible study?

12 A. Yes.

13 Q. And he continued to go to Kingdom Hall, of
14 course?

15 A. Yes.

16 Q. Let's talk about the Conti family a little
17 bit, Mr. Abrahamson. You were aware that problems had
18 developed in their marriage?

19 A. Yes.

20 Q. And, in fact, Kathleen had stopped coming to
21 activities almost completely in the last year or so of
22 their marriage. Correct?

23 A. Yes.

24 Q. And you knew that she was having serious
25 mental health problems? Correct?

1 A. Correct.

2 Q. You had observed, yourself, what we might
3 call certain bizarre activity by her?

4 A. Yes.

5 Q. What can you describe for us that you had
6 observed?

7 A. I had observed her not attending the
8 meetings.

9 Q. And when you did observe her, did you observe
10 activity by her or actions by her or hear words by her,
11 anything that you observed in her that made you feel
12 that she was a person with mental health problems?

13 A. I can't think of any specifics, no.

14 Q. Do you have a general impression that her
15 behavior was -- I will use a very lay term, flakey.

16 A. Well, with Candace's testimony, she did have
17 a difficult time, and apparently she was not a very good
18 mother.

19 Q. What did you observe in that respect?

20 A. I just basically observed them when they were
21 at the Kingdom Hall. And she maybe cried or had an
22 emotional upset at times, and perhaps ran out of the
23 Kingdom Hall. I can't even absolutely say I remember
24 that, it happening like that, but it could have
25 happened. It does happen.

1 Q. So it is fair to say that these many years
2 later -- 17 years later -- you don't really have a
3 recollection of Candace Conti's mother being unable to
4 care for her?

5 A. Not a serious -- something serious that would
6 prevent her from caring for her daughter.

7 Q. But you knew that she had stopped coming to
8 the meetings?

9 A. Yes.

10 Q. And that was probably for a year or so before
11 the couple divorced?

12 A. Yes.

13 Q. So you knew that Candace Conti's mother had
14 stopped coming, not only to meetings, but to field
15 service?

16 A. Yes.

17 Q. And to Bible study groups?

18 A. Right.

19 Q. And to people's homes for the meetings?

20 A. Right.

21 Q. And to social events. Correct?

22 A. Yes. She apparently did not want to be one
23 of the Jehovah's Witnesses.

24 Q. And so you knew that she was in no position
25 to be able to protect her daughter from sexual abuse by

1 from someone like Jonathan Kendrick?

2 MR. McCABE: Objection; calls for a
3 conclusion; speculation.

4 THE COURT: Sustained.

5 BY MR. SIMONS:

6 Q. Now, Neal Conti still continued to come to
7 Jehovah's Witnesses events and meetings and publishings.
8 Correct?

9 A. Yes.

10 Q. Do you recall that there were times that he
11 was unable to do so because he had to stay home with
12 Kathy?

13 A. It probably happened. I didn't hear maybe
14 why he was missing. But he was missing, I'm sure.

15 Q. And on those occasions, Candace would
16 sometimes be there by herself?

17 A. I don't recall that.

18 Q. Did you pay any particular attention to
19 Candace Conti as an at-risk child within the
20 congregation who someone like Jonathan Kendrick might
21 try to take advantage of?

22 A. I wouldn't single her out as one that -- she
23 was a happy fun-loving child as I recall.

24 MR. SIMONS: Nothing further, your Honor.
25 Thank you.

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THE COURT: Mr. McCabe?

MR. McCABE: Thank you, your Honor.

CROSS-EXAMINATION

BY MR. McCABE:

Q. Mr. Abrahamson, where do you live?

A. I live in Fremont.

Q. What kind of dwelling do you live in?

Apartment complex? Single-family dwelling?

A. In a single family dwelling.

Q. How many houses are on your particular street or block?

A. Our block is short. It's probably just 25 houses. Twelve on each side.

Q. Do you know your neighbors?

A. Yeah, for the most part.

Q. Do they know you?

A. Yeah.

Q. Are you married?

A. I am.

Q. What is your wife's name?

A. Leslie.

Q. Do you have any children?

A. We have four children.

Q. Do you still have them?

1 A. Yeah, we do. They are not at home, but we
2 still have them.

3 Q. How old are they?

4 A. Thirty-six down to 27.

5 Q. Are your children married?

6 A. Three of them are married; one is not.

7 Q. Where did you go to high school?

8 A. I went to high school in Palo Alto High
9 School.

10 Q. Did you participate in any sports or any
11 activities in high school?

12 A. A little bit of basketball.

13 Q. And when did you graduate?

14 A. In the Class of '72.

15 Or, no.

16 Yes, it was the Class of '72.

17 Q. 1972?

18 A. Or '70. Might be '70. I'm sorry.

19 Q. Well, we won't hold you to that. So sometime
20 in the seventies you graduated from high school?

21 A. Yeah. I'm trying to think of what class it
22 was.

23 Q. Did you go to any other educational
24 institution after you graduated from Palo Alto High
25 School?

1 A. No, I did not.

2 Q. Are you employed?

3 A. Yes, I am.

4 Q. What do you do for employment?

5 A. I do janitorial.

6 Q. What kind of janitorial work do you do?

7 A. Office buildings.

8 Q. When do you do your work?

9 A. In the evening, generally.

10 Q. How long have you been doing that?

11 A. About 40 years.

12 Q. Has that been your principle occupation since

13 you left high school?

14 A. Yes.

15 Q. And you own your own business?

16 A. Yes.

17 Q. Mr. Simons asked you some details about your

18 being an elder. Tell us, when were you baptized into

19 the Jehovah's Witnesses?

20 A. I was baptized in 1970.

21 Q. How old were you?

22 A. I was 17.

23 Q. And where did you attend meetings at that

24 time?

25 A. At that time, we were in the Palo Alto

1 Congregation.

2 Q. When did you move to the North Fremont
3 Congregation?

4 A. We moved in 1986.

5 Q. And when you moved in 1986, had you already
6 been appointed an elder in the Palo Alto?

7 A. Yes.

8 Q. And tell us how you get to be an elder?

9 A. Well, there are scriptural qualifications
10 that are outlined in scriptures such as First Timothy,
11 Chapter 3. And these qualifications must be met before
12 an individual like myself would be recommended as an
13 elder.

14 Q. And who recommends you to be an elder?

15 A. The body of elders.

16 Q. So the already existing elders?

17 A. It's already existing.

18 Q. Who do they make the recommendation to?

19 A. They make the recommendation to the
20 Watchtower Society.

21 Q. How much time do you spend currently in your
22 duties as an elder in the North Fremont Congregation?

23 A. I spend about 20 hours a week.

24 Q. And was that true back in the mid-1990s when
25 the details of this case occurred?

1 A. Yes.

2 Q. Does it vary from time to time?

3 A. Oh, yeah.

4 Q. Do you sometimes spend more time?

5 A. Yes.

6 Q. Are you paid for your work as an elder?

7 A. No.

8 Q. So your work is voluntary in the
9 congregation?

10 A. Yes.

11 Q. And do you get any training as an elder after
12 you are appointed?

13 A. Yes. We do have schools that we go to. I
14 just completed a week course, five days, and it was an
15 intense Bible study. And we went through a lot of
16 points on shepherding, teaching, evangelizing.

17 Q. And do you have any other training that you
18 get from Watchtower on being an elder, other than these
19 schools?

20 A. Well, we have a ministry school that we have
21 each week at our meeting.

22 Q. And what does that train you to do?

23 A. That trains you to be a better evangelizer,
24 better teacher, better shepherd.

25 Q. Okay. And you have heard some talk about

1 letters that the body of elders gets from the Watchtower
2 Bible and Tract Society.

3 . Does that provide also education instruction?

4 A. Absolutely.

5 Q. And do you read those letters?

6 A. Oh, yes.

7 Q. You have also seen some information about the
8 Watchtower and Awake Magazines back in the '90s. How
9 did you obtain those magazines?

10 A. The magazines would come through the mail by
11 subscription.

12 Q. Do they still come that way?

13 A. Not any longer.

14 Q. How do you get them now?

15 A. At our Kingdom Hall.

16 Q. And back in the '90s, were members of the
17 congregation encouraged to have a subscription of the
18 Watchtower Magazine?

19 A. Yes. Most congregation members did have a
20 subscription. So they got the magazine a little bit
21 before the date.

22 Q. When you say "a little bit before the date,"
23 how in advance of the publication date would you get
24 your subscription?

25 A. Probably a month before the publication date,

1 maybe even longer.

2 Q. Now, we talked, too, about your memory of
3 what happened in November of 1993. Do you have a clear
4 memory of going to the Kendrick home for that meeting?

5 A. Yes. Yes. I have a clear memory of that. I
6 have a clear memory of where we sat in the house.

7 Q. Where did you sit in the house?

8 A. It was in the kitchen.

9 Q. Did you bring anything with you to that
10 meeting?

11 A. Yes. I brought my Bible with me.

12 Q. Did Mr. Clarke bring his Bible?

13 A. Yes.

14 Q. And did you use the Bible during that
15 meeting?

16 A. Absolutely.

17 Q. Do you recall how the meeting started?

18 A. I started with a prayer.

19 Q. Okay.

20 A. And knowing their circumstances, I wanted to
21 make sure they felt relaxed and comfortable. So I do
22 remember in my prayer I prayed that, especially, Andrea,
23 that she could relax -- it might be embarrassing for
24 her. It might be hard for her to tell. But we wanted
25 to know the truth about what happened.

1 And then for Evelyn, that she probably felt
2 devastated by the sexual abuse on a couple of different
3 levels; the fact that she is a wife, and the fact that
4 she is a mother too. So I wanted to make sure I
5 included her in the prayer.

6 Q. And do you remember saying that prayer out
7 loud?

8 A. Yes.

9 Q. And this is all sitting around the kitchen
10 table?

11 A. Yes.

12 Q. How long did you know Evelyn Kendrick?

13 A. Probably, I would say about four years.

14 Q. Was she a quiet woman?

15 A. She was not as loud as her husband.

16 Q. Was she able to speak her mind?

17 A. She was. She was a strong woman that way.

18 Q. I would like to show you an exhibit --
19 Number 98. I believe it is in evidence.

20 I believe it is your Exhibit 9.

21 MR. SIMONS: My Exhibit 9.

22 THE COURT: No objection?

23 MR. SIMONS: I think it is in evidence
24 already. It is Exhibit 9. It was a dual exhibit.

25 THE COURT: Out of abundance of caution,

1 without question, it is now in.

2 (Whereupon, Plaintiff's Exhibit Number 9
3 and Defendant's Exhibit Number 98
4 was admitted into evidence)

5 BY MR. McCABE:

6 Q. You saw this with Mr. Simons showed it to
7 you?

8 A. Correct.

9 Q. Did you write the letter?

10 A. I did not write the letter.

11 Q. Did you sign the letter?

12 A. It appears that I did not sign the letter.

13 Q. Were you aware of it being sent from the
14 North Fremont Congregation in 1993 to the Watchtower?

15 A. Yes.

16 Q. Did you discuss the letter with Mr. Clarke?

17 A. Right.

18 Q. Did you have a discussion with him, an
19 exchange back and forth about what you would put in the
20 letter, or did you just read the letter after it was
21 typed up.

22 A. My recollection's not real clear about that.
23 I'm not sure how that came about.

24 Q. Does the letter mention anything about
25 Vicodin?

1 A. Anything about what?

2 Q. Vicodin.

3 A. Vicodin? No. It never was mentioned.

4 Q. Why was it not mentioned in the letter?

5 A. Because we did not hear that when we went on
6 the call.

7 Q. So Andrea did not bring up that she had taken
8 a Vicodin when you visited the Kendrick home in November
9 of 1993?

10 A. Not at all.

11 Q. Did Evelyn bring anything up about a Vicodin
12 when you were there?

13 A. No.

14 Q. Was there any discussion between yourself,
15 Mr. Clarke, and the Kendricks, about the extent of the
16 abuse of Andrea Kendrick, other than the touching of her
17 breasts?

18 A. That was it.

19 Q. How large is the congregation in North
20 Fremont?

21 A. It is about a hundred and twelve publishers
22 currently.

23 Q. What do you mean by "publishers"?

24 A. The ones that are publishing the Good News.
25 They're active witnesses. You might see them in your

1 neighborhood going door-to-door. So they are a
2 publisher with their book bag and talking to the
3 neighbors.

4 Q. And that is a practice that you have engaged
5 in since you have been a Witness?

6 A. Yes.

7 Q. And most Witnesses do the same thing?

8 A. Yes.

9 Q. What is your position on the body of elders?

10 A. I am a service overseer.

11 Q. Could you tell the jury what that means to be
12 service overseer?

13 A. Okay. We refer to our work as evangelizers
14 as field service. We go from door-to-door. We go out
15 into the field. And it probably is an offshoot from
16 going out and harvesting.

17 That Jesus said, "Our harvest is the world."

18 And the field is a world. So we go out and
19 try to Witness, door and door, to all that we can.

20 Q. Okay. And what are your responsibilities as
21 a service overseer on the body of elders?

22 A. As service overseers, things that are related
23 to the field ministry, such as make sure we have
24 literature so that they can use it in the ministry.

25 Make sure that we have territory that we can

1 go to, and we won't be going to one territory until we
2 complete the other territories. So we do it in a
3 systematic way, so people don't feel overwhelmed, like
4 we are coming too often, to try to only come after we
5 complete one territory.

6 And any other matters that are related to the
7 ministry field service. So I would be the service
8 overseer taking care of those things.

9 Q. Before people in your congregation go out to
10 neighborhoods, do they have a meeting somewhere to
11 discuss what they are going to do?

12 A. Yes. We call that a meeting for field
13 service.

14 Q. And where is that meeting held?

15 A. Generally, it is held at the Kingdom Hall.

16 Q. Okay. Do you preside over that meeting from
17 time to time?

18 A. Yes.

19 Q. How often?

20 A. I preside over that meeting, probably, twice
21 a week.

22 Q. Okay. Was that true back in 1993?

23 A. It might have been more often, but that would
24 be a good guess. Probably twice a week.

25 Q. How about '94 and '95?

1 A. At least twice a week, probably more.

2 Q. And in that meeting that you preside over as
3 a field service overseer, do you arrange groups for
4 people? Do you assign partners? How do you do it?

5 A. Yes, we assign partners. Let's say the jury
6 was my group. So maybe the first four would go
7 together, the second four would go together, and the
8 last six might go together, and the couple, we can split
9 up.

10 Not that they were a couple. We wouldn't
11 split up families, but he would go with the first group,
12 she would go with the second group.

13 Q. Do people ever come to that meeting for field
14 service who already have partners?

15 A. Oh, yes.

16 Q. Would you ever assign back in the 1990s a
17 single male to work with a single female in a car to go
18 alone?

19 A. No. That would not be appropriate.

20 Q. Would you ever assign someone's child to work
21 with another adult member of the congregation, let's say
22 a member of the opposite sex, back in the 1990s?

23 A. No.

24 Q. Why not?

25 A. It wouldn't be appropriate. And articles

1 like this, there is always that possibility of child
2 molestation. So we want to protect our children. We
3 love our children.

4 Q. And when you say "articles like this," what
5 are you referring to?

6 A. The article on molestation -- child
7 molestation, and the fact that you can protect your
8 children.

9 Q. Did you ever have an occasion back in the
10 1990s where parents would drop off a child or children
11 to go out in the field of ministry and not accompany
12 them themselves?

13 A. It was rare. And if it happened, then we
14 would talk to the parent to help them to appreciate that
15 the children are their responsibility. They come out
16 with their children. They don't drop them off for
17 someone else to care for.

18 Q. Did you ever assign Jonathan Kendrick to
19 conduct one of these meetings for field service?

20 A. No.

21 Q. Did you ever assign Jonathan Kendrick to work
22 with Candace Conti in the field ministry?

23 A. No.

24 Q. Did you ever see Jonathan Kendrick working in
25 the field ministry with Candace Conti?

1 A. No.

2 Q. Now, you mentioned that there was five
3 meetings a week?

4 A. Correct.

5 Q. A meeting every day of the week or what?

6 A. Okay. We have two meetings that we consider
7 on Sunday, and then the three meetings are on a date
8 during the mid-week.

9 Q. So, really, you only have two dates from
10 which you conduct all five meetings?

11 A. Correct.

12 Q. And how long -- when you have the three
13 meetings, how long does that last?

14 A. It lasts about an hour and a half.

15 Q. And the two meetings?

16 A. About an hour and a half as well.

17 Q. What are the two meetings that you have on
18 Sunday?

19 A. The two meetings on Sunday are:

20 (1) we have a discussion of the Watchtower
21 Magazine that is an hour. And prior to that, we have a
22 public talk. Talks designed for people that would come
23 into the congregation. They would get a good
24 understanding of what the Bible says on a particular
25 subject.

1 Q. And when you say a "Watchtower discussion,"
2 what do you mean by that?

3 A. That we receive a study issue of our
4 Watchtower Magazine, and then we study this magazine and
5 prepare ourselves each week to come to the meeting. And
6 we can offer comments on that issue of the Watchtower
7 that we are studying.

8 For example, last week, it just happened to
9 be "Don't look at the things behind."

10 And it referenced Lot's wife, who turned into
11 a pillar of salt, if you might remember, because she did
12 look at the things behind. And how can we apply that to
13 today? How can we not have that attitude of looking
14 behind. And it was an enjoyable study.

15 Q. How is it conducted?

16 A. There is a Watchtower study conductor. And
17 so he asks the questions, and then the audience is
18 allowed to give comments. And then we have a reader
19 that reads each paragraph before it is discussed.

20 Q. So can children answer in that discussion?

21 A. We have a lot of our children answering that
22 discussion.

23 Q. How many children do you have presently in
24 the North Fremont Congregation?

25 A. We have, probably, 30 that are under twelve.

1 Q. Is that in addition to the hundred members?

2 A. Yeah. Most of those would not be publishers,
3 yeah.

4 Q. So what would be your attendance at a typical
5 Sunday meeting?

6 A. Our attendance would usually be over a
7 hundred, a hundred and twelve or fifteen.

8 Q. Let's talk about the Conti family for a
9 minute. Did you know them in 1994?

10 A. Yes, I did.

11 Q. Who did the family consist of?

12 A. It consisted of Kathy, the mother; Candace,
13 the daughter; and Neal, the father.

14 Q. Were there any other children ever in
15 attendance at the meetings with the Conti's?

16 A. Yes. They had a -- Neal had a son from
17 another marriage, and I believe his name was Ricky.

18 Q. Did he attend meetings with the Conti family
19 too?

20 A. When he was with the Conti family, they came
21 to the meetings and they brought him with them as well.

22 Q. Was there ever a time that you observed
23 Candace Conti at a meeting in the Kingdom Hall on a
24 Sunday by herself, without one of her parents?

25 A. I never observed her alone.

1 Q. Did you ever observe her on a weeknight
2 meeting at the Kingdom Hall without one of her parents
3 being present?

4 A. No. And if I did, I would wonder how did she
5 get here.

6 Q. Did you ever observe her being dropped off at
7 the Kingdom Hall by one or both of her parents for a
8 meeting for field service?

9 A. No.

10 Q. Now, during this meeting with the Kendrick
11 family, did you end it with prayer?

12 A. Yes.

13 Q. Before you ended, did you give any scriptural
14 admonitions to Mr. Kendrick about his behavior?

15 A. Yes.

16 Q. And did you do that in front of Andrea and in
17 front of Evelyn Kendrick?

18 A. Yes.

19 Q. Do you recall what any of that admonition
20 was?

21 A. Well, specifically, I can't remember what
22 scriptures we used. But it might have been scriptures
23 such as those that practice the works of the flesh,
24 which include fornication, uncleanness, lude conduct
25 will not inherit God's kingdom.

1 So Jonathan was in store for not inheriting
2 God's kingdom if he were to continued with the abuse.

3 Q. Did he tell you whether or not he intended to
4 continue the abuse?

5 A. He said that he was not going to, that he was
6 ashamed of what he had done, and he would not continue,
7 he would absolutely not do the abuse to anyone.

8 Q. Did you believe him when he said he was
9 ashamed of what he had done?

10 A. I did believe him.

11 Q. Is that what led you to conclude that his
12 touching of Andrea had been more than inadvertent?

13 A. Yes.

14 Q. Did he provide any other details of what he
15 had done?

16 A. Not to my recollection.

17 Q. He didn't tell you that this touching took
18 place in Andrea's bedroom while she was asleep?

19 A. No. He said it was on the couch, that she
20 was on the couch.

21 Q. After this meeting, did you meet back at the
22 Kingdom Hall with the body of elders at some time?

23 A. Yes.

24 Q. Did you personally partake in that meeting?

25 A. Yes.

1 Q. Did you personally inform the elders of what
2 you learned at that meeting with the Kendrick family?

3 A. Correct.

4 Q. What did you tell them?

5 A. We told them what Jonathan told us, that
6 Andrea was asleep on the couch, and he came in and
7 touched her breasts and she woke up.

8 Q. Did the elders come to any conclusion after
9 you informed them of this fact?

10 A. Yes. They concluded that no longer was he
11 qualified to serve as a ministerial servant.

12 Q. And was he then removed at that time?

13 A. Yes.

14 Q. And when a person is removed as a ministerial
15 servant, how often does that happen in your experience
16 in the years that you have been in the North Fremont
17 Congregation of Jehovah's Witnesses?

18 A. It is rare. Offhand, I can't think of anyone
19 else, but I know there is. There is others, but nobody
20 comes to my mind. So that is rare.

21 Q. Announcing someone is no longer serving as a
22 ministerial servant in the congregation can be a
23 significant announcement?

24 A. It is a big deal.

25 Q. Do you recall after this meeting that -- did

1 the Kendrick family stay together?

2 A. They did stay together.

3 Q. Do you know for how long?

4 A. I think it was a couple years after this
5 meeting that they separated and divorced.

6 Q. Did you ever learn, personally, after the
7 meeting at the Kendrick home that Evelyn and Andrea
8 reported the matter to the police?

9 A. I did not know at the time that they did.

10 Q. A couple years later you found out?

11 A. Yes. A couple of years later I found out.

12 Q. Do you know when?

13 A. I do know when we wrote a letter to the
14 Oakley Congregation. I knew at that time.

15 Q. Do you recall when that was?

16 A. 1998.

17 Q. But you didn't know it in 1994?

18 A. No.

19 Q. The Fremont Police never contacted you in the
20 1994?

21 A. No.

22 Q. District Attorney's office never contacted
23 you?

24 A. No.

25 Q. What about the Child Protective Services?

1 A. No.

2 Q. How about the Alameda County Probation
3 offices?

4 A. No.

5 Q. Do you recall how you learned that they had
6 gone to the police?

7 A. That they had gone to the police?

8 Q. Yes. How did you learn?

9 A. We wrote a letter of introduction to the
10 Oakley Congregation. In that letter we stated that they
11 did go to the police. And I think it is one of the
12 other elders that came by that knowledge, because I did
13 not come by that knowledge until after the meeting.

14 Q. So Evelyn never kept you informed?

15 A. Didn't inform me personally, no.

16 Q. Was Evelyn a member of the congregation in
17 North Fremont at the time of this meeting?

18 A. I think she probably would have been. She
19 wasn't actively coming to the meetings at that time.

20 Q. What about Andrea?

21 A. Andrea -- I don't think that Andrea was
22 attending the meetings either at that time.

23 Q. Do you recall when it was that the Kendrick
24 family broke up? When did Jonathan and Evelyn separate?

25 A. I would think it would be around '95, '96.

1 Q. So you are not sure when?

2 A. I'm not sure when.

3 Q. But it was a significant time after your
4 visit with Mr. Clarke to the Kendrick home?

5 A. Yes.

6 Q. Do you know where Jonathan lived after the
7 separation?

8 I'm speaking of Jonathan Kendrick.

9 A. Jonathan Kendrick. I believe that he lived
10 in the garage of the Francis home, the Francis family.

11 Q. And who is the Francis family?

12 A. They were a member of our congregation at
13 that time.

14 Q. And who is it?

15 A. Rod Francis, Claudia Francis, and they had
16 two sons.

17 Q. And Rod would be the father and husband?

18 A. Yes.

19 Q. Was he a member of the body of elders in
20 1993?

21 A. In 1993, I believe that he was.

22 Q. Do you know how long he had been with the
23 body of elders of the North Fremont Congregation in
24 1993?

25 A. I don't think it was too long. It was a

1 short time -- months -- years -- a few years.

2 Q. Do you know how long Mr. Kendrick resided in
3 the garage of the Francis family?

4 A. I don't know exactly.

5 Q. After this meeting with the Kendrick family
6 in November of 1993, did you ever observe Candace Conti
7 sitting on Jonathan Kendrick's lap at the Kingdom Hall?

8 A. No.

9 Q. Did you ever observe Candace Conti sitting on
10 his lap during a meeting at the Kingdom Hall?

11 A. Absolutely not.

12 Q. Did you ever observe her sitting on his lap
13 before or after?

14 A. No.

15 Q. During the same time period, did you ever
16 observe Jonathan Kendrick giving Candace Conti a big
17 bear hug in the Kingdom Hall?

18 A. No.

19 Q. You never saw anything like that?

20 A. No.

21 Q. Did you ever observe Jonathan Kendrick
22 leaving the Kingdom Hall property with Candace Conti
23 alone in his vehicle?

24 A. No. Absolutely not.

25 MR. McCABE: Your Honor, might this be a good

1 time to take a break?

2 THE COURT: It is. We will take a break. We
3 will take our lunch break. I will see everybody back
4 here promptly at 1:30.

5 And counsel, let me also tell you that this
6 coming Friday, I'm going to be performing a number of
7 additional functions in this particular matter. So
8 Friday is on me.

9 I will be working on this case listening to
10 things and having decisions. You will have the day off.
11 We will keep on our same time frame that I have given to
12 you relative to when the case will be over.

13 Remember, the following Thursday and Friday
14 I'm in Sacramento with judicial responsibilities also.
15 But I'm not changing anything I told you as to the
16 expected date. We want this to go to your consideration
17 for decision, but I do want to tell you about this
18 Friday.

19 So we will see everybody at 1:30.

20 (Whereupon, the following proceedings
21 were heard outside the presence of jurors)

22 THE COURT: There is a differences in the
23 books I want to get cleaned up.

24 MR. SIMONS: Yes. On the Awakes, you are
25 right. My apologies.

1 THE COURT: No apology necessary. I just
2 want to make sure my record is in good order.

3 MR. SIMONS: Yes. No. It's 17 and 37 are
4 the defense numbers.

5 THE COURT: And I agree. I just want to make
6 sure we cleaned up the record.

7 Now, in the same vein, I have quite a lunch
8 hour. I do want to make a decision I need to make in
9 terms of getting witnesses this afternoon. It was
10 originally referenced in Plaintiff's Number 10. There
11 is a letter. First of all, I want to find it, so I can
12 take a look at it during my so-called lunch hour.

13 It is the Defense 99. Do we agree, Mr.
14 Simons?

15 MR. SIMONS: Yes.

16 THE COURT: All right. So I will take a look
17 at Defense 99. And I will come back and greet you all
18 at 1:15, so I can do whatever we need to do.

19 (Lunch recess)

20 (Whereupon, the following proceedings
21 were heard outside the presence of jurors)

22 THE COURT: Back on the record in the matter
23 of the Candace Conti versus The Watchtower Bible and
24 Tract Society of New York Inc., et al. I am getting
25 better relative to the joint presentation here.

1 Regarding, I believe, the letter that counsel
2 is wishing to address -- I could be wrong. But it seems
3 to me it could be the filter I used was Defendant's 99.

4 And then according to the joint exhibit book
5 that is Plaintiff's 10. So Plaintiff's 10 and
6 Defendant's 99. Can we at least agree on that? Can I
7 hear a symphony of yes?

8 MR. SIMONS: Yes, your Honor.

9 THE COURT: I had the same problem we had a
10 little bit earlier today. The one layer I'm looking at
11 has a significant redaction already superimposed.

12 Does that lead me to believe that you would
13 agree, at least, to redacting that portion which starts
14 apparently after the word quote uncleanness, end of
15 quote, and then goes down to the trust above.

16 Is that an agreed upon redaction?

17 MR. SIMONS: Yes.

18 THE COURT: Now, what would you like me to
19 do? What is the nature of the argument? Because not
20 having seen the unredacted letter, I'm not sure what the
21 debate is about.

22 MR. SIMONS: The debate -- let's all get on
23 the same page here.

24 THE COURT: Mr. McCabe?

25 MR. McCABE: Yes, your Honor. The two

1 unredacted paragraphs we would like to see redacted are
2 the second and third letter and they are talking about
3 the religious discipline to be imposed by the
4 congregation or not to be imposed by the congregation.

5 THE COURT: It may be that again -- and I may
6 be repeating myself -- the letter I'm looking at already
7 has that. I don't have another version.

8 MR. McCABE: I'm sorry, your Honor. I have
9 two here.

10 THE COURT: All right. I see. And actually
11 I don't have any thoroughly unredacted version. But
12 defense counsel just gave me that same letter,
13 December 3.

14 The only thing redacted from that is
15 paragraph 4 after, quote, in the future, end of quote.

16 Now whose presentation is that? Is that
17 Plaintiff's?

18 MR. SIMMONS: As to the fourth paragraph,
19 your Honor?

20 THE COURT: Yes.

21 MR. SIMMONS: The deleted paragraph is by
22 agreement.

23 THE COURT: That's by agreement. All right.
24 Now on the bottom of the principle, I'm going to bounce
25 back again. So we have got paragraph 4 by agreement,

1 and then the debate goes as to paragraphs 2 and 3.

2 Correct?

3 MR. SIMMONS: Correct.

4 MR. McCABE: Correct.

5 THE COURT: All right. Let's go to defense
6 counsel.

7 MR. McCABE: Your Honor, both of these
8 paragraphs, to me, speak of the disciplinary procedures
9 that the religion would take based upon the definition
10 of the sin, and what he confessed to.

11 And in previous rulings, we were going to
12 leave out anything to do with judicial and duty to
13 disfellowship and/or recruiting, which these two
14 paragraphs don't specifically state that that's what
15 they're talking about.

16 THE COURT: Mr. Simons, to you.

17 MR. SIMMONS: Your Honor, I think, as to
18 paragraph 2, the language has the language of the
19 confession in it, and then --

20 THE COURT: I'm not troubled by that.

21 MR. SIMMONS: -- and then since this incident
22 is known by outside members of the family, I would
23 agree -- I think that from where it is appropriate
24 forward from the rest of the sentence, I have no problem
25 redacting.

1 But "since the incident is known by outside
2 members of the family" is a significant fact,
3 particularly if we are going to be mentioning defamation
4 in the suits and that sort of thing in the opening
5 statement as we did.

6 THE COURT: Okay. And then what is your view
7 of the next paragraph?

8 MR. SIMMONS: The third paragraph -- you
9 know, my original take was it not be redacted, but as I
10 look at it again, I feel it should.

11 THE COURT: Thank you. Because that was my
12 opinion on the first read.

13 So let's go back. I'm going to redact the
14 third paragraph. I think it is in the nature of --

15 "Essentially, since this incident is known by
16 outside members of the family."

17 Whose family are we talking about? Are we
18 talking about the occasional family or the immediate
19 family?

20 MR. McCABE: We are talking about the
21 Kendrick family, and we are talking about Toi Register.

22 THE COURT: I don't know whom we are talking
23 about. Do you agree with that conceptually?

24 MR. SIMMONS: I don't know about the Toi
25 Register, but it certainly says it is known by outside

1 members of the family, and that, to me, seems to imply
2 that we are talking about the Kendricks and not members
3 of another family.

4 THE COURT: Give me a moment.

5 Yeah. I think is quite susceptible to any
6 number of interpretations. Here is what is going to be
7 deleted.

8 "It's only your repetition and confession to
9 what had happened:"

10 Starting with the sentence:

11 "incidence is known by outside members of the
12 family," forward is deleted through the following
13 paragraph.

14 And then "by your agreement -- "

15 (Interruption)

16 All right. So paragraph 4 is in, by your
17 agreement, is deleted, and those will be my orders.

18 Now, it is going to help me in terms of you,
19 so we don't have to keep doing this: If it is a jointly
20 agreed upon admissible exhibit -- because of the way you
21 set this binder up, dual reference -- Mr. Simons, if it
22 is going to be a jointly-admitted exhibit, just read
23 Plaintiff's 11 and Defendant's 100, or something, so we
24 have a clean record and we don't have all these
25 juxtapositions.

1 Is that fair?

2 MR. SIMMONS: Very much so.

3 THE COURT: All right. The record should
4 reflect, and I will confirm it, my orders as to -- what
5 was that exhibit number? Mr. Simons?

6 MR. SIMMONS: Yes. It was the one we just
7 discussed earlier that was 10/99.

8 THE COURT: Okay. I just want something so I
9 can make a record after we discussed it.

10 MR. SIMMONS: That was 14/101 that we just
11 looked at.

12 THE COURT: All right. Forgive me. Mr.
13 Simons. Back to you.

14 Strike that.

15 Mr. McCabe?

16 MR. McCABE: I have no more questions, your
17 Honor.

18 MR. SCHNACK: Your Honor, I will pass the
19 witness.

20 THE COURT: Anything further of this witness?

21 MR. SIMMONS: Just briefly, yes.

22

23 REDIRECT EXAMINATION

24 BY MR. SIMMONS:

25 Q. Mr. Abrahamson, we talked a lot today with

1 both counsel about all of the different things you did
2 with regard to the congregation and Mr. Kendrick, et
3 cetera. All of the things we talked about today have
4 been things that you did within your scope of your
5 duties as an elder. Correct?

6 A. Correct.

7 Q. You mentioned in your cross-examination that
8 you believed that Mr. Kendrick was sincere in his
9 repentance; is that correct?

10 A. Yes.

11 Q. But you knew that he had lied to you about
12 other things?

13 A. Shaded the truth. Correct.

14 Q. And weren't you of the understanding that
15 child molesters always say that they are sincere in
16 their repentance?

17 A. Yes.

18 Q. And you mentioned Elder Francis, who was an
19 elder during that time. Did Elder Francis have some
20 health issues during this time in the '90s?

21 A. He currently has some health issues. I don't
22 know if it was during the mid-nineties.

23 Q. Was there a time, if you recall, back in the
24 mid-nineties, that you recall he was unable to attend to
25 his duties as an elder?

1 A. Yes, that is true. But it wasn't for health.

2 Q. But for whatever reasons, which we don't need
3 to hear about, there was a period of time in the
4 mid-90s, '94, '95, '96, in particular that Elder Francis
5 was unable to attend to his duties?

6 A. Since you are being specific with dates, I
7 would just have to say, I don't know. I'm not sure.

8 MR. SIMMONS: Thank you. That's all that I
9 have on Redirect.

10 THE COURT: Mr. McCabe?

11 MR. McCABE: Nothing.

12 THE COURT: Mr. Schnack?

13 MR. SCHNACK: Nothing.

14 THE COURT: Thank you, sir. You may step
15 down.

16 MR. SIMMONS: Your Honor, before we call the
17 next witness, there are three requests for admissions
18 that I'm going to introduce, I assume, by reading?

19 THE COURT: Yes.

20 MR. SIMMONS: These requests for admissions
21 are responses are dated December 8th of 2011. They are
22 verified by Gregory Allen on behalf of the Watchtower
23 Bible and Tract Society of New York, Inc., and they are
24 Set 3, commencing with Request for Admission, Number 3.

25 And I direct you to Watchtower Bible Tract

1 Society, Number 3:

2 "Do you admit that during the time he
3 performed services as an elder at the North
4 Congregation Fremont, between January 1st,
5 1993 and December 31, 1998, Gary Abrahamson
6 was acting as an agent of Watchtower Bible and
7 Tract Society of New York, Inc."

8 And response is:

9 "Defendant admits that between
10 January 1, 1993 and December 31, 1998, while
11 Gary Abrahamson was acting within the course
12 and scope of his duties as an elder in the
13 North Congregation Fremont California, he was
14 acting as an agent of Watchtower Bible and
15 Tract Society of New York, Inc."

16 As to Number 4:

17 "Do you admit that during the time he
18 performed services as an elder at the North
19 Congregation Fremont, between January 1st,
20 1993 and December 31st, 1998, Michael Clarke
21 was acting as an agent of Watchtower Bible and
22 Tract Society of New York, Inc."

23 And the response:

24 "Defendant admits that between
25 January 1st, 1993 and December 31, 1998, while

1 Michael Clarke is acting within the course and
2 scope of his duties as an elder in the North
3 Congregation Fremont, California he was acting
4 as an agent of Watchtower Bible and Tract
5 Society of New York, Inc."

6 And our next witness, your Honor, pursuant to
7 Evidence Code 776, would be Mr. Clarke.

8 THE CLERK: All right, Mr. Clarke. Again,
9 you are being called as an adverse witness under the
10 Evidence Code.

11 MICHAEL CLARKE,
12 WAS DULY SWORN TO TELL THE TRUTH BY THE CLERK
13 AND TESTIFIED AS FOLLOWS:

14
15 THE CLERK: Would you please state your name
16 and spell your first and last name for the record?

17 THE WITNESS: Michael Clarke. M-I-C-H-A-E-L.
18 Clarke. C-L-A-R-K-E.

19 THE COURT: And, Mr. Clarke if you need water
20 at any time, just let us know.

21
22 DIRECT EXAMINATION

23 BY MR. SIMMONS:

24 Q. Good afternoon, Mr. Clarke.

25 A. Good morning, Mr. Simons.

1 Q. And you have served and continue to serve as
2 an elder at the North Congregation in Fremont?

3 A. Yes.

4 Q. When did you first become an elder in the
5 North Fremont Congregation?

6 A. 1989.

7 Q. And had you served as an elder anywhere
8 before that?

9 A. Yes, in Hayward.

10 Q. And when did you first become an elder?

11 A. 1977.

12 Q. Before serving as an elder, did you serve as
13 a ministerial servant?

14 A. Yes.

15 Q. And when did you first commence your service
16 in that capacity?

17 A. Probably 1974, '75, somewhere around there.

18 Q. You continue to be an elder today?

19 A. Yes.

20 Q. And at North Fremont?

21 A. Yes.

22 Q. There, back in the 1990s, were meetings held
23 regularly in the congregation and among the congregation
24 for many purposes. Correct?

25 A. Meetings held?

1 Q. Yes.

2 A. Yes.

3 Q. And some of these meetings were to study the
4 Bible or to study the teachings of Awake or Watchtower?

5 A. Yes.

6 Q. And these meetings would be held in homes.
7 Correct?

8 A. Yes.

9 Q. And many of the homes they would be held in
10 would be homes of congregation members other than
11 elders?

12 A. Yes.

13 Q. Would you go to all of the meetings,
14 yourself?

15 A. No.

16 Q. Would there be one meeting for all of the
17 congregation or would the congregation be broken up into
18 smaller groups for these meetings?

19 A. Well, the meeting you are referring to would
20 be called a Congregation Bible Study, and it was held in
21 private homes. At the time, we may have had six or
22 seven locations. Most of them held in the homes of
23 elders.

24 And we had, generally, maybe 15 to 20 that
25 would attend the small groups, 10, 15 total. They were

1 held once a week, generally had one meeting, for an
2 hour.

3 But the other meetings that you might be
4 referring to were at the Kingdom Hall.

5 Q. The meetings that were held in the homes, is
6 it correct that an elder would always be present?

7 A. Yes.

8 Q. But it would not necessarily be correct that
9 more than one elder would be present?

10 A. No.

11 Q. Because there weren't enough elders for all
12 the meetings. Correct?

13 A. Correct.

14 Q. And in these different meetings that would be
15 held, the elder would have a lot of responsibilities for
16 example, to chair and conduct the meeting?

17 A. Yes, he would.

18 Q. And he would have to make the arrangements
19 for where the meeting was going to be each week?

20 A. No. It was usually in the same home, usually
21 his home.

22 Q. What about when the meetings were held in
23 other people's homes -- the congregation member's home?

24 A. Was there a question there?

25 Q. Yes. Would an elder have to make the

1 arrangements for those meetings?

2 A. No. It is pre-arranged. Sometimes it would
3 be there for years.

4 Q. Who would decide which homes the Bible study
5 meetings would be held in?

6 A. The body of elders.

7 Q. Were the Bible study meetings ever held in
8 the Kendrick home?

9 A. No.

10 Q. Were they ever held in the Conti home?

11 A. No.

12 Q. So for any such meetings that Mr. Kendrick
13 would have attended, he would have had to go someone
14 else's house?

15 A. Yes.

16 Q. And the same with Candace Conti?

17 A. Yes.

18 Q. Now, do you recall being contacted concerning
19 Jonathan Kendrick having committed some sort of
20 misconduct with his stepdaughter?

21 A. Yes.

22 Q. And how did you receive your very first
23 contact on the subject?

24 A. I believe it was a phone call.

25 Q. And do you recall who it was from?

1 A. Mr. Kendrick.

2 Q. What were you told?

3 A. That he needed to talk with us about a
4 serious matter.

5 Q. And did he tell you what the matter was?

6 A. I think he said inappropriate touching of his
7 stepdaughter, or he might have said just a serious
8 matter. I don't recall exactly. It was just a quick
9 phone call and we set up a meeting.

10 Q. How long between the phone call and the
11 meeting?

12 A. We met the same week.

13 Q. And where did the meeting occur?

14 A. At the Kendrick home.

15 Q. Did you know Jonathan Kendrick before you
16 were an elder in Fremont?

17 A. No.

18 Q. Was Jonathan Kendrick already a member of the
19 congregation when you came to Fremont?

20 A. I believe so. Yes. I came in '89, and I
21 think he was already there.

22 Q. And do you recall, when you first met
23 Mr. Kendrick, what your impression of him was?

24 A. Just a quiet man. Outgoing, friendly.

25 Q. Did you like him?

1 A. Pretty much, yes.

2 Q. And you call him "quiet." When you say he
3 was a quiet man, what did you mean?

4 A. He didn't speak a lot. He wasn't a talker,
5 anything like that. Just a quiet man.

6 Q. In the context of outside of the meetings,
7 did you have some relationship with Mr. Kendrick?

8 A. No.

9 Q. Did you, for example, ever go to his home for
10 any reason, other than this meeting after the phone
11 call?

12 A. Probably a shepherding visit, as we call it.
13 Probably just to get to know the family better. I don't
14 recall if it was myself that went or I went with someone
15 else. It was our practice, then, as it is now to make
16 home visits. That's about the extent of it.

17 Q. Did you ever have any social contact with Mr.
18 Kendrick?

19 A. No, I don't think so. I don't recall.

20 Q. For example, did you and anyone from your
21 family have a dinner, share a meal with Mr. Kendrick and
22 Evelyn Kendrick?

23 A. I don't recall. I don't think so.

24 Q. Did you ever meet him at some social occasion
25 at some location other than his house, for example,

1 maybe at the garage of the Conti house?

2 A. I don't think so. I don't recall. It is a
3 long time ago.

4 Q. You remember the Conti family?

5 A. Yes.

6 Q. And do you remember Candace as a child?

7 A. Yes.

8 Q. What do you remember about her?

9 A. Just a happy little girl.

10 Q. Do you recall her being a spunky child?

11 A. I don't know if she'd want me to call her
12 spunky, but she was happy.

13 Q. And what do you recall about her mother,
14 Kathleen?

15 A. Not too much. She was a good mother, and she
16 really loved her daughter and still does, I'm sure. I
17 don't have too much of a recollection of her. I know
18 she had a lot of emotional things that she was dealing
19 with that we tried to help her with.

20 Q. And do you recall at some point in the
21 mid-nineties that those emotional difficulties became
22 overwhelming to her?

23 A. Yes. We made several visits trying help
24 their marriage.

25 Q. And what did you observe, if anything, in

1 Mrs. Conti -- Kathleen, in terms of her conduct or
2 demeanor that you felt evidenced her emotional problems?

3 A. At times she was happy, and at times she was
4 sad. She had quite a few highs and lows. Some of our
5 visits, she was more positive than at other times.

6 Q. When you say happy and sad, do you mean
7 outside the range that we might consider to be kind of
8 normal, happy or sad for people?

9 A. I would say, it's a long road. I just
10 remember our concern for her and for the family and
11 trying to help her through this emotional time.

12 Q. Did you ever have a concern that she was
13 dysfunctional, unable to care for herself or her family?

14 A. I don't believe I had a concern like that,
15 no.

16 Q. What about Neal Conti? Were you friends with
17 him?

18 A. Yes.

19 Q. And did you do social events of any kind with
20 Mr. Conti?

21 A. I don't recall social events. But we spoke
22 at each meeting.

23 Q. Does that mean the nature of greeting or a
24 more serious or in-depth discussion?

25 A. Mostly a greeting. How are you today? How

1 has your week been? What happened at work? Have you
2 had any positive experiences in the door-to-door
3 ministry? Things like that.

4 Q. Would you describe the relationship you had
5 with Mr. Conti as something deeper than just a
6 relationship?

7 A. No. Not deeper, no.

8 Q. Let's go back to the meeting at the Kendrick
9 home. Who do you recall being present?

10 A. Gary Abrahamson, Mr. Kendrick,
11 Mrs. Kendrick, stepdaughter, Andrea, and myself.

12 Q. And what do you recall being the first thing
13 that happened at the meeting?

14 A. Well, our pattern -- our habit is to open
15 with a prayer. So I would have had Gary Abrahamson open
16 with a prayer.

17 Q. What was the next thing that happened?

18 A. Then we normally will read a scripture or
19 two, trying to set a spiritual tone, and then we invited
20 Mr. Kendrick to tell us why he had us come over.

21 Q. Now, as you sit here today, even though many
22 years have passed, you still have a recollection of that
23 meeting, don't you?

24 A. Yes. I reviewed my letter that you have a
25 copy of.

1 Q. And that helped refresh your recollection?

2 A. To a degree, yes.

3 Q. But you also remember sitting in the house?

4 A. Yes, I remember the chair I sat in. It faced
5 the window.

6 Q. And do you remember the room it was in?

7 A. In the kitchen or dinette area.

8 Q. Do you remember seeing these people in your
9 mind's eye during that meeting?

10 A. Yes. Very vividly. It's not something you
11 forget.

12 Q. And would it be fair to say that you have
13 been to hundreds and hundreds of such meetings with
14 different families that may have had some trouble -- not
15 necessarily childhood sexual issues, but some kind of
16 problems over the years?

17 A. Yes.

18 Q. And in these hundreds and hundreds of
19 meetings, this one stands out to you vividly.

20 Why is that?

21 A. Because it dealt with child abuse.

22 Q. And you knew, in 1993, at the time of this
23 meeting, that that was a very serious subject?

24 A. Yes, sir.

25 Q. And what did Mr. Kendrick say when you

1 invited him to speak?

2 A. He admitted to touching his daughter's chest
3 while she was sleeping on the couch. He claims it was
4 inadvertent, but, nonetheless, he said it happened three
5 or four months previous, and it had been bothering his
6 conscience, even though the family talked about it.

7 He asked his stepdaughter and his wife for
8 forgiveness. They acknowledged that they had given
9 their forgiveness, and they wanted to move on. And so
10 he confessed to this one-time touching.

11 Q. You used the word "inadvertent."

12 Was that Mr. Kendricks's word?

13 A. Yes. It was his words. Also, the daughter
14 confirmed it.

15 Q. When you say "the daughter," do you mean
16 Andrea, the stepdaughter?

17 A. Andrea, the stepdaughter, yes.

18 Q. And when you say she confirmed it, what do
19 you mean?

20 A. She acknowledged that in her mind it was
21 inadvertent. I think she used the word "accident." The
22 room was dark, he claims, when he walked in the room,
23 and she was lying on the couch.

24 Q. Did you believe that Mr. Kendrick was telling
25 you the truth when he said it was inadvertent?

1 A. No.

2 Q. Why not?

3 A. I don't think you can inadvertently do
4 something like that and not know that you are doing it.
5 And that's why we immediately classified this as child
6 abuse and took appropriate steps.

7 Q. If we could, let's look at your letter of
8 November 15, 1993, which is Exhibit 9/98.

9 All right. Let's look at page 2 of the
10 letter.

11 Do you see your signature at the bottom?

12 A. Yes.

13 Q. Is it normal that this type of letter to
14 Watchtower New York be signed by two elders?

15 A. It is now. Back there, one signature was
16 sufficient. But I did talk with Mr. Abrahamson before
17 we mailed it off and made sure I didn't leave anything
18 out.

19 Q. In your talking with Mr. Abrahamson, did you
20 actually show him the letter?

21 A. No. I read it to him over the phone.

22 Q. Okay. So he knew what was in it before it
23 went?

24 A. Yes.

25 Q. And did he disagree with you as to any of the

1 proposed language in the letter?

2 A. I don't recall any disagreement or I would
3 change it.

4 Q. Did you have to make any changes?

5 A. No.

6 Q. Let's go back to page 1.

7 Now, you told us a few minutes ago that you
8 did not believe Mr. Kendrick when he said it was
9 inadvertent.

10 Did you inform Watchtower New York that
11 Mr. Kendrick had not been truthful to you?

12 A. Well, we stated in the letter that we were
13 recommending his deletion as a ministerial servant.

14 And we also stated in the letter that he had
15 committed child abuse. So we felt that was
16 coincidental.

17 Q. But did you tell Watchtower New York in your
18 letter that Mr. Kendrick had not been truthful to you?

19 A. No. Not in those words, no.

20 Q. Did you see the words "inadvertent" or
21 "accidental" anywhere in the letter?

22 A. No.

23 Q. So was it important to you, at the time of
24 the meeting, that Mr. Kendrick had not been candid with
25 you about the full extent of what had happened?

1 A. It was important, yes, and that's why we
2 stated in the letter that we were recommending his
3 deletion -- no longer qualified. He had committed child
4 abuse. It was clear to us.

5 Q. But in your letter, you chose not to tell
6 Watchtower New York that he had lied to you in the
7 addition to the conduct that he had committed that he
8 did report?

9 THE WITNESS: Rephrase that again, please.

10 I'm not sure what you are asking.

11 BY MR. SIMMONS:

12 Q. You chose not to tell Watchtower New York
13 that Mr. Kendrick had not been truthful with you?

14 A. I don't know if I chose. I just didn't put
15 it in the letter. We felt that what we had in the
16 letter was sufficient.

17 Q. Did Mr. Kendrick express his repentance to
18 you?

19 A. Yes.

20 Q. And did you believe him?

21 A. Yes.

22 Q. And you knew from Awake Magazines and other
23 education that you had received that child sexual
24 abusers often give false statements of repentance.

25 A. Yes.

1 Q. So you knew he had lied to you, and you knew
2 child sex abusers give false statements of repentance.

3 Did you feel that Mr. Kendrick had given you
4 a false statement of repentance?

5 A. We believed him.

6 Q. Had Mr. Kendrick, in the past, exhibited
7 problems with his temper that you were aware of?

8 A. Yes.

9 Q. In what way?

10 A. Well, outbursts with his wife, Evelyn. They
11 argued a lot.

12 Q. And were you able to talk to Andrea
13 separately from the room that Mr. Kendrick was in?

14 A. No.

15 Q. Did you talk to Evelyn separately?

16 A. No. We all stayed at the kitchen table.

17 Q. Did you have the thought at that time that
18 perhaps you should talk to Andrea separately when Mr.
19 Kendrick, who you knew to have violent outbursts, was
20 not present?

21 A. No.

22 Q. Was Mr. Kendrick ever --

23 I will rephrase.

24 Did he ever exhibit that temper in any of the
25 Jehovah's Witnesses activities?

1 A. Not that I recall, no.

2 Q. So in all of the various meetings and field
3 service and everything else that you saw him in over the
4 course of several years, you have no recollection of him
5 ever exhibiting an outburst of temper?

6 A. No. Just what he had told us and his wife
7 had said had happened in the privacy of their home,
8 married couples arguing.

9 Q. Were you concerned that there was something
10 more to Mr. Kendrick, in terms of hiding that outburst
11 of temper that he was prone to at home, that he was not
12 all that he claimed to be, if you will, or all that he
13 presented to be, was the exact phrase, in the meetings?

14 A. I can't recall if I thought that or not. It
15 is so long ago.

16 Q. Back when Mr. Kendrick was recommended for
17 the position of ministerial servant, were you one of the
18 elders who supported that recommendation?

19 A. Yes.

20 Q. And is it true that in 1993, until this
21 report was received, you were considering him for the
22 position, and recommending him for the position of
23 elder?

24 A. We always look at ministerial servants and
25 hoping they will progress, develop in qualities needed

1 to be an overseer or elder. But we never recommended
2 him, no.

3 Q. But you did have the thought in mind, at
4 least until this meeting, that Mr. Kendrick was a
5 candidate for elder?

6 A. I don't know if I would go that far. Because
7 we have already mentioned that he was having marital
8 problems and arguments with his wife. So one of the
9 qualifications of being an elder is that they have to
10 preside over the family in a fine manner. And he was
11 having problems with his stepdaughter. He was not
12 following the rules.

13 Q. Did Andrea Kendrick tell you in this meeting
14 that Mr. Kendrick had touched her breast under the
15 clothes?

16 A. No.

17 Q. Did she tell you in this meeting that he had
18 placed his hand down into her pelvic area, again, under
19 her clothes?

20 A. No, sir.

21 Q. Did she tell you that he had given her
22 Vicodin before any of the touching had occurred?

23 A. Absolutely not, no.

24 Q. The congregation was never told that Mr.
25 Kendrick had committed an act of child sexual abuse.

1 Correct?

2 A. Correct.

3 Q. And parents -- as opposed to children might
4 be present -- but parents were not separately warned
5 that he had committed an act of child sex abuse?

6 A. No. We don't do that.

7 Q. And you don't do that because there is a
8 policy that Watchtower New York has provided to you and
9 provided to you before this that says that information
10 is not to be divulged to the congregations?

11 A. Yes. It is confidential, just like if a
12 person committed adultery and came to us and confessed
13 to adultery, and he was repentful or she was repentful,
14 we wouldn't get up at the next meeting and announce that
15 Mr. Smith has committed adultery.

16 That's confidential. That's privileged
17 information.

18 Q. You used the example of adultery. Is there
19 any difference in your mind between adultery between
20 consenting adults and childhood sexual abuse?

21 A. Oh, yes. Child abuse is abhorred, a horrible
22 act. And they are both sins in God's eyes. But on a
23 level -- you can't put them on the same level.

24 Q. Adults who may engage in an illicit
25 relationships, at least can make their own decisions and

1 enter into those relationships, whether they are sinful
2 or not, on their own.

3 A. Sure, yes. They are free agents, yes.

4 Q. But you knew that children are often unable
5 to protect themselves against childhood sexual abusers?

6 A. Yes.

7 Q. The policy that you refer to, which you call
8 confidential, that was a policy given to you as an elder
9 and the body of elders for the North Congregation in
10 Fremont in a letter from Watchtower New York. Correct?

11 A. Yes. It would come to us in the form of a
12 letter, yes.

13 Q. And if we were to look at Plaintiff's Exhibit
14 1, which is Defendant's 026 --

15 First of all, before we look at it, may it be
16 admitted into evidence?

17 MR. McCABE: We would agree with that, your
18 Honor.

19 MR. SCHNACK: Yes.

20 THE COURT: All right. Plaintiff's 1 is
21 admitted into evidence.

22 (Whereupon, Plaintiff's Exhibit Number 1
23 and Defendant's Exhibit Number 26
24 was admitted into evidence)

25 MR. SIMMONS: And for your copy, sir.

1 THE WITNESS: I'm not going to be able to see
2 that.

3 MR. SIMMONS: No, you are not.

4 BY MR. SIMMONS:

5 Q. Do you recognize this as a policy letter, if
6 you will, the body of elder letter with regard to
7 confidentiality?

8 A. Yes. It says on it "confidential."

9 Q. Now, this particular body of elder letter, do
10 you recall actually receiving it back in 1989?

11 A. Oh, yes.

12 Q. And it was discussed at that time within the
13 body of elders?

14 A. Yes. The whole body of elders was brought
15 together. It was read and discussed and filed.

16 Q. And when we are talking about the body of
17 elders, we are talking about the Fremont North
18 Congregation body of elders?

19 A. Yes.

20 Q. But you know from your own experience that
21 this directive of July 1, 1989 went out to every body of
22 elders in the entire country?

23 A. Yes.

24 Q. Let's go to the very last page.

25 Do you see the signature line?

1 A. Where it says "Your Brothers"?

2 Q. Yes.

3 A. Yes. Watchtower Bible and Tract Society?

4 Q. The document is signed, actually, by what we
5 will call, I guess, a corporate signature. Correct?

6 A. Sure.

7 Q. And that was typical of all of the
8 communications that you received from Watchtower New
9 York?

10 A. Correct.

11 Q. Whether they were bodies of elder letters or
12 whether they were individual letters having something to
13 do with a specific matter within your congregation, if
14 it came from New York, it was always signed by
15 Watchtower Bible and Tract Society New York, Inc.?

16 A. Yes.

17 Q. Did you ever know who the particular
18 individuals were who were sending you the letters?

19 A. No.

20 Q. Now, let's look at the first page of this.

21 And let's go down to the third paragraph.

22 I have highlighted a section. Perhaps we can
23 enlarge it.

24 "Improper use of the tongue by an

25 elder can result in serious legal problems for

1 the individual, the congregation and even the
2 society."

3 You knew back in 1989 and throughout the time
4 that this policy has been in effect, that the primary
5 purpose of this policy was to avoid serious legal
6 problems.

7 A. And to protect confidentiality of people.
8 Everybody wants to have their confidential matters
9 protected. So, yes, that is the purpose of the letter.
10 We don't want people suing us.

11 Q. And when you say, "We don't want people suing
12 us," are you talking about people who are suing you for
13 disclosing confidential information?

14 A. Yes.

15 Q. Is that the only kind of lawsuits that people
16 were worried about as you understood and talked about
17 this letter in 1989?

18 A. I don't recall. I don't recall what
19 conclusions we came to, other than what the letter talks
20 about. It talks about divulging information that could
21 lead to legal problems.

22 Q. But you knew that Mr. Kendrick's abuse of
23 Andrea was no longer confidential?

24 A. It is still confidential. She told us --
25 they told us in confidence. And Evelyn --

1 Mrs. Kendrick -- and both -- her stepdaughter said --
2 they wanted to keep it confidential. We respected that.

3 Q. They told you that in a meeting in which
4 there were five people?

5 A. Yes.

6 Q. And it is your recollection that Andrea and
7 Evelyn are the ones that asked for confidence?

8 A. Yes. My recollection, yes.

9 Q. Not Jonathan?

10 A. No. He was very quiet after he confessed.

11 Q. Okay. So the confidentiality that you needed
12 to protect was that of the victim, not of the
13 perpetrator?

14 A. Of course.

15 Q. So there was nothing about confidentiality
16 that would have been violated by telling the
17 congregation that Jonathan Kendrick had sexually abused
18 a child?

19 A. Anything that is discussed in a meeting like
20 this is confidential. It cannot be revealed. We can
21 only follow the law, and we can only follow these
22 procedures. If we go any further, we are opening
23 ourselves up to liability.

24 MR. SIMMONS: May I approach, your Honor?

25 THE COURT: You may.

1 (Sidebar discussion)

2 BY MR. SIMMONS:

3 Q. The next paragraph down:

4 "Worldly persons are quick to resort
5 to lawsuits if they feel their rights have
6 been violated. Some who oppose the kingdom
7 preaching work readily take advantage of any
8 legal provisions to interfere with it or
9 impede its progress."

10 Do you see that?

11 A. Yes.

12 Q. And do you understand that to be referring to
13 Andrea and Evelyn Kendrick?

14 A. No. It's referring to persons who are not
15 Jehovah's Witnesses.

16 Q. And so this basis for this policy is not
17 rooted solely in Jehovah's Witnesses, it's rooted in
18 people who are not Jehovah's Witnesses and the fact they
19 may bring lawsuits?

20 A. It is rooted in everyone, both Witnesses and
21 non-Witnesses. Even Witnesses may bring lawsuits.

22 Q. And it is rooted in a concern for lawsuits
23 because there would not be any confidential information
24 that you would obtain from non-Jehovah's Witnesses?

25 A. I don't understand your question.

1 Q. Thank you. It is a very bad question. I'll
2 rephrase it.

3 You are not receiving confidential
4 information from persons outside the faith?

5 A. We might in some circumstances. I can't
6 recall a case where we have ever received confidential
7 matters from outside sources. But it doesn't preclude
8 it could happen.

9 Q. And let's keep going a little bit. Let's go
10 on to page 2.

11 And let's look at the first highlighted
12 section.

13 "The spirit of the world has
14 sensitized people regarding their "legal
15 rights" and the legal means by which they can
16 expect punishment if such rights are violated.
17 Hence, a growing number of vindictive or
18 disgruntled ones as well as opposers have
19 initiated lawsuits to inflict financial
20 penalties on the individual, the congregation,
21 or the society. Many of these lawsuits are
22 the result of the misuse of the tongue."

23 And did you understand in 1989 that this was
24 talking about child sexual abuse?

25 A. No. I don't think it was precisely talking

1 about that. It's talking about all types of abuse of
2 the tongue and protecting confidentiality.

3 Q. And did you understand that persons who had
4 been abused as children -- sexually abused as
5 children -- in Jehovah's Witnesses, by someone who was
6 known to the Jehovah's Witnesses to have committed
7 sexual abuse before might bring such a lawsuit as this?

8 A. If I understand your question, yes, that
9 could definitely happen, yes.

10 Q. So the mandate of July 1, 1989, and when I
11 say "mandate," you had no discretion as an elder to
12 depart from this policy. Correct?

13 A. Correct.

14 Q. It was not up to you as an elder in North
15 Fremont to decide when to apply this policy and when not
16 to apply?

17 A. Correct.

18 Q. If there was any doubt in your mind, all of
19 the instructions came from New York?

20 A. Yes.

21 Q. And so it was your understanding then, and
22 remains your understanding now, that reports of
23 childhood sexual abuse within the congregation must be
24 kept secret, according to this policy?

25 A. Well, you used the word "secret." It is kept

1 confidential. We don't announce those things, but the
2 body of elders would become aware of it. They would all
3 be informed. So that's what we mean by keeping it
4 confidential. We didn't publicly make it known, but
5 just known to the body of elders.

6 Q. And the reason was to avoid lawsuits.

7 A. And also to protect confidentiality. Why
8 would anybody come to us with their problems if they
9 knew that as soon as they came to us we were going to
10 announce it? Why would anybody confess to a Catholic
11 priest if they knew that after they confessed it was
12 going to be announced at mass next week. It is
13 ludicrous.

14 So these were put in place so that the
15 friends would feel comfortable coming to us and we could
16 keep confidence.

17 Q. And all of your understanding of what had to
18 be kept in confidence, all of your understanding came
19 from Watchtower New York?

20 A. Yes. They gave us the guidelines.

21 Q. You, yourself, are -- no legal training.
22 Correct?

23 A. No.

24 Q. You do not presume to be passing on what is
25 or isn't confidential. Correct?

1 A. Excuse me?

2 Q. You weren't passing yourself on what is or
3 what isn't?

4 A. No. We weren't interpreting. Is that what
5 you meant?

6 Q. Yes. All of the decisions came from New
7 York?

8 A. Yes.

9 Q. And looking at page 3 at the top of the
10 correspondence, the body of elder letter, July 1, 1989,
11 the subject matters included in this were, among other
12 things, child abuse?

13 A. Child abuse, search warrants, subpoenas, you
14 name it, all sorts of parameters that confidentiality
15 has to be maintained.

16 MR. SIMMONS: No further questions. Thank
17 you.

18 THE COURT: Mr. McCabe?

19 MR. McCABE: Thank you, your Honor.

20

21 CROSS-EXAMINATION

22 BY MR. McCABE:

23 Q. Mr. Clarke, where do you live?

24 A. Fremont.

25 Q. How long have you lived in Fremont?

1 A. Thirty-five years.

2 Q. And where did you live before that?

3 A. San Leandro.

4 Q. Where did you go to high school?

5 A. Hayward -- a high school called Tennyson,
6 called Tennyson High School?

7 Q. Did you graduate from there?

8 A. Barely, yes.

9 Q. What year did you graduate?

10 A. Sixty-eight.

11 Q. Were you involved in any extracurricular
12 activities at the school?

13 A. Yeah. A little baseball.

14 Q. Did you play baseball?

15 A. Yeah, varsity ball, yes.

16 Q. Are you still a baseball fan?

17 A. Oh, yeah. Go A's.

18 Q. Do you ever get out to the park and attend
19 the games?

20 A. Oh, yeah, about three times a year, and I
21 watch it on TV all the time.

22 Q. Are you married, Mr. Clarke?

23 A. Yes.

24 Q. How long have you married?

25 A. Over 40 years.

1 Q. Okay.

2 A. Same woman too.

3 Q. What is your wife's name?

4 A. Catherine.

5 Q. Do you have children?

6 A. Three.

7 Q. How old are they?

8 A. My son is 40. I have two daughters, 38 and

9 36.

10 Q. What is your occupation?

11 A. I work for an electrical contractor, and I'm

12 a purchasing agent.

13 Q. And how long have you been there?

14 A. Sixteen years.

15 Q. And you were first appointed an elder before

16 you came to the North Fremont Congregation. Correct?

17 A. Yes.

18 Q. And what year was that?

19 A. I believe it was '77, '78.

20 Q. How does one get to be an elder in the

21 congregation of Jehovah's Witnesses?

22 A. First of all, they have to become a member, a

23 baptized member. And then they have to meet certain

24 scriptural qualifications that are in the Bible.

25 Things like presiding over their household in

1 a fine manner, having self-control. Then they develop
2 an art of teaching. So there is a whole list of
3 requirements there. And eventually, if you meet those
4 requirements, you would be recommended.

5 Q. And who would make the recommendation?

6 A. The body of elders that you are serving with.

7 Q. That would be in the congregation?

8 A. Yes. The congregation of body of elders.

9 Q. What congregation were you in when you were
10 recommended to be an elder?

11 A. San Leandro.

12 Q. And the recommendation goes to Watchtower?

13 A. Yes.

14 Q. And if they approve -- so now it's the
15 congregation --

16 A. Yes.

17 Q. Do you get any training as an elder?

18 A. Yes. We go to schools, we receive letters
19 and we receive the Watchtower and the Awake, which has a
20 lot of training for elders.

21 Q. How large is the congregation in Fremont?

22 A. If you put all the members and children
23 together, I think it is probably a hundred and forty.

24 Q. How many children currently attend, say,
25 under the age of 12?

1 A. It's probably 25 or 30.

2 Q. Was that true back in the 1990s?

3 A. I don't think we had quite that many children
4 back then. We have had quite a production of children
5 in the past few years.

6 Q. When you go to a meeting at the Kingdom Hall,
7 can tell us -- for instance for a Sunday, what happens?

8 A. Our meeting starts at 10:00. So about 9:30,
9 the members start driving in to attend, visiting in the
10 parking lot. And there is a lot of talking going on.
11 There is a lot of visiting. A lot of noise. Sometimes
12 you can't hear yourself think, especially with 25 kids
13 running around. There is music playing. Eventually the
14 chairman will call to order, and we will open with a
15 song.

16 Q. Is that followed by a prayer?

17 A. Yes. Song and opening prayer. And then on
18 Sunday, we have a talk that is given for 30 minutes.
19 And we refer to it as a public talk, because some of the
20 subjects deal with things that benefit both Witnesses
21 and the public. But mostly it is geared towards the
22 public. We hope new ones will come.

23 And then following that, we actually study
24 the Bible using our journal called the Watchtower. It
25 is questions and answers, and the whole audience can

1 participate by raising their hand, and we will give them
2 the microphone.

3 Q. And you also have another meeting that's held
4 during the week at the Kingdom Hall?

5 A. Yes. Ours is held on Wednesday. We actually
6 have three meetings that night that are each 30 minutes
7 long.

8 The first one is a Congregation Bible Study.
9 I think the term we referred to is it used to be held in
10 homes, but now is held at the Kingdom Hall. So that's
11 for 30 minutes.

12 And then after that, we actually have a
13 theocratic ministry school. We call it the school, but
14 anyone can be enrolled in it. And I've been giving
15 little talks in that since I was ten. And boys and
16 girls, men and women, they participate in it.

17 And then a third meeting is a called a
18 service meeting, which is designed to train us in
19 techniques to use in our door-to-door ministries.

20 So when we meet people at the door, we can
21 engage in conversations, tell them all about the
22 questions, share about the scripture. It is just
23 designed to help us to be more conversational.

24 Q. You also talked about another meeting that
25 was held in private homes for a time? When did that

1 meeting stop?

2 A. A couple, three years ago they made it in the
3 Kingdom Hall. We no longer have it in private homes.
4 It is called a Congregation Bible Study.

5 Q. Back in the mid-1990s, you had some of those
6 meetings in private homes?

7 A. Yes.

8 Q. Would you also have a similar meeting like
9 that in the Kingdom Hall?

10 A. Yes. And we didn't have enough locations to
11 go around, so we would sometimes have that at the --
12 they called it Congregation Bible Study, we had at the
13 Kingdom Hall. Mostly it was held in homes.

14 Q. And the meeting would be conducted by one of
15 the elders in the congregation. Is that correct?

16 A. Correct.

17 Q. Do you recall the Conti family being in the
18 congregation when you moved to North Fremont?

19 A. Yes. I think they were there. I can't say
20 for sure if they came after that -- I came in '89. They
21 might have come a year or so after or a year or so
22 before. It is not precise in my mind.

23 Q. Do you have a clear recollection of who was
24 in the family?

25 A. Who was in it?

1 Q. Yes.

2 A. Mr. Conti -- Neal; Catherine Conti; Candace;
3 and I believe they had a little Neal, or maybe it was
4 Catherine who had a son from a previous marriage. I
5 don't remember his name though.

6 Q. Did you socialize with the Conti family in
7 the mid-1990s?

8 A. Other than at the meetings, I don't recall.

9 Q. This meeting that you had with the Kendricks
10 at their home, that was in November of 1993?

11 A. Correct.

12 Q. And did you do anything to prepare for that
13 meeting?

14 A. Yes. We would look over articles regarding
15 abuse, and we also would look over scriptures that we
16 thought would be encouraging.

17 Q. Do you recall doing that in November of 1993?

18 A. I don't specifically recall, but it was my
19 habit. You just don't go to a meeting unprepared. So
20 he gave us the nature of what he was going to talk to us
21 about, even though he didn't give us specifics over the
22 phone. So we would go into our volumes, our index, and
23 look for articles that could help us in our
24 deliberation.

25 Q. Mr. Simons directed you to Plaintiff's Number

1 64, Defense Exhibit Number 37.

2 I think you have it there in front of you.

3 If I may approach, your Honor?

4 THE COURT: You may.

5 BY MR. McCABE:

6 Q. Do you see the date of publication of Exhibit
7 Number 37?

8 A. The date is October '93.

9 Q. October what?

10 A. Eighth. October 8.

11 Q. Do you recall in 1993 how you came in
12 possession of that magazine, if you did?

13 A. I would have had a subscription. Because at
14 that time, the Awake was mailed to the homes of
15 Jehovah's Witnesses. I was the subscriber for years.

16 Q. And during that time period, do you recall,
17 would you get the magazine on the date of its
18 publication or when would you receive it?

19 A. It usually came out a month -- or at least a
20 month ahead of time. So I probably got it early
21 September, late August.

22 Q. What was your custom and habit when you
23 received a magazine from Watchtower in the mail?

24 A. Well, read it immediately. We always looked
25 forward to receiving a new magazine, so I would

1 thoroughly read it.

2 Q. So as you sit here today, do you believe that
3 you read this magazine before you met with the Kendricks
4 in November of 1993?

5 A. Oh, no doubt. I have three children. In
6 those years my children were young, so this article
7 would be definitely be one we would read.

8 Q. And was the magazine also made available at
9 the Kingdom Hall?

10 A. Yes. For those that didn't subscribe, we
11 always had extra copies. And we also distributed these
12 to the public then and now, and so the public in our
13 community would get this magazine so they could protect
14 their children.

15 Q. When you met with the Kendricks, you
16 testified for Mr. Simons, Mr. Abrahamson opened with a
17 prayer, you have got your Bible.

18 Was there any dispute among the Kendricks
19 about what had taken place between Jonathan and Andrea?

20 A. None whatsoever. Once he confessed, he was
21 quiet and the discussion went on.

22 Q. Did Evelyn engage in the discussion? Did she
23 speak?

24 A. Yes, she did.

25 Q. Can you tell me what kind of personality

1 Evelyn had? Was she a quiet, mousy woman, or what would
2 you think?

3 A. No. She was very, very vocal. She could
4 express herself quite well.

5 Q. You mentioned that -- was it previous to
6 this, there had been some problems between the Kendricks
7 that came to your attention as marital difficulties that
8 they had been having?

9 A. Yes. They had violence, yelling. And they
10 asked us to come over to help them with that.

11 Q. On those occasions -- did you respond to
12 those calls?

13 A. Yes.

14 Q. And on those occasions, did Evelyn Kendrick
15 have any problem expressing herself?

16 A. Oh, no. No. She was much more vocal than
17 Mr. Kendrick.

18 Q. Now, you indicated that Mr. Kendrick called
19 his touching of his stepdaughter "inadvertent."

20 But you didn't believe that, did you?

21 A. No.

22 Q. What did you believe?

23 A. That he purposely touched her breasts.

24 Q. Was that clear from the conversation you had
25 around the kitchen table?

1 A. Yes.

2 Q. And because of that, you took certain actions
3 afterwards?

4 A. Yes. We advised our branch office and told
5 them our decision was to remove him as a ministerial
6 servant. And they immediately responded. They
7 confirmed our assessment. And it was announced that he
8 was no longer a ministerial servant.

9 Q. Now, during the course of the conversation
10 does anything about making a police report come up?

11 A. You mean about making a police report?

12 We told Evelyn and the stepdaughter that they
13 could make a police report.

14 Q. Did they indicate to you whether they wanted
15 to or not?

16 A. They said no.

17 Q. I would like to call your attention to page 9
18 of this exhibit.

19 Okay. The bottom here. I don't know if you
20 can see it on the copy in front of you. Page 9 of the
21 exhibit.

22 What is the indication from Watchtower here
23 about reporting incidents of sexual child abuse?

24 A. Are you referring to that (indicating)?

25 Which part?

1 Q. Referring to the highlight here.

2 A. This is all blacked out here.

3 Q. Well, can you read it on the screen as it is?

4 A. It says:

5 "Some legal experts advised to report
6 the abuse to the authorities as soon as
7 possible. In some lands, the legal system may
8 require this."

9 Q. Okay. Is that your understanding of the
10 situation in 1993, that individuals could report it to
11 the police if they wanted to?

12 A. Well, of course. Yeah. We would never tell
13 them not to report it.

14 Q. Is that what you communicated to Evelyn
15 Kendrick on this occasion of your meeting with her and
16 her daughter and Mr. Abrahamson and Mr. Kendrick?

17 A. Most assuredly, yes.

18 Q. Did you consider the matter of this meeting,
19 the subject matter of it, to be confidential?

20 A. Yes.

21 Q. Is there any religious reasons why you
22 considered it to be confidential?

23 MR. SIMMONS: Objection.

24 THE COURT: Overruled.

25 THE WITNESS: Could you repeat the question?

1 BY MR. McCABE:

2 Q. Yes. Were there any scriptural or religious
3 reasons why you considered the meeting at the Kendrick
4 home to be confidential?

5 A. Well, because it is a privileged conversation
6 between a member of the church and a minister;
7 therefore, it is confidential.

8 Q. And you felt, personally, that you should
9 keep the information confidential; is that correct?

10 A. I felt personal, based on my training and
11 also Evelyn -- Mrs. Kendricks's request.

12 Q. She asked you to keep it confidential?

13 A. Yes. She said it was a private matter. She
14 said that they had gotten beyond it. They had forgiven
15 Mr. Kendrick. It happened four months previous. It was
16 a one-time touching, and that he promised not to do it
17 again.

18 But we still considered it child abuse. So
19 that's why we took the action that we did. And that's
20 why the whole body of elders was made aware of this
21 action.

22 Q. Well, if they were made aware of it, how was
23 it confidential?

24 A. Because they are trained not to reveal
25 confidential matters, not even to their wives.

1 Q. So the matters that you learn of in your role
2 as an elder, confidential matters, you understand that
3 you can share it with other elders?

4 A. Only other elders, yes.

5 Q. Was that done in this case after the meeting
6 at the Kendrick home?

7 A. Yes. We would, as a body of elders, after we
8 got confirmation back from the branch that we were
9 removing him as a ministerial servant, we met as a body
10 of elders and it would have been explained why we were
11 removing Mr. Kendrick.

12 Q. And then that's exactly what happened to Mr.
13 Kendrick?

14 A. Exactly, yes.

15 Q. How long after the meeting at the Kendrick
16 home it was announced at the congregation that Mr.
17 Kendrick was no longer a ministerial servant, that he
18 had been removed?

19 A. I guess within -- we got the notice back
20 within 30 days. So I'm sure it was within 30 days. I'm
21 not quite sure of the exact date, but that is a fair
22 guess.

23 Q. Was the reason for the removal announced?

24 A. No. We don't announce the removal.

25 Q. Why not?

1 A. Confidential. We can't divulge such details.
2 Like I mentioned earlier, if somebody had committed
3 adultery, and they were an elder or a ministerial
4 servant, we would not announce the reason we were doing
5 it. We would only announce that they had been removed.
6 That, in and of itself, puts the congregation on notice.
7 It doesn't happen very often.

8 Q. When you say it doesn't happen very often,
9 how many years had you been in North Fremont
10 congregation?

11 A. Oh, twenty years since 1989.

12 Q. How many announcements of deletions of
13 ministerial servants in your congregation have been
14 made?

15 A. Oh, just maybe three. Two, three, four at
16 the most.

17 Q. Over a 20-year period?

18 A. Yes. That's not very many. It just doesn't
19 happen very often.

20 Q. Now, after you finished the meeting with the
21 body of elders, you authored the letter that went to
22 Watchtower; is that correct?

23 A. Excuse me?

24 Q. You authored a letter that was sent to
25 Watchtower from the body of elders; is that correct?

1 A. The 1993 letter?

2 Q. Yes. That's what I'm referring to.

3 A. That letter was sent immediately after we
4 talked to Kendrick.

5 Is that the letter you are referring to?

6 Q. I am referring to Exhibit 098 for the Defense
7 and 9 for the Plaintiff.

8 Do you have that letter in front of you?

9 A. What's the number again?

10 Q. It's going to be Number 9 in that book?

11 A. All the way to the front.

12 And is that the one on the screen?

13 Q. Yes.

14 A. Yes, that letter was authored the very next
15 day after we met with the Kendricks, withing the next
16 day or so.

17 Q. Let me ask you this: Before you authored
18 this letter, did you call the Legal Department at
19 Watchtower?

20 A. That morning. We met with the Kendricks that
21 evening. The next morning we called the branch. And
22 after that meeting we authored the letter. We didn't
23 sit on it.

24 Q. Is this letter a response to -- or further
25 follow-up with a phone call you made to Watchtower?

1 A. Yes. They asked us to put it in writing.

2 Q. What was the purpose of sending this letter
3 to Watchtower?

4 A. They asked for it to be written, confirming
5 in writing what we told them on the phone and what we
6 were requesting. And that's why we put it in writing.

7 Q. What was the important fact of this letter
8 that you needed to communicate?

9 A. That Mr. Kendrick was guilty of child abuse.

10 Q. The fact that he minimized it or lied about
11 it, the extent or the nature of it, was that an
12 important fact that you needed to communicate to the
13 Watchtower?

14 A. We felt the most important thing was that he
15 admitted to child abuse, that he touched his
16 stepdaughter in a sexual way.

17 Q. And you communicated that?

18 A. In a letter, yes.

19 Q. And Watchtower did respond to the letter and
20 he was removed as a ministerial servant?

21 A. Correct. And we announced that.

22 Q. Did you consider Jonathan Kendrick, then, to
23 be a child molester after this meeting with the family
24 in 1993?

25 A. Child molester?

1 Q. Yes.

2 A. Well, he abused his daughter. So, yes, he is
3 a child molester.

4 Q. And after removing him as a ministerial
5 servant to the congregation, did you take any other
6 action with regard to Mr. Kendrick and his activities in
7 the congregation?

8 A. Well, we informed, like I said, the body of
9 elders. So now we have, instead of two sets of eyes
10 watching him, we have twelve, thirteen sets of eyes
11 watching him.

12 Q. What do you mean "watching him"?

13 A. Well, when we had our congregation meetings,
14 when he turns up to go out to the door-to-door
15 evangelizing work, we are aware of what he has done and
16 we are watching him. We make sure that he doesn't get
17 too friendly to children. We make sure that he doesn't
18 show any affection to children, that he is not going to
19 come close to abusing a child again.

20 Q. In regards to the field ministry, did you
21 observe Mr. Kendrick go out into the door-to-door
22 activity following this November 1993 meeting?

23 A. Yes.

24 Q. To your knowledge, was he ever assigned to
25 work with a child?

1 A. Oh, absolutely not. That would be suicidal,
2 no.

3 Q. Who would he be assigned to work with?

4 A. He would work with another elder, another
5 adult.

6 Q. Did you ever see Mr. Kendrick, after this
7 November 1993 meeting, meet for field service and then
8 go out and accompany children?

9 A. No, sir.

10 Q. Would you have allowed it?

11 A. Absolutely not.

12 Q. Now, in regards to his activity in the
13 congregation, did you ever see Jonathan Kendrick, after
14 this November of 1993 meeting, being overly-friendly to
15 the children of the congregation?

16 A. No, sir. He would come to the meetings, very
17 quiet now, as he was before, and he would generally
18 always sit up against the aisleway against the wall.

19 Q. Did you ever see him hold Candace Conti on
20 his lap before a meeting?

21 A. No, I did not.

22 Q. Did you ever see him do that after a meeting?

23 A. No, sir.

24 Q. Did you ever see him do that during a
25 meeting?

1 A. No, I did not.

2 Q. Did you ever personally notice Mr. Kendrick
3 at the meetings at the Kingdom Hall?

4 A. Personally notice him?

5 Q. Yes.

6 A. Yes, I kept my eye on him.

7 Q. How about during the actual conduct of the
8 meetings, say, when the public talks would be?

9 A. Oh, yes, I would sometimes see him if I was
10 walking down the hall.

11 Q. What would you see with regards to Mr.
12 Kendrick?

13 A. Again, sitting by himself, because at that
14 time his wife Evelyn and stepdaughter weren't coming
15 with him. And he would pretty much sit by himself and
16 stay to himself.

17 Q. And this is what year?

18 A. '94, '95.

19 Q. Was Evelyn Kendrick a member of the
20 congregation in 1993?

21 A. Yes.

22 Q. And do you know how long she had been a
23 member of the congregation?

24 A. I can't say how long she was a member.

25 Q. Did you ever counsel Mr. Kendrick after this

1 November 1993 meeting about his conduct with children,
2 again, in the future?

3 A. No. Nothing every showed up that alerted us.

4 Q. Did you counsel him with his wife and his
5 stepdaughter Andrea present when you had the meeting?

6 A. The '93 meeting?

7 Q. Yes.

8 A. Yes, we were all there.

9 Q. What did you tell him?

10 A. We told him limitations as to what he could
11 and couldn't do.

12 He could not, like I said, show affection to
13 children, put children on his lap, work with them out in
14 the door-to-door ministry, work with children in the
15 Kingdom Hall.

16 And we made it clear to him that we were
17 going to be watching him. And we did, all, the whole
18 body of elders.

19 Q. What about counsel regarding his stepdaughter
20 Andrea when you had the meeting? Did you give any
21 counsel there?

22 A. Counsel to the daughter?

23 Q. No. With Mr. Kendrick about his conduct with
24 his stepdaughter, Andrea.

25 A. It would be all encompassing, we would have

1 counseled him regarding children in general, that he
2 needed to not put his stepdaughter on his lap if that
3 was the custom. He was not to show affection, and he
4 was to treat her with dignity.

5 Q. After that meeting, did you have any doubt
6 about the protection and safety of Andrea in the
7 Kendrick home?

8 A. No.

9 Q. Do you feel her mother, being aware of the
10 situation, was a good protection for her?

11 A. Oh, yeah. She was a protector and she was
12 the first line of defense.

13 Q. And how old was Andrea at the time of this
14 1993 meeting, if you recall?

15 A. Oh, she was a teenager. I want to say 15.

16 Q. Did you later learn that a police report was
17 made about this 1993 incident?

18 A. We found out about it years later. It wasn't
19 months later, but years later we found out that a police
20 report had been made. We assumed it had been made by
21 Mrs. Kendrick.

22 Q. How did you find that out?

23 A. I don't really recall. I just remember in
24 some document that we noted that.

25 Q. Did you know what happened as a result of the

1 police report?

2 A. There was something about him being put on
3 probation.

4 Q. Were you ever contacted by the Fremont Police
5 in connection with this case?

6 A. No.

7 Q. Were you contacted by Child Protective
8 Services of Alameda County regarding Mr. Kendrick?

9 A. No, sir.

10 Q. How about the Probation Department?

11 A. No. No contact at all from the authorities.

12 Q. Now, do you recall when Mr. Kendrick
13 separated from Mrs. Kendrick?

14 A. Not exactly. I would be giving you a guess.

15 Q. Was it real close in proximity to the meeting
16 that you had with the family in November 1993?

17 A. No. It was a couple years later. Maybe a
18 year-and-a-half later. I couldn't give you the exact
19 month.

20 Q. Do you know if, after they separated, who
21 stayed in the home in Fremont that they occupied
22 together?

23 A. I don't know who stayed or even if they kept
24 the home.

25 Q. Do you know where Mr. Kendrick next lived?

1 A. Where Mr. Kendrick lived?

2 Q. Yes.

3 A. I believe he was offered to stay in the
4 Francis home.

5 Q. Do you recall when that was?

6 A. I don't recall when, no.

7 Q. Do you know how long he lived there?

8 A. It was just a few months, if I'm not
9 mistaken. I don't think it was very long.

10 Q. Do you ever recall, after this 1993 meeting
11 at the Kendrick home, Candace Conti being given a big
12 bear hug by Jonathan Kendrick?

13 A. I never witnessed anything like that -- and
14 no one ever reported it.

15 Q. Do you ever recall seeing that happen out in
16 the parking lot of the Kingdom Hall?

17 A. No.

18 Q. Do you recall seeing that anywhere?

19 A. No, sir.

20 Q. And following this 1993 meeting, did you ever
21 see Candace Conti leave the Kingdom Hall premises with
22 Jonathan Kendrick?

23 A. By themselves? No.

24 Q. Did you ever see him leaving with somebody
25 else?

1 A. No.

2 Q. Did anyone ever report that to you that they
3 saw Jonathan Kendrick with Candace Conti alone in a
4 vehicle?

5 A. No, sir.

6 Q. Do you know what kind of vehicle Jonathan
7 Kendrick had in 1993, 1994, 1995?

8 A. Some kind of a truck.

9 Q. Was it a pickup truck or a van or what?

10 A. No. It was a pickup truck. He was an iron
11 worker.

12 Q. Why do you have a confidentiality among the
13 body of elders in the congregation matters?

14 A. Well, as I mentioned earlier, they have to be
15 comfortable coming to us to talk with us about their
16 problems so we can offer them scriptural help, spiritual
17 guidance. If they feel that we are going to blab it to
18 our wives or to announce it from the platform, we
19 wouldn't get too many people coming to us. So
20 confidentiality is important for a minister.

21 Q. Do you think there is any scriptural basis
22 for your maintaining confidentiality of certain matters?

23 MR. SIMMONS: Objection; that asks for expert
24 opinion.

25 THE COURT: Sustained.

1 BY MR. McCABE:

2 Q. I want to direct your attention to
3 Plaintiff's Exhibit 1, Defendant's Exhibit 26, which is
4 in front of you, I think it is Number 1.

5 A. Number 1?

6 Q. The July 1, 1989 letter.

7 THE COURT: Okay. Counsel, I thought you
8 said Plaintiff's 1 and Defendant's 26.

9 MR. McCABE: That's what I thought, your
10 Honor.

11 THE COURT: And what I'm looking at in my
12 book is twelve bodies of elders in the United States,
13 July 1, '89.

14 MR. McCABE: Correct.

15 THE COURT: Is that what you want?

16 MR. McCABE: Yes, sir.

17 THE COURT: Okay.

18 BY MR. McCABE:

19 Q. You told Mr. Simons you recall this letter?

20 A. Yes.

21 Q. What is the subject matter of this letter?

22 A. The maintaining of confidentiality.

23 Q. How much of this letter has to do with child
24 abuse?

25 A. I believe it's just one small paragraph,

1 paragraph B on page 3.

2 Q. I would like to direct your attention to that
3 paragraph B on page 3.

4 Do you have that in front of you?

5 A. Yes, sir.

6 Q. Okay. And what is the direction and policy
7 that is given by Watchtower in connection with child
8 abuse in this letter?

9 A. It says that when elders receive reports of
10 physical or sexual abuse of a child, they should contact
11 the Society's Legal Department immediately.

12 Q. What other direction does it give bodies of
13 elders in this paragraph?

14 A. It says that they should see this Awake
15 article January 22, 1985.

16 Q. Anything else?

17 A. Victims of such abuse need to be protected
18 from further danger. So, yes, we have to take quick
19 action to protect.

20 Q. And is that something you agreed with back in
21 1983?

22 A. Of course, yes.

23 Q. And through 1995, '96 and '97?

24 A. Right up to today, yes.

25 Q. It also mentions a lot of other situations on

1 this six-page letter having to do with lawsuits.

2 Do you recall what was going on during the
3 late 1880s (sic) in society that prompted this letter?

4 THE WITNESS: I think the letter mentioned in
5 the opening that there was a proliferation of lawsuits
6 popping up everywhere.

7 THE COURT: You said the "1880s."

8 MR. McCABE: I'm sorry. Sir, I meant 1980s.

9 BY MR. McCABE:

10 Q. I notice in the first page of the second
11 paragraph, there are two scriptures cited; is that
12 correct?

13 A. First page.

14 Q. First page, second paragraph.

15 A. July 1st, 1989?

16 Q. That's correct.

17 A. How about the third paragraph?

18 Q. No. I'm thinking of the second paragraph.

19 A. "Jesus commanded that what you hear
20 whispered, preach from the housetops."

21 Q. Yes. That's scripture, isn't it?

22 A. Yes.

23 Q. And there's another scripture, Acts 4:20 in
24 the same paragraph.

25 A. "We cannot stop speaking about the things we

1 have seen and heard."

2 Q. And then the third paragraph, there is a
3 reference to Ecclesiastes 3:7. Do you know what that
4 says?

5 A. It says, "There is a time to keep quiet and
6 there is a time to speak."

7 Q. And, in fact, in every paragraph on this page
8 there is scriptures; is that correct?

9 A. Oh, yes.

10 Q. And the reference on page 3 to child abuse,
11 it references you to the Awake Magazine of January 22,
12 1985.

13 A. Yes.

14 Q. That has previously been admitted as
15 Plaintiff's Number 59 and Defense Number 17.

16 Do you recall that issue of the Awake
17 Magazine?

18 A. If I ever get there, I might, if I read it.

19 Q. Okay. You probably have it in front of you.
20 But we can put it on the screen too. It would be
21 Exhibit Number 17 in that book. It is on the screen
22 now.

23 A. Yes. "Child molester: You can protect your
24 child."

25 But I don't have it here in this book.

1 MR. McCABE: May I approach, your Honor?

2 THE COURT: Why don't you go another five
3 minutes.

4 BY MR. McCABE:

5 Q. Let's go to page 3 of this exhibit. And you
6 see the section that is highlighted under the
7 sub-heading there?

8 A. If he makes it bigger, I might.

9 Yes, I see it now.

10 Q. What does the Watchtower Bible and Tract
11 Society acknowledge in this paragraph about the plague
12 of child abuse?

13 A. That it is everywhere, it's widespread, yes.

14 Q. And this was in 1985?

15 A. Yes.

16 Q. And if you go over to the next page, "Child
17 molesting. Who would do such a thing?"

18 Who were the people that are described as
19 being perpetrators of child abuse in this article?

20 A. Well, in that second paragraph it says that
21 this woman, Sue, was molested by a man who was running a
22 church group.

23 So it could be someone in a church group, a
24 youth group. It could be a boy scout leader. It could
25 be anyone.

1 Q. And you knew that?

2 A. Yes.

3 Q. And that helped you protect your children
4 when you ponder those things?

5 A. Yes, these magazines have been invaluable for
6 years to my family and others.

7 Q. I'd like to go to the next page.

8 And where it says "Molester at work here."

9 Do you recall the information that is in this
10 about the techniques that child molesters will use?

11 A. Yes. Several of the articles have mentioned
12 that molesters, many times, will offer, like, a present
13 or something to the child to get their affection or to
14 make the child feel comfortable around them.

15 Other times, they will tell the child, "Let's
16 have a secret together. It will just be our secret."

17 And sometimes they use actual fear tactics
18 where they threaten the child.

19 So these articles would help put myself and
20 other parents on alert what to look for.

21 Q. And as an elder back in 1993, after Mr.
22 Kendrick confessed to sexually touching his
23 stepdaughter, were you looking for these kind of
24 activities with Mr. Kendrick?

25 A. Oh, yes. We discussed those with the body of

1 elders and went over this article, the '93 article, it
2 would help all the elders to be on alert to look for
3 things.

4 Q. And after November of 1993, did you see Mr.
5 Kendrick exhibit any of these characteristics of a child
6 molester in the congregation of Jehovah's Witnesses?

7 A. No, I did not.

8 Q. Okay. Let's go to one more page. And that's
9 the next page.

10 "Child molesting: You can protect your
11 child."

12 In the Jehovah's Witnesses faith, in your
13 congregation, who was this information directed to?

14 A. Excuse me?

15 Q. Who was this information directed to here?

16 A. It is directed to parents as to -- it is to
17 forewarn the parents.

18 Q. And is that who you believe had the
19 responsibility for protecting their children?

20 A. Well, they are the first line of defense. If
21 we can help the parents to know what to look for and
22 what situation not to put their children in, that goes a
23 long way in protecting the children.

24 Q. And just so we are clear, you are not the
25 only -- the elders are not the only ones who get these

1 magazines in the mail. You can pick them up at the
2 Kingdom Hall?

3 A. Everybody gets these. Every member of every
4 congregation gets them. We distribute them to the
5 public as a community service. We want the children
6 protected, both inside our congregation and outside our
7 congregation.

8 MR. McCABE: Would this be an appropriate
9 place to adjourn?

10 THE COURT: I think so.

11 All right. We will start again in the
12 morning promptly at 8:30.

13 To the members of the jury, thank you for
14 your patience, your diligence.

15 I'm presuming they know where their abode is?

16 COURT ATTENDANT: That's correct, your Honor.

17 THE COURT: All right. What do you think?

18 Okay. And then again, I'm going to ask you
19 and reiterate several things. One, I'm making rulings
20 consistently throughout this trial because of the nature
21 of the circumstances. So please do not come in the
22 courtroom until, let's say, 8:25. I will be -- I'm
23 sure -- huddling with the counsel starting at
24 8:00 o'clock.

25 Please, other than the collegial "good

1 morning" or "good afternoon" or "good -- I'm not sure we
2 will get to "good evening," please do not discuss this
3 matter with anyone.

4 And further, certainly -- let's see,
5 internet, LinkedIn, Facebook, Twitter, handheld device,
6 nothing about the case.

7 Thank you, as always, for your attention and
8 your commitment to this matter. See you tomorrow
9 morning at 8:30.

10 (Whereupon, the following proceedings
11 were heard outside the presence of jurors)

12 THE COURT: To the extent we have any further
13 redaction-type issues or whatnot, please email me. But
14 I probably won't see them until 6:30 tomorrow morning.

15 I do want to get on the record, we were a
16 little informal about that one document where I made a
17 ruling as to Number 4, 5, essentially being religious
18 activity and discipline.

19 And, again, I'm having a bit -- although I'm
20 getting pretty much on board with your joint exhibit
21 binder, I wanted to take care of that on the record and
22 anything else you wanted to take care of on the record
23 at 8:00 o'clock tomorrow morning.

24 MR. McCABE: May we inquire of Mr. Simons who
25 he intends to call tomorrow morning?

1 THE COURT: Yes. Mr. Simons in terms of the
2 rules of court of this department, whom are you calling
3 tomorrow?

4 MR. SIMMONS: We are going to finish with Mr.
5 Clarke. We hope.

6 And then we have Evelyn Kendrick and Andrea
7 Becerra, Claudia Francis, Kathleen Conti, Dorothy Conti
8 and, hopefully, we will get to Cliff Williams and Mr.
9 Lamerdin, but that might be somewhat --

10 THE COURT: Well, I made a series of rulings
11 as to some of those folks, not all of them. Seems like
12 it is going to be an active day in Department 22, and it
13 is what it is. Just be ready to go. I'll be ready to
14 go, and we will go.

15 (Proceedings were adjourned at 2:58 p.m.)

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REPORTER'S CERTIFICATE

I, KATHRYN LLOYD, CSR No. 5955, Certified Shorthand Reporter, certify:

That the foregoing proceedings were taken before me at the time and place therein set forth, at which time the witnesses were put under oath by the court clerk;

That the testimony of the witnesses, the questions propounded, and all objections and statements made at the time of the examination were recorded stenographically by me and were thereafter transcribed;

That the foregoing is a true and correct transcript of my shorthand notes so taken.

I further certify that I am not a relative or employee of any attorney of the parties, nor financially interested in the action.

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

Dated this ____ day of _____, 2012.

KATHRYN LLOYD, CSR No. 5955