

Secrets of
Pedophilia
in an.
American
Religion

Jehovah's Witnesses in Crisis

BARBARA ANDERSON

Court Documents

Kaleena et al

vs

Jehovah's Witnesses

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**CASE # CIV20600 (POLK COUNTY) AND 03-2368C/B (SMITH COUNTY)
DISTRICT COURT OF THE STATE OF TEXAS
FOR THE COUNTY OF SMITH**

Filed: April 25, 2003

**KALEENA S, Individually and as Next Friend of AMANDA M, a minor
Plaintiffs**

vs.

**WATCHTOWER BIBLE AND TRACT SOCIETY OF NEW YORK, INC.,
JEHOVAH'S WITNESSES – EAST CONGREGATION, JEHOVAH'S
WITNESSES – WHITE HOUSE CONGREGATION, WATCHTOWER BIBLE
AND TRACT SOCIETY OF PENNSYLVANIA, INC., ET AL. JAMES HARVEY
Defendants.**

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No. CIU20600

KALEENA S, Individually and as
Next Friend of AMANDA M, a minor
Plaintiffs

vs.

WATCHTOWER BIBLE AND TRACT §
SOCIETY OF NEW YORK, INC., §
JEHOVAH'S WITNESSES §
SOUTH CONGREGATION, JEHOVAH'S §
WITNESSES - EAST CONGREGATION, §
JEHOVAH'S WITNESSES - WHITE HOUSE §
CONGREGATION, WATCHTOWER §
BIBLE AND TRACT SOCIETY OF §
PENNSYLVANIA, INC., WATCHTOWER §
ENTERPRISES, L.L.C., WATCHTOWER §
FOUNDATION, INC., WATCHTOWER §
ASSOCIATES, LTD., KINGDOM SUPPORT §
SERVICES, INC., CHRISTIAN §
CONGREGATION OF JEHOVAH'S §
WITNESSES, RELIGIOUS ORDER OF §
JEHOVAH'S WITNESSES, JAMES §
HARVEY §
Defendants.

IN THE DISTRICT COURT OF
POLK COUNTY, TEXAS

411 JUDICIAL DISTRICT

Jury Trial Requested

FILED
JUN 25 2003
POLK COUNTY, TEXAS
2003 JUN 25 PM 3:27

PLAINTIFFS' ORIGINAL PETITION

COME NOW KALEENA S, Individually and As Next Friend of AMANDA M, a Minor, Plaintiffs in the above-numbered and entitled cause, and file this their Original Petition, and as grounds therefore would show unto this Honorable Court and Jury as follows:

I.
PARTIES

1. Plaintiffs KALEENA S and AMANDA M, a minor, are both residents of Texas.
2. Defendant WATCHTOWER BIBLE AND TRACT SOCIETY OF NEW YORK, INC., a corporation organized and existing under the laws of the State of New York, with offices at 25 Columbia Heights, Brooklyn, New York 11201-2483, has conducted business within the State of Texas through its agents and alter egos and may be served with process through its registered agent Mr. Tad Curtis, 702 Orland Blvd, Austin, Texas 78745-2144.

3. Defendant JEHOVAH'S WITNESSES – SOUTH CONGREGATION may be served with process at its offices at Kingdom Hall Building, 13194 State Hwy.155 South, Tyler, Texas 75703-6549.

4. Defendant JEHOVAH'S WITNESSES – EAST CONGREGATION may be served with process at its offices at Kingdom Hall Building, 8942 Hwy 64 East, Tyler, Texas 75701.

5. Defendant JEHOVAH'S WITNESSES –WHITE HOUSE CONGREGATION may be served with process at its offices at Kingdom Hall Building, 102 Hagan Road, White House, Texas 75791.

6. Defendant WATCHTOWER BIBLE AND TRACT SOCIETY OF PENNSYLVANIA, INC., a corporation organized and existing under the laws of the State of Pennsylvania, has conducted business within the State of Texas through its agents and alter egos. Said Defendant has not designated or maintained a registered agent for service of process in Texas. Pursuant to Tex. Bus. Corp. Act § 8.10(B), this Defendant may be served with process by serving the Texas Secretary of State who should mail a copy of the process by registered or certified mail to the Defendant's offices located at 1630 Spring Run Road Extension, Coraopolis, Pennsylvania 15108.

7. Defendant WATCHTOWER ENTERPRISES, INC., a limited liability company organized and existing under the laws of the State of New York, has conducted business within the State of Texas through its agents and alter egos. Said Defendant has not designated or maintained a registered agent for service of process in Texas. Pursuant to Tex. R. Civ. S. art.

1528n, art. 2.08(B), this Defendant may be served with process by serving the Texas Secretary of State who should mail a copy of the process by registered or certified mail to the Defendant's offices located at 25 Columbia Heights, Brooklyn, New York 11201.

8. Defendant WATCHTOWER FOUNDATION, INC., a corporation organized and existing under the laws of the State of New York, has conducted business within the State of Texas through its agents and alter egos. Said Defendant has not designated or maintained a registered agent for service of process in Texas. Pursuant to Tex. Bus. Corp. Act § 8.10(B), this Defendant may be served with process by serving the Texas Secretary of State who should mail a copy of the process by registered or certified mail to the Defendant's offices located at 25 Columbia Heights, Brooklyn, New York 11201.

9. Defendant WATCHTOWER ASSOCIATES, LTD., a corporation organized and existing under the laws of the State of New York, has conducted business within the State of Texas through its agents and alter egos. Said Defendant has not designated or maintained a registered agent for service of process in Texas. Pursuant to Tex. Bus. Corp. Act § 8.10(B), this Defendant may be served with process by serving the Texas Secretary of State who should mail a copy of the process by registered or certified mail to the Defendant's offices located at 147 Holiday Drive, Westbury, New York 11797.

10. Defendant KINGDOM SUPPORT SERVICES, INC., a corporation organized and existing under the laws of the State of New York, has conducted business within the State of Texas through its agents and alter egos. Said Defendant has not designated or maintained a registered agent for service of process in Texas. Pursuant to Tex. Bus. Corp. Act § 8.10(B), this

Defendant may be served with process by serving the Texas Secretary of State who should mail a copy of the process by registered or certified mail to the Defendant's offices located at 98 Montague Street, Brooklyn, New York 11201.

11. Defendant CHRISTIAN CONGREGATION OF JEHOVAH'S WITNESSES, a corporation organized and existing under the laws of the State of New York, has conducted business within the State of Texas through its agents and alter egos. Said Defendant has not designated or maintained a registered agent for service of process in Texas. Pursuant to Tex. Bus. Corp. Act § 8.10(B), this Defendant may be served with process by serving the Texas Secretary of State who should mail a copy of the process by registered or certified mail to the Defendant's offices located at 100 Watchtower Drive, Patterson, New York 12563-9204.

12. Defendant RELIGIOUS ORDER OF JEHOVAH'S WITNESSES, a corporation organized and existing under the laws of the State of New York, has conducted business within the State of Texas through its agents and alter egos. Said Defendant has not designated or maintained a registered agent for service of process in Texas. Pursuant to Tex. Bus. Corp. Act § 8.10(B), this Defendant may be served with process by serving the Texas Secretary of State who should mail a copy of the process by registered or certified mail to the Defendant's offices located at 25 Columbia Heights, Brooklyn, New York 11201-2483.

13. Defendant JAMES HARVEY is a resident of the Polansky Unit of the Texas Department of Criminal Justice in Livingston, Polk County, Texas. Said Defendant has not designated or maintained a registered agent for service of process in Texas. Said Defendant may be served with process by constable at the POLANSKY UNIT of the Texas Department of

Criminal Justice, 3872 F.M. 350 South, Livingston, Texas 77351 .

14. The Defendant entities are collectively referred to herein as the "WATCHTOWER DEFENDANTS" because each is the alter ego of each other and operate as a single business enterprise.

II.

JURISDICTION AND VENUE

15. Plaintiffs have been damaged in an amount exceeding the minimum jurisdictional levels of this court.

16. Venue is proper in Polk County, Texas because Defendant JAMES HARVEY resides in Polk County, Texas.

III.

SUMMARY OF FACTS

A. WATCHTOWER DEFENDANTS' ORGANIZATION AND CHAIN OF COMMAND

17. The WATCHTOWER DEFENDANTS' organization has a hierarchical structure in which the GOVERNING BODY sits at the top of a strict chain of command that extends over each individual and Defendant entity in the organization. These individuals and entities act as agents, servants and alter egos of each other. Authority for any actions by the organization or its members must derive from the GOVERNING BODY, which has absolute authority over every person and all matters in the organization and its worldwide operations. The GOVERNING BODY is a small group of men who operate out of various entities within the hierarchical structure.

18. All of the Defendants are the agents and servants of each other and are vicariously

liable for each other's acts. The WATCHTOWER DEFENDANTS are so organized and controlled and their affairs are so conducted that they are alter egos of each other and operate as a single business enterprise.

B. VICARIOUS LIABILITY OF THE WATCHTOWER DEFENDANTS

19. Through its hierarchical structure, the WATCHTOWER DEFENDANTS assume complete responsibility for the development, protection and discipline of its membership, especially the children of members. All male members, whether Elders, Ministerial Servants, Pioneers and/or Publishers, are appointed and empowered by the GOVERNING BODY to carry out this responsibility.

20. To further their goals, the WATCHTOWER DEFENDANTS authorize male members to develop relationships of trust with women, children and families and to assume the role of counselor and advocate for any problems that might arise, including claims of child abuse. It is the responsibility of the Elders and those higher up in the chain of command, all the way up to the GOVERNING BODY, to decide if abuse has occurred and how it should be handled.

21. At all material times, the WATCHTOWER DEFENDANTS have prohibited the victim and/or accuser from warning others or speaking about the matter to anyone under penalty of discipline. Victim/accusers are not permitted to report suspected abuse to outside authorities or to other Publishers within the organization, despite secular laws and duties regarding the reporting of sexual abuse. Violation of this policy can lead to severe sanctions.

C. JAMES HARVEY

22. Beginning in 1990 or before, Defendant JAMES HARVEY was a leader in good standing with the WATCHTOWER DEFENDANTS through Defendant JEHOVAH'S

WITNESSES - SOUTH CONGREGATION. As their agent, the WATCHTOWER DEFENDANTS vested Defendant JAMES HARVEY with supervisory authority and control over children in the congregation.

23. In 1991, the WATCHTOWER DEFENDANTS learned that Defendant JAMES HARVEY had admittedly used his position of authority to sexually abuse an 8-year-old girl in the Defendant JEHOVAH'S WITNESSES - SOUTH CONGREGATION. Despite this admission, the WATCHTOWER DEFENDANTS did not report the abuse to authorities or warn other members of the organization of Defendant JAMES HARVEY'S propensities to use his position of authority to abuse children. Instead, they continued to place him in positions of supervisory authority and control over children.

24. In 1992, the WATCHTOWER DEFENDANTS transferred Defendant JAMES HARVEY from Defendant JEHOVAH'S WITNESSES - SOUTH CONGREGATION to work as their agent in two other congregations, Defendants JEHOVAH'S WITNESSES - EAST CONGREGATION and JEHOVAH'S WITNESSES - WHITE HOUSE CONGREGATION.

Despite notice of Defendant JAMES HARVEY'S propensities to use his position with the WATCHTOWER DEFENDANTS to gain access to and abuse young girls, the WATCHTOWER DEFENDANTS presented him to these congregations as a Publisher in good standing where he was placed in leadership roles with supervisory authority and control over children in the organization. Forseeably, this sexual predator used his leadership position with the WATCHTOWER DEFENDANTS to abuse other children. Two of these children were Plaintiffs, KALEENA S and AMANDA M.

25. In 1996, the WATCHTOWER DEFENDANTS were again notified that Defendant JAMES HARVEY was using his leadership position of trust and authority in the WATCHTOWER DEFENDANTS' organization to abuse young girls. Nevertheless, the WATCHTOWER DEFENDANTS did nothing to warn members and their families or to otherwise report the abuse to authorities. Instead, they knowingly concealed this information and continued to allow him unfettered access to his victims by placing him in positions with supervisory authority and control over children.

26. Beginning in 1995 and continuing through at least 1998, Defendant JAMES HARVEY used his leadership position of trust and authority in the WATCHTOWER DEFENDANTS' organization to sexually abuse Plaintiff AMANDA M who was approximately 8 years old when the abuse began. Beginning in 1996 and continuing through at least 1998, Defendant JAMES HARVEY used his leadership position of trust and authority in the WATCHTOWER DEFENDANTS' organization to sexually abuse Plaintiff, KALEENA S.

27. Not until 1998, after Plaintiff KALEENA S reported the ongoing abuse to the police did the WATCHTOWER DEFENDANTS take any action against Defendant JAMES HARVEY. Of course such action came too late for Plaintiffs KALEENA S and AMANDA M.

28. On November 1, 2002, Defendant JAMES HARVEY pled guilty to the sexual abuse of Plaintiff KALEENA S and was sentenced to life imprisonment. The evidence at trial, revealed a number of victims over a twenty-year period.

29. For at least a decade, the WATCHTOWER DEFENDANTS knew or should have known that Defendant JAMES HARVEY was sexually molesting and physically abusing young

girls within the WATCHTOWER DEFENDANTS' organization. Nevertheless, the WATCHTOWER DEFENDANTS continued to place him in leadership positions with supervisory authority and control over children, entrusting him with the welfare of numerous young girls in the WATCHTOWER DEFENDANTS' local congregations, whom he sexually molested. The WATCHTOWER DEFENDANTS failed to notify anyone that Defendant JAMES HARVEY was molesting or had sexually molested young girls. They further failed to take appropriate steps to protect these young victims from his abuse. Instead, they knowingly concealed this information from Plaintiffs and others. By their conduct, the WATCHTOWER DEFENDANTS aided, abetted and ratified the abuse.

30. Defendant JAMES HARVEY used the authority of his leadership position as an agent of the WATCHTOWER DEFENDANTS' organization to sexually abuse Plaintiffs KALEENA S and AMANDA M. The WATCHTOWER DEFENDANTS directly and vicariously caused foreseeable harm to Plaintiff KALEENA S and AMANDA M by, among other things:

- a. aiding, abetting and ratifying the abuse of children by Publishers and Elders;
- b. blaming, humiliating, sanctioning and/or disciplining victims/accusers of sexual abuse instead of the perpetrators;
- c. negligently failing to report such sexual abuse, including the abuse by Defendant JAMES HARVEY, to law enforcement and governmental child welfare agencies and requiring that Publishers not make such report
- d. negligently failing to warn Plaintiffs, their families, and others of the risk of Defendant JAMES HARVEY'S abuse after they knew or should have known of Defendant JAMES HARVEY'S propensities to use his position of leadership to engage in acts of sexual abuse;

- e. negligently failing to train its Elders, volunteers, appointed overseers and other associated individuals to prevent, identify, investigate, respond to or report child abuse;
- f. negligently failing to adopt adequate policies and procedures for the protection of children and other publishers and/or to implement and comply with such procedures that did exist;
- g. failing to properly investigate matters brought to the WATCHTOWER DEFENDANTS' attention involving child sexual abuse and/or suspicions of child sexual abuse;
- h. negligently allowing Defendant JAMES HARVEY to move between congregations as a Publisher in good standing after the WATCHTOWER DEFENDANTS knew or should have known of his propensities to use his position of leadership to engage in acts of sexual abuse of children;
- i. negligently failing to provide child abuse victims and their families with any assistance in coping with the trauma of abuse and preventing Plaintiffs and their families from reporting the abuse to outside authorities and obtaining outside help to deal with the trauma of abuse.
- j. concealing from Plaintiffs and their families that the WATCHTOWER DEFENDANTS had information that Defendant JAMES HARVEY was abusing young children;
- k. negligently failing to undertake a sexual offender evaluation, provide sexual offender treatment and/or obtain psychiatric evaluation and treatment of Defendant JAMES HARVEY after they knew or should have known of his propensities to use his position of leadership to engage in acts of sexual abuse;
- l. negligently failing to properly supervise Defendant JAMES HARVEY as a leader in the organization or to monitor his activities after they knew or should have known of his propensities to use his agency position of leadership to engage in acts of sexual abuse.

IV.
CAUSES OF ACTION

COUNT I
SEXUAL BATTERY AND RESPONDEAT SUPERIOR

31. For a number of years, beginning in about 1995, as an agent and alter ego of the WATCHTOWER DEFENDANTS, Defendant JAMES HARVEY repeatedly committed sexual battery upon the persons of the Plaintiffs, KALEENA S and AMANDA M in the State of Texas. Each of the WATCHTOWER DEFENDANTS was in the chain of command and acted pursuant to the authority granted to them as agents and the alter ego of the GOVERNING BODY and each other, utilizing such leadership and authority to carry out and/or aid, abet and ratify the sexual abuse of Plaintiffs. The WATCHTOWER DEFENDANTS are therefore liable for the sexual battery of Plaintiffs under the legal theory of *respondeat superior*.

COUNT II
COMMON-LAW NEGLIGENCE

32. At all material times, WATCHTOWER DEFENDANTS assumed a duty to protect Plaintiffs from sexual predators within the WATCHTOWER DEFENDANTS' organization. The WATCHTOWER DEFENDANTS further knew or should have known that Plaintiffs were at risk of foreseeable harm by Defendant JAMES HARVEY, but failed to act to protect them from said harm. The WATCHTOWER DEFENDANTS breached their duty to the great harm of Plaintiffs.

33. As a direct result of the negligent conduct of the WATCHTOWER DEFENDANTS, Plaintiffs have suffered the injuries and damages described herein.

COUNT III
NEGLIGENT HIRING, RETENTION AND SUPERVISION

34. At all material times, the WATCHTOWER DEFENDANTS knew or should have known of Defendant JAMES HARVEY'S propensities to use his position as a leader in the Watchtower organization to engage in acts of sexual abuse. The WATCHTOWER DEFENDANTS failed to adequately investigate, discipline, evaluate, treat, supervise and otherwise monitor the conduct of Defendant JAMES HARVEY who was their agent and under their control. They therefore negligently hired, retained and supervised Defendant JAMES HARVEY in the organization at a time when they knew or should have known of his propensities to use his position of leadership to engage in acts of sexual abuse against Plaintiffs and other young children. The WATCHTOWER DEFENDANTS also negligently hired, retained and supervised the Elders of the local congregations with respect to the investigation, reporting and care of victims of child abuse within their organization. As a result, Plaintiffs have suffered grave harm.

COUNT IV
GROSS NEGLIGENCE

35. The behavior of the WATCHTOWER DEFENDANTS set forth above demonstrated a conscious indifference to the safety and welfare of Plaintiffs entitling Plaintiffs to punitive damages, including attorneys' fees.

36. As a direct result of the grossly negligent conduct of the WATCHTOWER DEFENDANTS, Plaintiffs have suffered the injuries and damages described herein.

COUNT V
BREACH OF FIDUCIARY DUTY

37. The WATCHTOWER DEFENDANTS placed themselves in a position of trust and confidence with Plaintiffs. The relationship between Plaintiffs and the WATCHTOWER DEFENDANTS' organization was fiduciary in nature and imposed on the WATCHTOWER DEFENDANTS a duty to act in Plaintiffs' best interest.

38. Because of this special relationship between the Plaintiffs and the WATCHTOWER DEFENDANTS, Plaintiffs and their families placed their trust and confidence in the WATCHTOWER DEFENDANTS that they would not harm Plaintiffs or fail to warn Plaintiffs of potential harm. Further, Plaintiffs and their families placed their trust and confidence in the WATCHTOWER DEFENDANTS that they would protect Plaintiffs from harm.

39. The above acts and/or omissions by the WATCHTOWER DEFENDANTS, either independently or in conjunction with each other constitutes a breach of the fiduciary duty owed to Plaintiffs by WATCHTOWER DEFENDANTS.

40. As a direct result of the conduct of the WATCHTOWER DEFENDANTS, Plaintiffs have suffered the injuries and damages described herein.

COUNT VI
FRAUD AND FRAUDULENT CONCEALMENT

41. After receiving reports that Defendant JAMES HARVEY was abusing young girls, the WATCHTOWER DEFENDANTS, with the intent to keep the information from Plaintiffs, other victims similarly situated, and the community-at-large, willfully concealed that information. The WATCHTOWER DEFENDANTS materially misrepresented to Plaintiffs and

their families that Defendant JAMES HARVEY was a leader in good standing with authority to supervise, control and instruct Plaintiffs in spiritual, ethical and moral matters and that he was to be obeyed. The WATCHTOWER DEFENDANTS further materially misrepresented that they would act in Plaintiffs' best interest. The WATCHTOWER DEFENDANTS failed to disclose that they knew of Defendant JAMES HARVEY'S propensities to use his leadership position to sexually abuse Plaintiffs and others and that they were doing nothing to protect them. Plaintiffs did not know the falsity of the WATCHTOWER DEFENDANTS' representations, were entitled to rely upon them, and did in fact rely upon them, to their serious injury and harm.

COUNT VII
RATIFICATION

42. Upon learning that its agent, Defendant JAMES HARVEY had sexually abused young children in the organization, the WATCHTOWER DEFENDANTS failed to take sufficient steps to discipline or hold Defendant JAMES HARVEY accountable for his actions. The WATCHTOWER DEFENDANTS transferred Defendant JAMES HARVEY to the JEHOVAH'S WITNESSES EAST and WHITE HOUSE CONGREGATIONS as a leader in good standing with the organization, providing no warning to its members that they were entrusting them to the care of a sexual predator. Up until sometime in 1998, The WATCHTOWER DEFENDANTS continued to present HARVEY as a leader in good standing, despite reports of additional abuse. The WATCHTOWER DEFENDANTS thereby ratified Defendant JAMES HARVEY'S conduct in sexually abusing Plaintiffs and others. The WATCHTOWER DEFENDANTS are thus liable in damages to Plaintiffs.

COUNT VIII
ALTER EGO AND SINGLE BUSINESS ENTERPRISE

43. The WATCHTOWER DEFENDANTS are organized and controlled and their affairs are so conducted that they are in fact mere instrumentalities and alter egos for each other and liable for each other's acts. Alternatively, the WATCHTOWER DEFENDANTS were all engaged, at all material times, in a single business enterprise and are liable for each other's acts.

V.
DAMAGES

44. As a result of Defendants' acts, Plaintiffs have incurred and will continue to incur costs for medical expenses, counseling and psychological treatment, have lost earning capacity and have suffered and will continue to suffer extreme, permanent emotional distress and psychological harm with accompanying physical manifestations, embarrassment, loss of self-esteem, disgrace, humiliation, loss of enjoyment of life, and economic and non-economic damages of \$8,000,000.00

VI.
JURY DEMAND

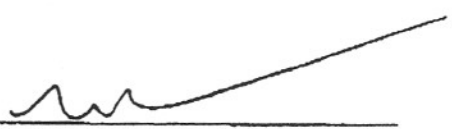
Plaintiffs request a trial by jury and have submitted herewith the appropriate jury fee.

VII.
PRAYER

WHEREFORE, Plaintiffs demand judgment against Defendants individually, jointly and severally in an amount for economic, non-economic, and punitive damages, including attorneys' fees, plus costs, disbursements, and whatever additional relief the court deems just and equitable.

Respectfully submitted,

FIBICH, HAMPTON, LEEBRON & GARTH, L.L.P.



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1 CAUSE NO. 03-2368C
2 KALEENA S., INDIVIDUALLY AND) IN THE DISTRICT COURT OF
AS NEXT FRIEND OF AMANDA M.,)
3 A MINOR)
Plaintiffs)
4)
VS.) SMITH COUNTY, TEXAS
5)
WATCHTOWER BIBLE AND TRACT)
6 SOCIETY OF NEW YORK, INC.,)
JEHOVAH'S WITNESSES South)
7 congregation, JEHOVAH'S)
WITNESSES - East)
8 congregation, JEHOVAH'S)
WITNESSES - WHITEHOUSE)
9 CONGREGATION, WATCHTOWER)
ASSOCIATES, LTD., KINGDOM)
10 SUPPORT SERVICES, INC.,)
CHRISTIAN CONGREGATION OF)
11 JEHOVAH'S WITNESSES,)
RELIGIOUS ORDER OF JEHOVAH'S)
12 WITNESSES, JAMES HARVEY,)
Defendants.) 241ST JUDICIAL DISTRICT

ORAL AND VIDEOTAPED DEPOSITION OF

CURTIS HAIL

NOVEMBER 18, 2003

18 ORAL AND VIDEOTAPED DEPOSITION OF CURTIS HAIL, produced as
19 a witness at the instance of the PLAINTIFFS, and duly sworn,
20 was taken in the above-styled and numbered cause on November
21 18, 2003, from 10:59 a.m. to 4:18 p.m., before Julie C. Brandt,
22 CSR in and for the State of Texas, reported by machine
23 shorthand, at the Holiday Inn Select, 5701 S. Broadway, Tyler,
24 Texas, pursuant to the Texas Rules of Civil Procedure.

DEPOSITION OF CURTIS DAVIS HAIL

Page 6

1 EXAMINATION

2 BY MR. HAMPTON:

3 Q. Tell us your full name, please, sir.

4 A. Curtis Hail. Curtis Davis Hail.

5 Q. Curtis Davis Hail. Mr. Hail, my name is Hartley

6 Hampton. We met about five minutes ago.

7 A. Yes.

8 Q. Have you ever had your deposition taken before?

9 A. This is it. First one.

10 Q. First and last, I hope.

11 A. A little nervous.

12 Q. Well, don't be. I'm going to -- I'm going to do my

13 best to make my questions clear. And all I ask in return is

14 that you make sure that you understand my question before you

15 answer.

16 A. Right.

17 Q. I'm not going to try to be tricky. I'm not going to

18 try to do any of the things that you see lawyers do on

19 television. If I ask you any question that you feel is unfair

20 or if I mischaracterize any facts or anything like that, I want

21 you to stop me, okay, and say, I can't answer that question?

22 A. All right.

23 Q. For whatever reason.

24 This isn't a marathon or an endurance contest. So

25 if you need a break, just let me know and I'll probably be

Page 7

1 doing the same.

2 A. All right.

3 Q. I would like to get some background information from

4 you, if I could, please, sir.

5 A. Sure.

6 Q. How long have you lived in this area?

7 A. I lived here since '75.

8 Q. Since '75.

9 A. Uh-huh.

10 Q. Here in Tyler?

11 A. Right.

12 Q. All right, sir. What is your home address?

13 A. 3810 Pine Manor, two words, zip code 75701.

14 Q. And have you lived at that address for -- since '75?

15 A. No, since '78.

16 Q. Okay. Are you employed or retired?

17 A. Retired.

18 Q. Retired. Tell me what jobs you held during your

19 life.

20 A. Well, I was in the Army during World War II for five

21 years. I was discharged in '45.

22 Q. Okay.

23 A. And I went into sales work there because of my

24 fingers I lost there. I was a salesman, hired out as one. I

25 wasn't really a -- I was more of an order taker really, but --

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1 Q. More of an architect?

2 A. No, order taker.

3 Q. Oh, order taker.

4 A. I was a salesman. I couldn't sell very good. But I

5 worked for a packing company and for a drug company selling

6 sundries and drugs and stuff.

7 Q. Okay. So what was the name of the packing company?

8 A. Decker Packing.

9 Q. Decker Packing?

10 A. Uh-huh.

11 Q. During what years did you work for them?

12 A. About '47 to early '50's.

13 Q. Okay.

14 A. And then I worked for R & R Distributing Company

15 after that until up into the '60s.

16 Q. Okay.

17 A. In the '60s then, as one of the Jehovah Witnesses, I

18 quit working secular work and went into what we call

19 pioneering. And I pioneered then for 22 years. I worked

20 part-time different jobs.

21 Q. All right. Let me make sure I've kind of got the

22 years.

23 A. Uh-huh.

24 Q. Sort of plus or minus here.

25 A. Uh-huh.

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1 Q. When did you quit doing secular work?

2 A. '60. 1960.

3 Q. 1960. Okay. And then you were a pioneer until

4 1982?

5 A. Around that, yes. Go ahead. That's all right.

6 Q. I didn't mean to cut you off. I want to hear your

7 testimony, not my talking.

8 A. Well, what's your question?

9 Q. You were a pioneer for 22 years.

10 A. Right. Uh-huh.

11 Q. Which would get us up to 1982?

12 A. Yes.

13 Q. And during that period of time you did a little

14 work?

15 A. Part-time work. One of our members was a

16 electrician, and I didn't do any electric work. I dug trenches

17 for conduit and everything. He told me when I went to work for

18 there that -- he was wondering when you talk about electrical

19 work, because all I did most of the time there was swing a pick

20 and a shovel.

21 Q. Right. Right. What did you do starting in 1982?

22 A. I worked for -- one of the brothers had a rug

23 doctor, and I worked -- I just worked part-time for them. My

24 mother had come to live with us, and my father-in-law both were

25 elderly.

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1 Q. Okay. Born in Crockett.
 2 A. And left there when I was about 2 and moved to
 3 Galveston.
 4 Q. Okay.
 5 A. And I spent up until 16 -- we moved to Houston when
 6 I was a junior. This would be a junior in high school. And I
 7 was there when I went in the Army. And I stayed -- come home
 8 and stayed there until '68.
 9 Q. Okay. Where did you live between '68 and '78?
 10 A. All right. '68 we moved to Madison County,
 11 Madisonville, Texas.
 12 Q. Right.
 13 A. And then about a year we moved to Huntsville and
 14 stayed there until I moved up here in '75.
 15 Q. So about '69 you moved to Huntsville?
 16 A. Yes.
 17 Q. All right. You lived in Houston then when you
 18 joined the Jehovah's Witnesses or --
 19 A. Oh, yeah, yeah.
 20 Q. How many congregations did you belong to in Houston?
 21 A. One.
 22 Q. What was the name of it?
 23 A. Heights.
 24 Q. Okay. It was -- that area was flooded pretty bad
 25 yesterday.

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1 A. Heights was?
 2 Q. Uh-huh. I drove through it going --
 3 A. Well, I was right on the -- I lived in Timbergrove
 4 there, and I was right on the bayou that come in there. I
 5 probably would have got it.
 6 Q. You would have been real wet.
 7 A. Yeah.
 8 Q. Now did you belong to a congregation when you moved
 9 to Madison County?
 10 A. Yes. We were assigned to the Huntsville
 11 congregation.
 12 Q. Okay. And did you stay in the Huntsville
 13 congregation when you moved to Huntsville?
 14 A. Yes.
 15 Q. All right. Now when you moved to Tyler in '78 --
 16 '75 --
 17 A. '5.
 18 Q. -- '75, what congregation did you -- did you join?
 19 A. South.
 20 Q. Have you -- how long were you a member of the South
 21 congregation?
 22 A. I left there. Circuit overseer asked another elder
 23 and I to go to the North congregation, and it was around '79.
 24 Q. Okay.
 25 A. I was there in the North about two years.

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1 Q. So that gets us to about '81.
 2 A. Then I moved to the East.
 3 Q. Okay.
 4 A. And I've been at East ever since.
 5 Q. Okay. Were you baptized in 1956?
 6 A. In '57.
 7 Q. '57. Take me through the -- the positions that
 8 you've held in Jehovah's Witnesses, and we can start with today
 9 and go backwards if you want, if that would be easier for you.
 10 A. Well, we could start at the beginning, either way.
 11 Q. All right. Let's start at the beginning then.
 12 A. At the Heights congregation, we had the -- didn't
 13 have the elder arrangement at that time. We had the
 14 congregation servant assistant in Bible study servant. And
 15 that was the first position I had. After I pioneered there in
 16 '60, then I was appointed as a Bible study servant there in the
 17 Heights congregation.
 18 Q. And that was in '60?
 19 A. Yes.
 20 Q. And it was a Bible study servant?
 21 A. Servant, right.
 22 Q. And how long did you hold that position?
 23 A. Until I left there in about '68.
 24 Q. And that's when you moved to the Huntsville
 25 congregation?

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1 A. Right. Uh-huh.
 2 Q. And what positions did you hold there?
 3 A. After I was there -- when I moved to -- I moved to
 4 Madisonville. Then when I moved to Huntsville, they had had a
 5 special pioneer there, and they transferred him over to Bryan,
 6 and so they appointed me then as a congregation servant there.
 7 Q. So you became -- when you moved to the Huntsville
 8 congregation in '68, you became a congregation servant?
 9 A. A year later after I moved there.
 10 Q. Okay.
 11 A. When I moved back -- moved to Huntsville, then I
 12 became where the congregation was located, and then I became
 13 the congregation servant there.
 14 Q. Were you a -- what did you -- what position did you
 15 hold when you moved to -- up to the -- up to Madison County?
 16 A. Well, I wasn't a servant there. When you leave,
 17 that doesn't go with you.
 18 Q. Okay. Now under the old arrangement, the
 19 congregation servant --
 20 A. Servant.
 21 Q. -- was the highest position --
 22 A. Right.
 23 Q. -- in the congregation?
 24 A. Right. That's correct.
 25 Q. How long were you a congregation servant in the

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1 Q. Okay.

2 A. Easy.

3 Q. Okay. That's fine. Now you've told me that the

4 circuits are made up of about 30 or so?

5 A. No. No. About 20.

6 Q. Okay. About 20 congregations?

7 A. Yeah, roughly. It varies.

8 Q. And the districts are made up of about what? How

9 many circuits?

10 A. I don't know how many circuits in were there. Some

11 of them take in -- well, they wouldn't take in all of Texas.

12 There's probably about three or four districts in Texas, and it

13 goes into Oklahoma, maybe Arkansas and Louisiana some.

14 Q. Okay. Have you ever had contact with the district

15 overseers?

16 A. Oh, yes, quite a few of them.

17 Q. Do you know who the district overseer is right now

18 for this --

19 A. O'Brien.

20 Q. -- this area?

21 How long has he been district overseer?

22 A. I don't know. I've never met him. This is the

23 first time he'll serve us.

24 Q. This is the first time you've been in his district?

25 A. Uh-huh.

Page 23

1 Q. How long have you been in his district?

2 A. In this one?

3 Q. Yes, sir.

4 A. Since I moved here.

5 Q. How long have you been in O'Brien's district?

6 A. Oh. He just was assigned in September.

7 Q. Okay. Who was district overseer before him?

8 A. I can't recall.

9 Q. Okay. Did you know a fellow named James Nash?

10 A. Yes.

11 Q. Was he an elder?

12 A. Yes.

13 Q. Did he serve with you?

14 A. Yes. He was in the South when I moved into the

15 South congregation.

16 Q. How well did you know him?

17 A. Very -- pretty good.

18 Q. Were y'all close?

19 A. Fairly close, yes.

20 Q. Now he has passed away?

21 A. Yes.

22 Q. When did he die?

23 A. Oh, he died -- that's been 10 or 12 years ago.

24 Q. And y'all served together as elders in South?

25 A. Right.

Page 24

1 Q. Did he ever hold any position other than elder? In

2 other words, did he ever become a circuit overseer?

3 A. No.

4 Q. What I would like to do now, Mr. Hail, is I'd like

5 to understand or get you to educate me on -- I understand that

6 there are congregations, and I understand that there's a

7 circuit over the congregation that has about 20 or so

8 congregations.

9 A. Uh-huh.

10 Q. And then there's districts.

11 A. Right.

12 Q. Can you educate me on how Jehovah's Witnesses are

13 organized above that, above that level?

14 A. Well, you have the branch. We have a branch.

15 Q. Okay. And --

16 A. United States branch after that.

17 Q. So the entire United States would be one branch?

18 A. Right. The 48 states. Alaska and Hawaii are not

19 included in the branch area.

20 Q. Okay. And is there an entity that -- what do you

21 call the U. S. branch? Is that what you call it?

22 A. Yeah, uh-huh. You've got a branch overseer.

23 Q. Okay. Who is the branch overseer?

24 A. I have no idea.

25 Q. Is there an entity over the U. S. branch?

Page 25

1 A. There's a -- there's a governing body that's over

2 the entire organization of Jehovah's Witnesses.

3 Q. The governing body sits at the very top of the

4 organization?

5 A. It's the top -- top of the organization.

6 Q. Now are there other branches? You told me that

7 Alaska and Hawaii are in a different branch.

8 A. Right.

9 Q. How many branches are there?

10 A. I don't know.

11 Q. Are there branches in different countries?

12 A. Yes. All over the entire earth we have branches.

13 Q. And the governing body -- so if you're going to draw

14 an organizational chart, you have a governing body at the top.

15 A. Uh-huh.

16 Q. True?

17 A. Right.

18 Q. And then you'd have a line for a bunch of different

19 branches.

20 A. Right.

21 Q. And --

22 A. You have a zone, too. They're divided into zones,

23 too, where they have a zone overseer, but I don't know any of

24 those.

25 Q. Is the zone overseer below the branch overseer?

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1 A. Now when you're talking about authority now, there
 2 is -- the elders have their responsibility. Everybody has
 3 their responsibility.
 4 Q. Yes, sir.
 5 A. And they work -- they come and visit us, the
 6 district and circuit overseers, and they give us guidelines and
 7 direction.
 8 Q. Right. And that's what I'm talking about.
 9 A. Right. Okay.
 10 Q. I mean, the Jehovah's Witnesses, I understand, is a
 11 hierarchical organization.
 12 A. Right.
 13 Q. And I'm trying to describe that --
 14 A. Right.
 15 Q. -- hierarchy. So you have the circuit overseers
 16 which would be above the elders --
 17 A. Right.
 18 Q. -- in the hierarchy?
 19 A. Right.
 20 Q. The elders are above the ministerial servants?
 21 A. Right.
 22 Q. And the ministerial servants would be above the rest
 23 of the publishers?
 24 A. Well, the -- there's a difference in there in what
 25 the elders and ministerial servants do. The elders are the

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1 ones that oversee the spiritual aspects of the whole
 2 congregation, whereas ministerial servants do things like
 3 looking after our literature and ordering that. It's those
 4 tasks that they have turned over to them. They don't function
 5 with any authority over anybody.
 6 Q. Okay. So the authority stops at the elder level?
 7 A. Right.
 8 Q. Are ministerial servants appointed?
 9 A. Yes. They're recommended and appointed.
 10 Q. Okay. How does one -- let's back up to the very
 11 beginning of someone joining the Jehovah's Witnesses.
 12 A. Okay.
 13 Q. And educate me, please, on what happens. When
 14 someone decides to join the Witnesses, what do they do?
 15 A. Well, they study -- of course, we have people we
 16 meet, and they want to study and we study them. And then when
 17 they come to a knowledge that they want to be one of the
 18 Jehovah's Witnesses, they tell them, and then we -- the
 19 presiding overseer makes for those individuals or the
 20 individual who wants to be baptized as one of Jehovah's
 21 Witnesses. We study with them to be sure that they understand
 22 what they're going to be doing and understand their position
 23 with Jehovah. And then they are baptized.
 24 Q. Now you've used another term, presiding overseer.
 25 Where does that person fit into the organizational chart?

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1 A. Well, in the body of elders, you have one that's
 2 appointed as a presiding overseer.
 3 Q. He would be the head --
 4 A. Chairman. Chairman of the body of elders.
 5 Q. All right.
 6 A. All the elders are equal in the body. He presides
 7 at the meetings.
 8 Q. Have you been a presiding overseer?
 9 A. Yes.
 10 Q. For how long?
 11 A. About -- about ten years.
 12 Q. Beginning in about '93?
 13 A. Yes. Around in there. And --
 14 Q. And that would have been at --
 15 A. Well, no, it would have been before that, because I
 16 have -- it's been about a year and a half that I haven't
 17 been -- I was presiding overseer when James Harvey was
 18 disfellowshipped.
 19 Q. The first time?
 20 A. No, the second time.
 21 Q. Okay. You were presiding overseer at East
 22 congregation?
 23 A. Yes.
 24 Q. And you were presiding overseer -- I'm trying to
 25 figure out the time period.

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1 A. Yeah.
 2 Q. You were presiding overseer, you said, for about ten
 3 years?
 4 A. For about, approximately, ten years.
 5 Q. And you have not been presiding overseer for a year
 6 and a half?
 7 A. Yeah.
 8 Q. So that would be roughly '91 to 2001?
 9 A. Somewhere in there.
 10 Q. And that was all at East?
 11 A. Uh-huh.
 12 Q. Yes?
 13 A. Right.
 14 Q. Okay. Now I want to get back to how one joins --
 15 MR. LIGHTY: Let him ask his question.
 16 THE WITNESS: All right.
 17 Q. Again, I want to hear what you have to say. Did
 18 you -- is there something you wanted to add?
 19 A. No. You go ahead --
 20 Q. Okay.
 21 A. -- and ask your question.
 22 Q. Okay. Let's get back to what I was asking you a
 23 minute ago. If someone -- someone studies for a period of
 24 time --
 25 A. Uh-huh.

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1 Q. When you become a lawyer, you have to take the bar
 2 exam and there's a pass rate for the bar. Fortunately for me
 3 it's real high. How high is the pass rate for baptism, if you
 4 understand what I'm trying to ask you?
 5 A. Well, they would have to have a basic understanding
 6 of the Bible.
 7 Q. Okay.
 8 A. And they don't know everything, as we're always
 9 learning, but they're coming in primarily with the primary
 10 knowledge of what -- what they are required to do in order to
 11 stay -- to please Jehovah, be one of Jehovah's Witnesses.
 12 Q. Is it typical that somebody is approved to be
 13 baptized? Does that happen more often than not, or is it --
 14 A. Yes. Yes.
 15 Q. -- typical --
 16 Just in rough percentages, how often is it that you
 17 would tell somebody that they need to go back and study some
 18 more?
 19 A. It would be a small percentage. It wouldn't be 10
 20 percent.
 21 Q. Okay.
 22 A. It would be a lot less than that.
 23 Q. Now the three elders would approve the individual to
 24 be baptized.
 25 A. Uh-huh.

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1 Q. What happens next?
 2 A. Of course, they are baptized. We have two that will
 3 be baptized that come to circuit assembly, and that's when
 4 they -- generally they're -- at circuit assemblies we have
 5 facilities for baptisms and at district assemblies.
 6 Q. So they're baptized at circuit and district
 7 assemblies?
 8 A. As a rule, but you can be baptized locally here.
 9 Q. How do you decide what congregation you're going to
 10 belong to? Is that something the individual can decide --
 11 A. Yes.
 12 Q. -- on his own -- his or her own?
 13 A. Uh-huh. We have people -- we have certain areas --
 14 like in Tyler, it's divided among the four congregations here,
 15 and that area is where they witness, where we go from door to
 16 door. That's our assigned area, territory. And nine out of
 17 ten, or more than that, the people we contact are in there, so
 18 they'll be in there. Now there's some that move into our
 19 territory that have been going to another one, and they want to
 20 stay with that one. That's -- that's up to them.
 21 Q. Okay. The four congregations in Tyler are --
 22 A. The North and the Lake Park and the East and the
 23 South.
 24 Q. Okay. Whitehouse is a separate --
 25 A. Right.

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1 Q. -- community --
 2 A. Uh-huh.
 3 Q. -- and separate congregation?
 4 A. And we have Spanish also.
 5 Q. Is that a separate congregation?
 6 A. Oh, yeah.
 7 Q. Is it just one?
 8 A. No, there's three.
 9 Q. Three Spanish --
 10 A. -- congregations.
 11 Q. Does that mean they're Spanish speaking?
 12 A. Right. Right.
 13 Q. Okay. So after someone has been baptized -- and
 14 we'll get back -- I need some more education about baptism,
 15 too. But once someone is baptized, are they then a pioneer?
 16 A. No. No.
 17 Q. Okay.
 18 A. They're a publisher.
 19 Q. They're a publisher. And what are the
 20 responsibilities of a publisher?
 21 A. Well, the responsibility of a publisher is what he's
 22 supposed to do -- what a publisher is supposed to do, publish
 23 the good news about the kingdom.
 24 Q. Okay.
 25 A. And Jehovah vindicating of his name and his

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1 sovereignty. That's what we are. It describes our work.
 2 Jehovah's Witnesses, we witness about Jehovah.
 3 Q. Are publishers expected to do service work?
 4 A. What do you mean by service?
 5 Q. I don't know. I'm here to be educated.
 6 A. Okay. Okay. When we say service, that would be
 7 going from door to door, making return visits or conducting
 8 Bible studies. Yes. Yes, that's -- Matthew 24:14 says you
 9 should do that, preach the good news of the kingdom.
 10 Q. Is everybody, including the presiding overseer,
 11 responsible for doing service?
 12 A. He's to set -- the elders are to set the example.
 13 Q. Is -- is pioneer a designated position?
 14 A. No. It's the work he does.
 15 Q. That's the work?
 16 A. That's the work. He devotes so much time -- he's a
 17 publisher, but he's a pioneer publisher now. And we -- he
 18 devotes 70 hours a month to preaching.
 19 Q. Okay.
 20 A. He sets -- that is set up -- in order to be a
 21 regular pioneer, that is a requirement. We have lesser ones
 22 where an auxiliary pioneer is 50 hours a month.
 23 Q. Are pioneers and auxiliary pioneers, are they
 24 somewhere on this organizational chart or does that simply
 25 refer to the amount of time --

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1 Q. Is that decision made at -- at Bethel?
 2 A. Yes.
 3 Q. So Bethel decides -- Bethel would review the
 4 recommendation of the circuit overseer and either approve or
 5 disapprove the appointment --
 6 A. Right.
 7 Q. -- of a ministerial servant?
 8 A. Right. The circuit overseer makes his
 9 recommendation in writing on an individual, and then they
 10 approve it up there and appoint him.
 11 Q. Okay. Now how then would a ministerial servant
 12 become an elder? What would be required?
 13 A. Same basic thing.
 14 Q. Okay.
 15 A. They watch him, how he carries out his duties as a
 16 ministerial servant. And then the elders begin working with
 17 him, making shepherding calls or visiting publishers, sick or
 18 needing help or whatever. And the very important part is that
 19 he really is desirous of that, he's reaching out, so to speak,
 20 for that work, because it's the male in the congregations would
 21 his proper place to be, working up to be an elder.
 22 Q. I'm not sure I understand what you're saying.
 23 A. Well, an individual who is applying the Bible in his
 24 life would be desirous of that work, of helping others.
 25 Q. Okay. So you would expect a male in the

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1 congregation to be -- to aspire to be an elder?
 2 A. That's correct.
 3 Q. And to devote his energies to becoming an elder?
 4 A. Right.
 5 Q. Okay. How long is a ministerial servant -- I assume
 6 that a ministerial servant would have to be tested for a period
 7 of some years --
 8 A. Some years, right.
 9 Q. -- before he would be recommended?
 10 A. Right.
 11 Q. Do the elders recommend to the circuit overseer that
 12 someone become an elder?
 13 A. Right.
 14 Q. And then the circuit overseer mails the
 15 recommendation to Bethel?
 16 A. Right.
 17 Q. Is that right?
 18 A. That's correct.
 19 Q. And the decision is made in Bethel about whether or
 20 not the individual is appointed or not?
 21 A. That's right.
 22 Q. Okay. Now I -- I take it that the role of elder in
 23 a congregation is a very important and -- well, very important
 24 position. I can't think of another word. It's very important,
 25 though, is it not?

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1 A. Something to be taken seriously.
 2 Q. Yes, sir. Tell me, if you would, please, what --
 3 you've been an elder for 20 plus years. Right?
 4 A. About 30.
 5 Q. About 30 years. Tell me, in your own words, how you
 6 view the responsibilities of an elder.
 7 A. Well, in my personal thinking on it, I've always
 8 been one who thought that the purpose of an elder is to -- is a
 9 spiritual leader in the congregation and to help the publishers
 10 to appreciate and apply the Bible in their lives, helping --
 11 and helping those who are having problems, various -- you know,
 12 various kinds of problems, to apply the Bible to help them to
 13 overcome their problems that they might have. But over all,
 14 you're interested in the spirituality of every member in the
 15 congregation. That's your main function. And to keep the
 16 congregation clean of any wickedness or anything to clean that
 17 out and put out individuals who practice wickedness.
 18 Q. Now you've -- you've described this responsibility.
 19 And when the deposition is taken, you'll see it being a
 20 paragraph, I guess, of words that describe the responsibility.
 21 My sense is that words really don't do justice to the
 22 responsibility of an elder in a congregation. Would that be
 23 fair?
 24 A. It's -- it's a -- it's a heavy responsibility you
 25 don't take lightly.

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1 Q. I have heard the term shepherd the flock used.
 2 A. Spiritual, yes, shepherds.
 3 Q. I've heard that term used in the context of what
 4 elders do.
 5 A. Right.
 6 Q. Would it be accurate to say that the role of an
 7 elder to his congregation is equivalent to the role of shepherd
 8 to his flock of sheep?
 9 A. Right. Right. Protect them in different ways.
 10 Like I said there, we protect them from any wicked influence
 11 that come in. Some of them come in and don't follow through
 12 and have to be put out, such as James Harvey.
 13 Q. Sure.
 14 A. But then others are -- just get bad circumstances
 15 they're in. They get discouraged or different various reasons,
 16 and we shepherd them, call on them and share the Bible with
 17 them and try to encourage them to -- to -- I'm trying to think
 18 of a word that you would understand well. We try to encourage
 19 them to get strong spiritually and help them, even study with
 20 them again, if necessary. That's where the shepherding comes
 21 in. It's the spiritual aspect that we're interested in. We're
 22 interested in the individual and the congregation.
 23 Q. And like a shepherd would protect his sheep --
 24 A. Right.
 25 Q. -- from wolves --

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1 schools?
 2 A. Yes, all of them are -- are to be there barring
 3 sickness or anything.
 4 Q. Okay. How often are Kingdom Ministry schools held?
 5 A. There's no certain schedule on it. Whenever they
 6 think that they need to have one, they have one.
 7 Q. Over the past 20 years, how many times have you gone
 8 to Kingdom Ministry schools?
 9 A. I've gone to all of them, but I couldn't say.
 10 Probably half a dozen or more.
 11 Q. Okay. So they don't have them every year?
 12 A. Oh, no. Huh-uh.
 13 Q. Every two or three years?
 14 A. Possibly.
 15 Q. But not at a regular schedule?
 16 A. It's not a regular scheduled meeting.
 17 Q. Where are they held?
 18 A. As of late, they've been up in Denton, Texas. We
 19 have an assembly hall there. The area here goes up -- goes up
 20 there.
 21 Q. Well, that was going to be my next question. Do all
 22 the elders from all over the country come to the same meeting,
 23 or are they divided up into regions?
 24 A. Regions.
 25 Q. Would all the elders from, say, the -- this circuit

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1 go to the same meeting?
 2 A. They're assigned by circuits.
 3 Q. Okay. What are the responsibilities of the elders
 4 to Bethel?
 5 A. To Bethel?
 6 Q. Yes, sir.
 7 A. I don't know about any responsibilities to Bethel.
 8 Q. Well, do the -- are the elders expected to do what
 9 Bethel tells them to do under certain circumstances?
 10 MR. LIGHTY: Object to form.
 11 Q. Let me rephrase it. That was a bad question. Are
 12 elders -- do elders ever receive instructions from Bethel?
 13 A. We receive instruction from the branch -- United
 14 States branch, which comes out of Bethel, but the -- we get
 15 direction from them.
 16 MR. LIGHTY: I was objecting to form. I
 17 didn't want to interrupt you. I'm sorry.
 18 Q. So you -- you as -- you elders receive instruction
 19 from the U. S. branch, but that comes out of Bethel?
 20 MR. LIGHTY: Object to form.
 21 Q. Would that be true? And if that's not true, set me
 22 straight. I'm here to learn.
 23 A. Well, the term Bethel, we don't use it as -- in the
 24 way you're using it there as being where the authority is.
 25 It's located in there, but Bethel is just -- takes in the whole

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1 composition of a lot of buildings up there, various work from
 2 printing and all.
 3 Q. Now I got you. Bethel is a place?
 4 A. Right.
 5 Q. Okay. Thank you. And like I said, I'm here to
 6 learn.
 7 A. Right.
 8 Q. So if I -- if I start saying things wrong, like I
 9 just did, please set me straight.
 10 A. Well, we get direction from the governing body.
 11 Q. Okay. And are you expected to obey that direction?
 12 A. Yes.
 13 Q. So that's a responsibility that elders have --
 14 A. Right.
 15 Q. -- to obey the governing body?
 16 A. (Witness nods head.)
 17 Q. True?
 18 A. True.
 19 Q. Does instruction come from the governing body
 20 through these Kingdom Ministry schools?
 21 A. Yes.
 22 Q. Do members of the governing body attend the Kingdom
 23 Ministry schools?
 24 A. Possibly some of them. Not all of them, because
 25 there's quite a few schools.

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1 Q. Who teaches the Kingdom Ministry schools?
 2 A. Different circuit and district overseers and those
 3 from the headquarters in New York for the branch.
 4 Q. And do those individuals have the authority to carry
 5 messages from the governing body?
 6 A. Yes.
 7 Q. Carry instructions?
 8 A. Uh-huh. Yes.
 9 Q. Now you've said different circuit overseers and
 10 different district overseers teach the Kingdom Ministry
 11 schools, and then you added people from New York.
 12 A. Well, we have -- at those meetings they have
 13 selected different -- some circuits servants to give talks and
 14 instruction and district overseers, and some of them from the
 15 headquarters up there do it. It's a variety.
 16 Q. Okay.
 17 A. They get a variety of brothers in there to do it.
 18 Q. Are there folks from the headquarters who have jobs
 19 other than being a circuit or district overseer?
 20 A. Yes.
 21 Q. And what would some -- give me some examples of some
 22 of those jobs.
 23 A. Well, they would oversee -- I don't know exactly
 24 what -- what they would entail, but they would have the same
 25 thing as a district or circuit overseer in their capacity as a

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1 Q. And this letter's dated September 16, 1991. Did you
 2 attend a Kingdom Ministry school about this time?
 3 A. Yes. Uh-huh. I could -- I was there. I don't know
 4 about the time, but it was in that period of time.
 5 Q. Okay. The books that you told me about, are the
 6 books published by the district? And by that, I mean the
 7 Kingdom Ministry school book and the organization --
 8 A. Yes, those are all by the Watchtower Bible and Tract
 9 Society, would be the legal corporation that would oversee all
 10 that.
 11 Q. Okay. Those books contain instructions from the
 12 governing body?
 13 A. That's correct.
 14 Q. And are you expected to obey those instructions?
 15 A. Yes.
 16 Q. And letters to all bodies of elders, like the one
 17 that you have in your hand, are elders expected to obey those
 18 instructions?
 19 A. That's right. That's correct.
 20 Q. Do elders have the freedom at the local level to
 21 disregard any of the instructions that they get from the
 22 governing body?
 23 A. No.
 24 Q. I want to ask some more questions about how you
 25 receive instructions from the governing body. And we've talked

Page 63

1 about books. We've talked about letters. We've talked about
 2 Kingdom Ministry school. Do you ever get instructions any
 3 other way?
 4 A. Well, at the circuit assemblies we get it. I don't
 5 know if you mentioned that. We met with the district overseer
 6 and circuit overseer.
 7 Q. Okay.
 8 A. And he has a meeting with just elders, and he goes
 9 over points that he wants to cover with the elders.
 10 Q. And are those points -- do those points represent
 11 instructions from the governing body?
 12 A. That's correct.
 13 Q. And, again, you're expected to obey those
 14 instructions?
 15 A. That's correct.
 16 Q. And you don't have the discretion to disobey it?
 17 A. That's right.
 18 Q. Any other way that instructions from the governing
 19 body come to elders?
 20 A. No.
 21 Q. Do you ever call headquarters for advice?
 22 A. Yes, I've called them, uh-huh.
 23 Q. On few or many occasions?
 24 A. Oh, it's not been a whole lot, but --
 25 Q. Well, in 30 years -- I mean, do you do it every

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1 year? Do you do it every other year?
 2 A. No.
 3 Q. Over 30 --
 4 A. I called -- I called a lot with James Harvey.
 5 Q. Over a 30-year period, how many -- how many times do
 6 you think you've called them, just your best judgment?
 7 A. It wouldn't be over -- it wouldn't be ten.
 8 Q. Okay. How many of those ten dealt with James
 9 Harvey?
 10 A. Most of them.
 11 Q. When you call -- let's say that -- that an issue
 12 comes up here in Tyler, here at your congregation, and you need
 13 to deal with that issue. When you call Bethel, who do you
 14 call?
 15 A. We call the department up there that handles our
 16 particular area and talk to the brother up there.
 17 Q. Okay. How are the departments divided up?
 18 A. Well, they're divided up differently. I don't know
 19 what the division is, but --
 20 Q. Are they divided --
 21 A. Texas -- Texas has a Texas branch that way.
 22 Q. I got you. So you would call whatever department
 23 has Tyler, Texas?
 24 A. Texas branch, yeah.
 25 Q. And when somebody answers the phone, do you learn

Page 65

1 that person's name?
 2 A. I don't -- yes. Yes.
 3 Q. Their full name?
 4 A. Yes.
 5 Q. How do you -- tell me how you would go about getting
 6 ahold of somebody at headquarters? You would call --
 7 A. We have a phone number there to that particular --
 8 to Bethel, which has all that in there. And then I ask for --
 9 for the Texas branch, and they connect me with them.
 10 Q. Okay. And somebody answers the phone?
 11 A. Right.
 12 Q. And do they identify themselves?
 13 A. Well, he identifies -- he asks me who I am and what
 14 I want. Then we get into a discussion of what the reason for
 15 the call.
 16 Q. And then are you routed to somebody who specializes
 17 in that area, or does --
 18 A. Well, that's what I was referring to there. We get
 19 operators. Generally it's a sister, and then she just connects
 20 us right with the department.
 21 Q. Okay.
 22 A. No tapes.
 23 Q. This isn't like Watergate?
 24 A. No tapes. No, you don't punch 1 or punch 2. You
 25 get a person when you call there.

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1 person?

2 A. Twice.

3 Q. Man or woman?

4 A. Man.

5 Q. Do you remember his name?

6 MR. LIGHTY: I believe that's privileged.

7 MR. HAMPTON: Oh, I don't think the name is

8 privileged.

9 MR. LIGHTY: Membership in a delegation not

10 involved in this lawsuit, I think it's privileged.

11 MR. HAMPTON: I'm sorry. I didn't hear what

12 you said.

13 MR. LIGHTY: You're asking for membership in

14 an organization that's not involved in this lawsuit.

15 MR. HAMPTON: Well, I'm asking for the name of

16 the person he talked to, is all I'm asking for. I'm asking for

17 the name of the person in the legal department at Bethel that

18 he talked to when he called about James Harvey.

19 MR. LIGHTY: I understand. I think that's

20 privileged. I'm saying I'm going to instruct him not to answer

21 that.

22 MR. HAMPTON: Okay. Certify that question,

23 please.

24 Q. Okay. Now your lawyer has instructed you not to

25 answer about who the person is. So I don't want you to tell me

Page 71

1 that. I want you to follow your lawyer's advice, but I'm going

2 to ask you a different question. Do you know that person's

3 name?

4 A. Yes.

5 Q. Okay. So it would be possible for you to answer the

6 question?

7 A. Yeah, I know his name.

8 Q. Okay. Is he a lawyer?

9 A. Yes.

10 Q. How do you know that?

11 A. Because he told me he was.

12 Q. He told you he was a lawyer?

13 A. Uh-huh. Yes.

14 Q. The other time you called, the third time you

15 called, when you didn't talk to the same person, do you know

16 the name of that person?

17 A. Yes.

18 Q. Man or woman?

19 A. Man.

20 Q. Is he a lawyer?

21 A. No.

22 Q. How do you know that?

23 A. He said he wasn't.

24 Q. Who did you call first, the lawyer or the nonlawyer?

25 A. I called -- called the legal department. I didn't

Page 72

1 call a specific individual, but I got --

2 Q. Here's what I'm asking. You had three phone calls.

3 A. Yes.

4 Q. Two of them are with a lawyer. One of them was with

5 a nonlawyer. Let's number them one, two and three. Which one

6 of those phone calls was with the nonlawyer?

7 A. I think it was the second.

8 Q. Okay. If I ask you the name of the nonlawyer, your

9 lawyer, I'm sure, would instruct you not to answer. And you

10 wouldn't answer, would you?

11 A. No.

12 MR. HAMPTON: Okay. Let's certify that

13 question.

14 MR. LIGHTY: Okay. When you finish this

15 subject, we've been going about an hour and a half.

16 MR. HAMPTON: Yeah, I wouldn't mind grabbing a

17 quick bite. I've got a cramp in my leg here.

18 THE VIDEOGRAPHER: Off the record at 12:22.

19 (A break was taken from 12:22 to 1:20.)

20 THE VIDEOGRAPHER: We're back on the record at

21 1:20.

22 MR. LIGHTY: This is Don Lighty, counsel for

23 several of the defendants in this case. During my lunch break,

24 I had the opportunity to rethink some of my objections, and I'm

25 going to withdraw my objections as to the name of the

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1 individuals that Mr. Hail spoke to in the legal department.

2 Also, I will give counsel some suggestions.

3 Mr. Hail spoke with the legal department in really two sets of

4 time periods. The set that he was talking about when I

5 expressed my objections was after this lawsuit was filed and

6 was discussions with counsel and a noncounsel member in legal's

7 office after the lawsuit was filed. There is also a time

8 period concerning James Harvey's disfellowship that he spoke

9 with legal counsel. And that's the two sets. You can then --

10 MR. HAMPTON: Okay.

11 MR. LIGHTY: -- ask him --

12 MR. HAMPTON: Thank you.

13 MR. LIGHTY: -- those individuals's names.

14 MR. HAMPTON: Thank you.

15 Q. Mr. Hail, I don't want to know anything that you

16 talked to legal department about after the lawsuit was filed.

17 But I'd like to ask you some questions about the conversations

18 you had during the Harvey disfellowshipping period. All right,

19 sir?

20 A. All right.

21 Q. This was the second time Harvey was

22 disfellowshipped. Is that correct?

23 A. That's correct.

24 Q. And it was approximately -- approximately 2000?

25 A. Around that time, uh-huh.

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1 A. Right.

2 Q. Okay. And you didn't have the discretion to just

3 ignore their instructions, did you?

4 A. No. I wouldn't do that.

5 Q. Okay. Does the governing body through the hierarchy

6 that we discussed before lunch ever give instructions to elders

7 to pass on to the congregation?

8 MR. LIGHTY: Object to form.

9 A. We get letters from the Society, and they -- when

10 they have -- for the elders, they mark it for the elders. And

11 when they want it to go to the congregation, they mark it for

12 the congregation.

13 Q. Okay. But here's -- here's what I'm trying to ask

14 you: When the governing body wants to communicate with the

15 entire membership --

16 A. Uh-huh.

17 Q. -- do they do that through the elders? Do they give

18 elders information to pass on to the congregation?

19 A. No. They write a letter to the congregation.

20 Q. Okay.

21 A. Addressed to the congregation. We have to the

22 elders, like the letter there you showed.

23 Q. Yes, sir.

24 A. They have one to the congregation.

25 Q. And does that go individually to every member?

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1 A. No. We read that from the platform to the members.

2 Q. Who reads them?

3 A. Whoever has the announcements at that time.

4 Q. Would that typically be an elder?

5 A. Not necessarily, no.

6 Q. Would it typically be either an elder or ministerial

7 servant?

8 A. Probably a ministerial servant.

9 Q. Okay. And that individual would read the

10 communication?

11 A. Word for word whatever was there.

12 Q. And is the congregation expected to obey what the

13 governing body instructs them to do?

14 MR. LIGHTY: Object. Form.

15 A. Well, there is -- the instructions that come down

16 would not be of that nature.

17 Q. Okay. Now these letters to -- well, let me -- let

18 me -- let me back up and just ask you a couple more questions

19 about your communications with legal, the legal department.

20 Did you ever meet face to face any of these people that you

21 were talking to in the legal department?

22 A. Yes, I've met them, uh-huh.

23 Q. Did you meet them in the context of the Harvey

24 matter?

25 A. Yes.

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1 Q. Okay. Can you tell me when you met them?

2 A. Oh, about a month ago.

3 Q. Okay.

4 MR. LIGHTY: I think he means by the Harvey

5 matter, the lawsuit.

6 MR. HAMPTON: Yeah.

7 THE WITNESS: Yeah.

8 Q. But you've met Marino and Bell?

9 A. Not personally, no. I've talked to them on the

10 phone.

11 Q. Okay. My question was: Have you ever met -- the

12 folks at --

13 MR. LIGHTY: It's two sets.

14 MR. HAMPTON: I see what I did.

15 Q. You've never met Mr. Marino face to face?

16 A. No.

17 Q. And you've never met Mr. Bell face to face?

18 A. No.

19 Q. You -- before lunch, you mentioned the meetings that

20 you had with circuit overseers from time to time. Do you

21 remember that?

22 A. Yes. They meet with us every time they serve us.

23 Q. Okay. Do they give you anything in writing when

24 they meet with you?

25 A. No.

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1 Q. Now I have -- we've been talking about the -- these

2 letters to all bodies of elders at some length. Does -- let me

3 back up. When you say the Society, what do you mean?

4 A. I'm talking about the governing body, the

5 headquarters.

6 Q. Okay. Are the letters to the elders, are they from

7 the Society?

8 A. Yes.

9 Q. And that's synonymous with governing body?

10 A. Right.

11 Q. Okay. A moment ago you said that copies are not

12 made of these letters.

13 A. Right. That's correct.

14 Q. Does the Society actually give you elders

15 instructions on how these letters are to be kept?

16 A. Yes.

17 Q. They give you actual instructions on what to do with

18 the letters, don't they?

19 A. Well, we keep them in a file.

20 Q. But they actually tell you how to file the letters,

21 do they not?

22 A. Yes.

23 Q. Let me show you Exhibit 3 to your deposition,

24 Mr. Hail.

25 (Exhibit 3 marked.)

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1 that.

2 What are members of the congregation taught about

3 the role of elders?

4 A. That there are brothers who are put there by -- by

5 the Bible, the instruction of Bible as elders who are there to

6 oversee the congregation to see to it that the Bible is taught,

7 the principles and laws in there are carried out and help

8 people to -- the members to appreciate and apply them in their

9 lives.

10 Q. Members are taught that elders are put in the

11 congregation according to biblical principles?

12 A. Right.

13 Q. That the authority of the elder is derived directly

14 from the Bible?

15 A. That's correct.

16 Q. That the elders are representatives of the governing

17 body in the congregation?

18 MR. LIGHTY: Object to form.

19 Q. Would that be true?

20 A. No. No.

21 Q. No?

22 A. They don't represent the governing body.

23 Q. Okay. Are members taught that elders are in the

24 congregation to shepherd the flock?

25 A. Yes.

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1 Q. Are members of the congregation taught to view the

2 role of the elders as they would the role of a shepherd?

3 A. Yes.

4 Q. Are they taught that -- to ask elders for advice?

5 A. Correct.

6 Q. Are they taught to trust elders?

7 A. Yes.

8 Q. Have confidence in them?

9 A. Yes.

10 Q. Are they taught to obey the elders?

11 A. We don't -- as Peter said, We don't lord it over

12 them. We're not the boss, but we -- we show them what the

13 Bible shows. Whether they follow that is strictly up to them.

14 Q. But they're expected to?

15 A. Well, we give them counsel, and we expect them to

16 follow the counsel, but it's still their choice whether they do

17 it or not.

18 Q. Just like it's the choice whether to run out in

19 front of a car or not?

20 A. Right. Uh-huh.

21 Q. I'm not talking about that kind of choice. I'm

22 talking about within the organization -- let's back up a little

23 bit. We talked before lunch about the commitment that somebody

24 makes when they're baptized.

25 A. Right.

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1 Q. And I believe you told me -- and I -- I'm going to

2 paraphrase this. I'm not pretending these were your words.

3 But what I heard you say was -- along the lines of when someone

4 is baptized in the Jehovah's Witnesses, they make a commitment

5 to follow the principles and the teachings and the rules of the

6 Jehovah's Witnesses. Is that correct?

7 A. The Bible, right.

8 Q. And when someone is baptized, do they make a

9 commitment thereby to follow the advice of the elders?

10 A. No.

11 Q. No?

12 A. No.

13 Q. Are elders -- are the members taught to respect the

14 elders?

15 A. Yes.

16 Q. Are they taught to look up to the elders?

17 A. Yes.

18 Q. Are they taught that the elders will act in their

19 best interest?

20 A. Yes.

21 Q. And have their best interest at heart at all times?

22 A. That's correct.

23 Q. Are they taught that when they need help, they

24 should go to the elders for help rather to someone in the

25 world?

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1 MR. LIGHTY: Object to form.

2 A. The spiritual problems is what they come to them

3 for. And some talk about other problems to elders, but

4 basically we're there for the spiritual aspect of it.

5 Q. Well, I appreciate that. And that's -- I

6 understand.

7 A. That's the primary reason.

8 Q. I'm trying to go -- I'm trying to ask you --

9 A. Okay.

10 Q. -- a little differently, though, Mr. Hail.

11 If someone has a need -- I'm not going to try to

12 define the need. If someone has a need, if someone has a

13 problem, are they supposed to turn to somebody out -- to

14 somebody in the world for help, or are they supposed to go to

15 the elder?

16 MR. LIGHTY: Object to form.

17 A. That would depend on what their problem was.

18 Q. Okay. Give me some examples of problems --

19 A. Okay.

20 Q. -- that you should go to the world for?

21 A. We have a sister that her husband divorced her or

22 he's left her or whatever and she is in bad need of help. So

23 she can go to the secular -- the authority that they have set

24 up to help people there on their own, but we do help -- help

25 those who have problems like that, but she doesn't necessarily

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1 A. That's right.

2 Q. And are children taught at an early age to place

3 their trust and their confidence in the elders?

4 A. That's correct.

5 Q. Are there a lot of children in the Witnesses?

6 A. Quite a few.

7 Q. I have -- I have heard -- I've read about the

8 responsibility of the elders to -- I think to use a word -- a

9 phrase you used before lunch, to keep the congregation clean.

10 A. Right.

11 Q. I've heard that -- I've heard it said that elders

12 have the responsibility to make sure that nothing brings

13 reproach to Jehovah's name. Did I say that right?

14 A. Yes. Yes.

15 Q. What does that mean? Explain to me what that

16 responsibility means.

17 A. By violating one of the Bible laws or principles.

18 And that shows disrespect for Jehovah, and that brings reproach

19 upon his name when one of Jehovah's Witnesses does that, such

20 as Harvey.

21 Q. Do elders sometimes have to discipline members of

22 the congregation for doing something that brings reproach to

23 Jehovah's name?

24 A. That's correct.

25 Q. And is there a system set up for doing that?

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1 A. There's a judicial system set up to correct anybody

2 that violates a Bible law.

3 Q. And was that system set up by the Society?

4 A. Well, it's based on the Bible. The Bible shows

5 us --

6 Q. Okay.

7 A. -- how to set that up, but the Society gives us

8 direction on it.

9 Q. The procedure that's in place was established by the

10 Society?

11 A. That's correct.

12 Q. And is it part of the elders's responsibility to the

13 governing body and to the Society to follow that procedure?

14 A. I lost you on that question. Repeat it, please.

15 Q. It was a bad question.

16 The elders are expected to follow the procedure as

17 handed down from the Society?

18 A. Correct.

19 Q. They don't have the discretion to change the

20 procedure?

21 A. No. The procedure's in place.

22 Q. You can't decide tomorrow, for example, that you're

23 going to change some aspect of that procedure?

24 A. No.

25 Q. And this discipline -- disciplinary system that

Page 96

1 we're discussing, that's, again, part of the responsibility of

2 the elder to shepherd the flock. Right?

3 A. That's part of their responsibility as shepherd.

4 Q. And it falls into the function of keeping the

5 congregation clean?

6 A. Correct.

7 Q. And protecting it from wickedness?

8 A. Correct.

9 Q. Tell me about the procedure. How does it work?

10 A. Well, when a case of wrongdoing is brought to the

11 attention of the elders, the presiding overseer, if it's

12 brought to the attention, the body of elders will appoint two

13 elders to investigate to see if there is any substance to the

14 accusation. And if there is, then they come back and the body

15 of elders appoints a judicial committee of three with one as

16 being the chairman of it. And then they call the individual

17 in.

18 Now these two elders have previously -- go back a

19 little -- have talked to the individual who the accusation was

20 made against, and they find if there's substance to it, then

21 they contact the presiding overseer, and he calls a meeting of

22 the body of elders. And the body of elders then appoints three

23 brothers as a judicial committee to hear it.

24 MR. HAMPTON: Okay. Let's change the tape.

25 THE WITNESS: Okay.

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1 THE VIDEOGRAPHER: End of Tape 1, 1:51.

2 (A break was taken from 1:51 to 1:57.)

3 THE VIDEOGRAPHER: We're back on the record,

4 November 18, 2003. The time is 1:57 beginning Tape No. 2,

5 continuing with the deposition of Curtis Hall.

6 Q. Mr. Hall, you were telling me about the procedure

7 for the disciplinary system within the Jehovah's Witnesses.

8 You've gone -- as an elder for 30 years, you've been involved

9 in this many times, I'm sure.

10 A. Yes.

11 Q. You're well familiar with the procedure?

12 A. Right.

13 Q. Now I think the first thing you said -- let me go

14 back through it and make sure I understand it. If there's an

15 allegation of wrongdoing made to -- brought to the elders's

16 attention, do -- is the first step that two elders will be

17 assigned to investigate?

18 A. Yes.

19 Q. The body of elders discusses the allegation of

20 wrongdoing and chooses two elders to investigate?

21 A. They choose two elders.

22 Q. Okay. And then what do those elders do to

23 investigate?

24 A. They go talk to the individual who the allegation is

25 brought against and see if it's true --

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1 said situation where he denied it, would that satisfy the two
 2 witness rule?
 3 A. Yes.
 4 Q. Let me show you Exhibit 4 to your deposition,
 5 please, sir.
 6 (Exhibit 4 marked.)
 7 Q. And, again, take your time -- take as much time as
 8 you need to look at that.
 9 A. How much do you want me to read of this?
 10 Q. As much as you need to read to be able to answer the
 11 question of: Is this a September 20, 1984 letter to all body
 12 of elders?
 13 A. It would seem -- seem to be that.
 14 Q. All right, sir. I want to ask you just a few
 15 questions about this letter. Is this the letter that sets out
 16 the procedure for the judicial committee -- for the operation
 17 of the judicial committee of Jehovah's Witnesses?
 18 A. Well, we had judicial set up long before '84, so
 19 I --
 20 Q. That was a bad question. Is this a letter that
 21 speaks to the procedure?
 22 A. Right.
 23 Q. Okay. Now the letter talks about some forms to be
 24 filled out. And if you look down --
 25 A. Third -- fourth paragraph?

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1 Q. Yes, sir. The fourth paragraph, it lists some forms
 2 that are filled out in a case of disfellowshipping. And that's
 3 a procedure that you've always followed?
 4 A. Correct.
 5 Q. Up to today?
 6 A. Correct.
 7 Q. If you look at the next paragraph, it says that when
 8 a judicial committee does not fellowship the accused because
 9 he's repentant, basically -- correct -- there's a paragraph --
 10 A. That's the only reason they would, right.
 11 Q. It says, when the judicial committee does not
 12 disfellowship the accused for reasons outlined in paragraph 3,
 13 and then paragraph 3 deals with repentance?
 14 A. Uh-huh.
 15 Q. There's still a need for a written report, according
 16 to this paragraph. Right?
 17 A. Right.
 18 Q. Now is that written report sent to the Society?
 19 A. No. It's kept in a file at the congregation there.
 20 Q. So if the judicial committee does not take any
 21 action, there's no report made to Bethel?
 22 A. That's correct.
 23 Q. But there is a report made that's kept in the -- in
 24 a sealed envelope in the congregation?
 25 A. That's right.

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1 Q. If the individual is disfellowshipped, a report's
 2 made to Bethel?
 3 A. That's correct.
 4 Q. But a copy of the report is kept in a sealed
 5 envelope in the congregation as well?
 6 A. That's right.
 7 Q. Now if a -- if a member is disfellowshipped, he's --
 8 he can later make what's called a plea for reinstatement, can
 9 he not?
 10 A. That's right.
 11 Q. And at that point when he asks to be reinstated, the
 12 envelope is opened and a judicial committee, hopefully the same
 13 one, reviews the information in the envelope in considering his
 14 plea for reinstatement. True?
 15 MR. LIGHTY: Object to form.
 16 A. He's judged before that whether he would be
 17 recommended for -- for reinstatement, but they don't rehash it
 18 with him.
 19 Q. Well, you see this last paragraph on the first page?
 20 It says, If and when a disfellowshipped individual makes a plea
 21 for reinstatement, the envelope may be opened by the committee
 22 that will be considering the plea for reinstatement.
 23 A. Right.
 24 Q. What do they do when they open it?
 25 A. Well, they go over what the situation was when he

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1 was disfellowshipped.
 2 Q. To make sure he's repentant?
 3 A. No.
 4 Q. What would be the purpose?
 5 A. The purpose there would be to reacquaint them with
 6 the details.
 7 Q. Okay. And if he's reinstated, a report is made to
 8 the Society?
 9 A. That's correct.
 10 Q. What if he's not reinstated? Nothing's done?
 11 A. That's it.
 12 Q. Now if someone is disfellowshipped in one
 13 congregation and that congregation has this envelope that has
 14 the report in it and that individual moves to another
 15 congregation, does the envelope go with him?
 16 A. No.
 17 Q. Is there any record at all of his being
 18 disfellowshipped that would go with him to the new
 19 congregation?
 20 A. No. We wouldn't send anything. He's not a
 21 publisher anymore with Jehovah's Witnesses.
 22 Q. Okay.
 23 A. He's put out.
 24 Q. Okay. What if he's been reinstated?
 25 A. The congregation that disfellowshipped him would

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1 been an elder any judicial committees that heard cases of child
 2 sexual abuse?
 3 A. No.
 4 Q. I want to show you some other letters.
 5 (Exhibit 5 marked.)
 6 Q. This one has been produced to us in the litigation,
 7 Exhibit 5. That is a December 5, 1985 letter to all circuit
 8 and district overseers in the United States, is it not?
 9 A. Right.
 10 Q. Now you don't -- as an elder, you don't get those
 11 letters, do you?
 12 A. Right.
 13 Q. So you've never seen this before?
 14 A. No.
 15 (Exhibit 6 marked.)
 16 Q. Okay. Let me show you Exhibit 6 to your deposition.
 17 Exhibit 6 is a July 1, 1989 letter to all bodies of elders, is
 18 it not?
 19 A. Right.
 20 (Exhibit 7 marked.)
 21 Q. Let me show you Exhibit 7 to your deposition.
 22 Exhibit 7 is a March 23, 1992 letter to all bodies of elders,
 23 is it not?
 24 A. That's correct.
 25 Q. Now look at the second page -- I'm sorry -- the

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1 third page of that exhibit, please, sir.
 2 MR. LIGHTY: You're still talking about 7?
 3 MR. HAMPTON: Yes.
 4 THE WITNESS: This is 7.
 5 MR. LIGHTY: Yeah.
 6 Q. If you look --
 7 A. The third page?
 8 Q. Yes, sir. If you look -- I'm going to point. I
 9 apologize for pointing, but that's the best way to get it
 10 across to you. Do you see that right there, what I'm pointing
 11 at?
 12 A. Yeah, Kingdom Ministry school?
 13 Q. Right. It says -- it refers to an addendum
 14 presented at the Kingdom Ministry school. Do you see what I'm
 15 talking about?
 16 A. Right.
 17 (Exhibit 8 marked.)
 18 Q. Exhibit 8 is a copy of that addendum, is it not?
 19 A. Yes.
 20 (Exhibit 9 marked.)
 21 Q. Let me show you Exhibit 9 to your deposition.
 22 Exhibit 9 is a February 3, 1993 letter to all bodies of elders.
 23 Correct?
 24 A. Right.
 25 (Exhibit 10 marked.)

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1 Q. Let me show you Exhibit 10 to your deposition,
 2 please, sir. Exhibit 10 is an August 1, 1995 letter to all
 3 bodies of elders, is it not?
 4 A. That's correct.
 5 (Exhibit 11 marked.)
 6 Q. I show you Exhibit 11 to your deposition. Exhibit
 7 11 is a March 14, 1997 letter to all body of elders. Correct?
 8 A. That is correct.
 9 MR. HAMPTON: Let's go off the record for a
 10 second.
 11 THE VIDEOGRAPHER: Go off the record at 2:20.
 12 (A break was taken from 2:20 to 2:33.)
 13 THE VIDEOGRAPHER: We're back on the record.
 14 2:33.
 15 MR. LIGHTY: During the break, I had a
 16 conversation with Mr. Hail about his testimony he would like to
 17 correct. It has to do with a letter of introduction which
 18 follows a publisher who moves from one congregation to another
 19 congregation. And he thinks he misspoke when he was asked
 20 about that earlier.
 21 MR. HAMPTON: All right.
 22 Q. Mr. Hail, let me show you -- well, let's do it this
 23 way. I would like to get you to educate me about the procedure
 24 for -- that is followed when one person moves from one
 25 congregation to another, whether or not there's any --

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1 A. Problem or not.
 2 Q. Problem, yeah. Each publisher has something -- has
 3 a publisher record card, does he not?
 4 A. Correct.
 5 Q. And that publisher record card goes with him
 6 wherever he goes, doesn't it?
 7 A. That's right.
 8 Q. So if he goes from the East congregation to the
 9 South congregation, that publisher card goes with him?
 10 A. That's right.
 11 Q. And if he's disfellowshipped, there is a notation
 12 made on the publisher record card, is there not?
 13 A. Right.
 14 Q. So that would go with him to the new congregation.
 15 Right?
 16 A. Right.
 17 Q. Additionally, when somebody goes from congregation A
 18 to congregation B, the old congregation writes a letter of
 19 recommendation to the new congregation. True?
 20 A. That's correct, but it wouldn't be in the case of
 21 one who is disfellowshipped at the time.
 22 Q. Oh, I understand.
 23 A. Okay.
 24 Q. I misspoke. A case of somebody where there's no
 25 problem, there's a letter of recommendation. Right?

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1 Q. And then a couple of sentences later it says, quote,
 2 Loving elders, too, will want to act in a way that demonstrates
 3 their protective care since the word "overseer" carries the
 4 thought of one who watches over, a guardian, a shepherd of the
 5 flock. Did I read that right.
 6 A. Right.
 7 Q. Now that describes the responsibility of the elders
 8 to the flock and to the children.
 9 A. Uh-huh.
 10 Q. Right?
 11 MR. LIGHTY: Object to form.
 12 A. Uh-huh.
 13 Q. I'm sorry?
 14 A. Yes.
 15 Q. Now it makes sense, does it not, that parents would
 16 want to know whether there's a child abuser or child molester
 17 in their midst, doesn't it?
 18 A. That would be helpful, sure.
 19 Q. And you've talked about the responsibility of the
 20 parents to -- having -- you've talked about how the parents
 21 have the primary responsibility to protect their kids. Right?
 22 A. Give me the question again.
 23 Q. You've talked about how the parents have the primary
 24 responsibility of protecting their kids?
 25 A. Right.

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1 Q. And specifically the Daddy?
 2 A. Right.
 3 Q. Now it stands to reason that the parents could
 4 exercise that responsibility better if they knew who around
 5 them had been guilty of child abuse or child sexual abuse in
 6 the past, does it not?
 7 A. If they know about it, they could better protect the
 8 child.
 9 Q. Okay. Do you, as an elder, feel a responsibility to
 10 tell the parents of little kids in the congregation if there's
 11 somebody in the congregation who's been guilty of child sexual
 12 abuse in the past?
 13 MR. LIGHTY: Object to form.
 14 Q. Do you think that would be your responsibility to do
 15 so?
 16 MR. LIGHTY: Same objection.
 17 A. We -- we would look at it as shepherding the
 18 congregation and see to it that the children -- let me go back.
 19 We would, in overseeing a congregation in that regard, take
 20 measures to see that the individual who did that would be
 21 restricted in his activity.
 22 Q. Okay. That's not -- I appreciate that. That's good
 23 information. But I was coming at it a little differently. Do
 24 you think it would be your -- strike that.
 25 Would you have the discretion -- would you have the

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1 right as an elder in the Jehovah's Witnesses to tell a parent
 2 that there was a former child molester in the congregation?
 3 A. Well, that -- that would be brought out. It could
 4 be if that was necessary, if the elders felt that was
 5 necessary. But we -- we ordinarily don't -- of course, in a
 6 child abuse case, it's a little different. So we could do
 7 that.
 8 Q. You'd have to call Bethel to get permission,
 9 wouldn't you?
 10 A. No.
 11 MR. LIGHTY: Object to form.
 12 Q. You believe that you have the discretion to simply
 13 make the decision on your own to call the Society -- I mean, to
 14 tell a parent of a little kid that somebody else in the
 15 congregation is a former child molester?
 16 A. Well, I could -- we could contact the Society and
 17 get their counsel on it. If we have doubts about it, then we
 18 could do that.
 19 Q. Well, has that ever happened before? Have you ever
 20 done that?
 21 A. Never. Never done it.
 22 Q. So you've never told any --
 23 A. Never had that experience, no
 24 Q. Okay. So --
 25 MR. LIGHTY: Let him finish.

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1 Q. -- would it be fair to say that this has never come
 2 up before, and you don't know what you'd do necessarily?
 3 A. Right.
 4 Q. Okay. Would you first look at Kingdom Ministry text
 5 or -- and the letters to the body of elders and see whether
 6 there's a procedure in place for that situation?
 7 A. Yes. The elders would get together and review these
 8 letters that you've been bringing in and others to see what
 9 would be -- and if we couldn't come to a conclusion, then we
 10 would call --
 11 Q. Okay.
 12 A. -- call the service department.
 13 Q. So fair to say that you would -- you would follow
 14 the directions of the Society --
 15 A. Correct.
 16 Q. -- in that situation?
 17 A. Right.
 18 Q. If directions had already been given in one of these
 19 letters, you would follow those directions, otherwise you would
 20 call the Society for directions?
 21 A. If we had a problem understanding exactly what
 22 they -- what needed to be done, we would get their counsel.
 23 Q. And if the letters were silent, if they had never
 24 addressed that situation in the past, then you would have to
 25 call Bethel, would you not?

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1 Q. Did it involve the woman he eventually married?
 2 A. Some. Some, but there was other cases as well.
 3 Q. So he was disfellowshipped in part for having sex
 4 with the woman he eventually married?
 5 A. That's correct.
 6 Q. When a judicial committee -- strike that.
 7 When two elders are appointed to investigate a gross
 8 sin -- is that the word you used, a gross sin?
 9 A. Or any -- any violation of Bible law.
 10 Q. Okay. They initiate the contact with the accused
 11 person?
 12 A. Correct.
 13 Q. Their -- they have a conversation with him that is
 14 part of the investigation process?
 15 A. Correct.
 16 Q. The conversation is in their role as investigating
 17 this accusation?
 18 A. Correct.
 19 Q. When he appears before a judicial committee, again,
 20 it's the judicial committee that calls him to appear before it?
 21 A. Correct.
 22 Q. His appearance is as an accused in a judicial
 23 setting?
 24 A. Correct. Uh-huh. Yes.
 25 Q. The dialogue that takes place is just like -- it's a

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1 lot like what we're doing here today.
 2 A. Right.
 3 Q. It's adversarial. Right?
 4 A. Correct.
 5 Q. With the judicial committee on one side and him
 6 defending himself. True?
 7 A. The accusation is brought and made clear to him.
 8 Q. Right.
 9 A. Then depending on his attitude --
 10 Q. Right.
 11 A. -- what takes place.
 12 Q. And he's in a defensive posture?
 13 A. Yes.
 14 Q. This judicial committee that investigated Mr. Harvey
 15 for fornication, did any of it -- any of the allegations
 16 involve young women, I mean, under the age of 18?
 17 A. Not to my knowledge.
 18 Q. Now the forms that are described in this -- one of
 19 these exhibits that we've talked about earlier that's -- that
 20 are to be filled out when a judicial committee does its
 21 business, those forms would have been filled out in that case,
 22 wouldn't they?
 23 A. That's correct.
 24 Q. And since he was disfellowshipped, a report would
 25 have been made to the Society?

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1 A. That's correct.
 2 Q. The exhibit I was referring to is Exhibit 4?
 3 A. Yes. Those forms are filled out and sent in to the
 4 Society.
 5 Q. When did you first meet Dee Dee?
 6 A. Well, I guess right after James Harvey moved in.
 7 Q. Right after he moved into the -- to your --
 8 A. I'm not sure about it, but --
 9 Q. Moved in where?
 10 A. Moved into our -- into the East congregation from
 11 the South.
 12 Q. So you think you would have met Dee Dee about the
 13 same time you met James Harvey?
 14 A. Probably a little afterwards, yes. I'm not clear on
 15 that.
 16 Q. Did you know when you met her that she was studying
 17 to be baptized?
 18 A. No, I don't remember that.
 19 Q. Okay. Did you subsequently learn that she was --
 20 that she was studying to be baptized?
 21 A. I don't recall.
 22 Q. Did you ever know that she got -- she was baptized?
 23 A. Yes.
 24 Q. Okay. When did you learn she was baptized?
 25 A. Oh, it was while they were in the East congregation.

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1 Q. Okay. Do you know anything about who she studied
 2 with or when?
 3 A. I don't know who she studied with in the South, but
 4 when they moved over to our congregation, my wife and I studied
 5 with James and Dee Dee to try to help them because they were
 6 weak spiritually.
 7 Q. What year would that have been?
 8 A. That would be probably maybe '94, '95. I don't --
 9 I'm just guessing there.
 10 Q. Well, is there some event that you can tie it to so
 11 we can know better when it occurred?
 12 A. No.
 13 Q. Let me ask you this, Mr. Hail, let me just ask you
 14 to assume with me that when you were -- when you and your wife
 15 were studying with James and Dee Dee, if you had known at that
 16 time that he had been accused of sexually abusing a little
 17 girl -- you knew that Dee Dee had two young girls, did you not?
 18 A. Oh, yeah. I knew both of them.
 19 Q. And if you had known at that time that James Harvey
 20 had been accused of molesting a little girl, could you as an
 21 elder have told Dee Dee about that accusation?
 22 MR. LIGHTY: Object to form.
 23 A. I don't think I could have.
 24 Q. Okay. Do you think that you would have consulted
 25 the other elders, consulted the letters from the Society, maybe

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1 what the instructions were from the Society?
 2 A. Right. If they were specific to do a certain thing,
 3 we would do it.
 4 Q. Okay. Okay. Did you know that Dee Dee and James
 5 were married after he was reinstated?
 6 A. That was after he was disfellowshipped.
 7 Q. Yes.
 8 A. Yeah.
 9 Q. He was disfellowshipped and then reinstated.
 10 A. No. No. He was disfellowshipped. They married.
 11 And then later on they were reinstated.
 12 Q. I see. When -- when he was reinstated, he was
 13 reinstated by the East congregation, was he not?
 14 A. Correct.
 15 Q. Did he make a plea for reinstatement?
 16 A. Yes, to the Whitehouse congregation.
 17 Q. Okay. Which congregation reinstated him?
 18 A. East.
 19 Q. Was -- how do you make a plea for reinstatement?
 20 A. Well, he was attending over at Whitehouse. They had
 21 moved to Whitehouse when they married. And so he attended over
 22 there, and then he would make a plea or -- in writing that he
 23 wanted to be reinstated --
 24 Q. Okay.
 25 A. -- to them, and they would contact us.

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1 Q. Okay. So his plea for reinstatement would have been
 2 in writing?
 3 A. Yes.
 4 Q. And they would contact the East congregation, and
 5 then y'all would act on it?
 6 A. On their recommendation, yes.
 7 Q. And you would open the envelope and look at the --
 8 A. The -- I'm sorry.
 9 Q. And look at the circumstances that caused him to be
 10 disfellowshipped to begin with. Right?
 11 A. Correct.
 12 Q. Now do all elders act on a plea of reinstatement?
 13 A. No. Just the judicial committee. If the original
 14 committee was all there, then they would handle it. If not,
 15 they would appoint another one to replace those who wasn't.
 16 Q. Was the original committee all there?
 17 A. I don't remember.
 18 Q. Did you ever see what was in the envelope?
 19 A. No.
 20 Q. It's been destroyed now, I take it?
 21 A. Along with other things.
 22 Q. Now let me show you Exhibit 12 to the deposition.
 23 (Exhibit 12 marked.)
 24 Q. Is that a copy of James Harvey's publisher card?
 25 A. It seems to be.

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1 Q. Is there any way you can tell what congregation --
 2 let me -- let me back up. Strike that.
 3 The first two sheets have the year, '96 and '97.
 4 Right?
 5 A. Right.
 6 Q. And the second sheet has him being disfellowshipped
 7 on March 15 of 2001. Right?
 8 A. Yes. Uh-huh.
 9 Q. Is that the date that he was disfellowshipped?
 10 A. Best I could recall. I don't recall the exact date.
 11 Q. But the exact date should be recorded on this card?
 12 A. Right. Right.
 13 Q. Now you see there's some black under that 3/15/01?
 14 A. (Witness nods head.)
 15 Q. What would -- what would be written under the date?
 16 A. I have no idea.
 17 Q. Is there anything that -- when you make a note on
 18 somebody's fellowship card that they've been disfellowshipped,
 19 is there anything that you're supposed to write, other than the
 20 date?
 21 A. No.
 22 Q. Look at the last two pages there. Is there any way
 23 you can tell what years these are?
 24 A. These would be the years, I imagine, he was with the
 25 East. But that's just supposing, just a guess. I assume he

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1 would be with the East congregation.
 2 Q. Well, if -- if this -- if these were the years that
 3 he was with the East congregation, wouldn't they or shouldn't
 4 they reflect that he was disfellowshipped and then reinstated?
 5 A. No.
 6 Q. Why?
 7 A. Well, you make a card -- new card every two -- card
 8 every two years, and you don't put it on each card.
 9 Q. Well, what would have happened to the card that
 10 pertained to the time when he was disfellowshipped?
 11 A. Pardon?
 12 Q. What happened to the card that pertained to the time
 13 that he was disfellowshipped?
 14 A. That's -- that's the one here, where it says so
 15 right here.
 16 Q. This is the first time he was disfellowshipped?
 17 A. No.
 18 Q. I'm not -- let me start over.
 19 A. Wait a minute. Wait a minute. Right. That could
 20 be the first -- yeah. I see '97 here. I was thinking it was
 21 earlier, when I was thinking that. But that would be his
 22 disfellowship the first time when he was -- it would have to
 23 be, I would think.
 24 Q. 3/15/01?
 25 A. Yeah.

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1 Child abusers would be in there.

2 Q. Okay. You don't put -- you don't spread information

3 about anybody, including child abusers?

4 A. Right.

5 Q. Okay. In keeping with the teachings of the

6 Jehovah's Witnesses, in keeping with the policies expressed in

7 these letters to elders, if the person that I've described is

8 conducting study for somebody who's getting ready to be

9 baptized --

10 A. Uh-huh.

11 Q. -- knew that that person was associating with a

12 former child abuser, would she have the discretion to go

13 straight to her and warn her?

14 A. Yes.

15 MR. LIGHTY: Object.

16 Q. She would?

17 A. Uh-huh.

18 Q. Without going to the elders first?

19 A. Right.

20 Q. Wouldn't that violate some of these principles in

21 these letters?

22 A. She's not -- the person that would do that would

23 be -- wouldn't be an elder. And if she comes into information

24 along that line, well, then that would be up to her judgment to

25 do that.

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1 MR. HAMPTON: Okay. Let's take a break.

2 THE VIDEOGRAPHER: Go off the record, 3:17.

3 (A break was taken from 3:17 to 3:29.)

4 THE VIDEOGRAPHER: We're back on the record at

5 3:29.

6 Q. Did James Harvey have a bunch of brothers?

7 A. Yes.

8 Q. Was one of them named Cameron?

9 A. No. That's a nephew.

10 Q. Nephew. And is Cameron Harvey, was he related to

11 Mr. Nash?

12 A. Son-in-law. He was a son-in-law.

13 Q. He was Mr. Nash's son-in-law?

14 A. Uh-huh.

15 Q. Now I want to make real sure that I understand --

16 that I got your testimony right. The first time you ever heard

17 about April [REDACTED] accusing James Harvey of molesting her was

18 about 2000?

19 A. Correct.

20 Q. Had you ever heard that Cameron -- that she had

21 accused Cameron Harvey of doing anything?

22 A. Never.

23 Q. Any of the other Harvey brothers?

24 A. None.

25 Q. So the -- would it be fair to say that you didn't

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1 know anything about April [REDACTED] until about 2000?

2 A. Until that time, yes.

3 Q. Did you know her parents?

4 A. Yes.

5 Q. You knew Mr. and Mrs. [REDACTED]?

6 A. Yes.

7 Q. What are their names?

8 A. I think Richard is his name. I don't remember her

9 name.

10 Q. How did you know them?

11 A. Well, of course, they're Jehovah's Witnesses. And

12 when they built the South hall, we worked a little together

13 over there. And he had a reproduction plant, make signs, and

14 we have a text that we put up at the Kingdom Hall each year,

15 and I used to go to him, and he would make the -- print out the

16 text for us.

17 Q. Is he still a member of your congregation?

18 A. Oh, no. He's in Colorado.

19 Q. When's the last contact you had with him?

20 A. After James Harvey was disfellowshipped, I called

21 him and told him that he was disfellowshipped.

22 Q. Did -- did you hear from them during the time that

23 you were dealing with the Harvey matter?

24 A. I contacted them about three or four times on the

25 phone.

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1 Q. Okay. And why was that?

2 A. Well, first of all, to contact April to get her

3 statement on James Harvey and then to let him know that we

4 was -- was taking some time to get everything together because

5 some of them were out of town. I was trying for different

6 ones. And so I let him know that we were still working on it.

7 It was just taking a little more time than what we were --

8 ordinarily would take.

9 Q. You learned that -- I mean, the reason you were

10 interested in talking to the [REDACTED] is that you learned that

11 James Harvey had -- that she had accused him of molesting her?

12 A. Right.

13 Q. And you learned that that had been reported to some

14 elders in the East congregation, did you not?

15 A. No. That's not true.

16 Q. Did you learn that it had been reported to anybody?

17 A. Not at that time.

18 Q. Well, have you since learned that it was reported?

19 A. Yes, that it was reported to the police. Brother

20 [REDACTED] told me that and that he had also gone to the South

21 congregation.

22 Q. So let's talk about the police first. Brother Ogden

23 told you this?

24 MR. LIGHTY: [REDACTED].

25 A. [REDACTED].

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1 A. No.

2 Q. Do you know who had the videotape?

3 A. No.

4 Q. Well, would it have been elders in the South

5 congregation that had the videotape?

6 A. I have no idea.

7 Q. Did Mr. [REDACTED] tell you who he gave the video to?

8 A. No.

9 Q. How did you learn it was destroyed?

10 A. Just talk.

11 Q. Who told you?

12 A. I don't remember.

13 Q. Why would a videotape be destroyed?

14 MR. LIGHTY: Object to form.

15 A. I have no idea.

16 Q. Have you talked to Frank Bower about the videotape?

17 A. No.

18 Q. You said that you contacted the [REDACTED] to get a

19 statement from April. Right?

20 A. Correct.

21 Q. And that was a statement that you obtained in your

22 capacity as somebody investigating the Harvey matter.

23 A. That's correct.

24 Q. And she gave that statement to you as -- as a

25 witness in a judicial proceeding. Right?

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1 A. Yes.

2 Q. Did the [REDACTED] write a letter to the congregation?

3 A. To the congregation?

4 Q. Or to the elders.

5 A. Or are you talking to the elders?

6 Q. To the elders.

7 A. He mailed -- or she mailed her statement to me.

8 Q. Okay. How about the [REDACTED], did they write anything

9 to you?

10 A. Yes.

11 Q. And, again, that would have been to you in your

12 capacity as an investigator?

13 A. Right.

14 Q. And they would have been acting as witnesses in a

15 judicial proceeding when they wrote the letter?

16 A. She -- April would be.

17 Q. What about the [REDACTED]?

18 A. Well, they were -- the daughter had told them about

19 it, so they would be a witness in the -- in the technicality.

20 I don't know what you would call a witness.

21 Q. Well, they --

22 A. They knew about the situation because their daughter

23 had told them.

24 Q. Okay. And they were describing the events that

25 their daughter had told them?

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1 A. Yes.

2 Q. And they were describing it as if they were a

3 witness in this judicial proceeding that you were in the middle

4 of?

5 A. I don't know if they went into that, but they give

6 me -- in writing to me, they were expressing that they were

7 glad that we were looking into Harvey. And it was more along

8 that line, because April sent a separate statement. It wasn't

9 part of a letter --

10 Q. Okay.

11 A. -- from Mr. [REDACTED].

12 Q. It was just the [REDACTED] telling you the facts that

13 they knew from their daughter?

14 MR. LIGHTY: Object to the form.

15 A. No. She had her own statement that was separate

16 from them.

17 Q. Oh, those facts came from her, from April?

18 A. See, she made a statement that was separate. And

19 the [REDACTED] had a letter in there just saying they was glad that

20 we were looking into it and investigating it.

21 Q. I got you. Okay. Now when did you meet Heather

22 Cooks?

23 A. Heather Cooks had moved down from Kansas about --

24 around '85, somewhere in there.

25 Q. Okay.

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1 A. Her grandmother is Sharon Harvey.

2 Q. Okay.

3 A. So she moved to be with her grandmother.

4 Q. Right. And did she move into your congregation?

5 A. Yes. Uh-huh.

6 Q. The East congregation?

7 A. Because Sharon Harvey, her grandmother, was a part

8 of our congregation.

9 Q. So you met her when she became a part of the East

10 congregation?

11 A. That's correct.

12 Q. Now she got married pretty soon after she moved down

13 here, didn't she?

14 A. About a year and a half, two years probably,

15 somewhere in there.

16 Q. So it would have been probably in '96 or so?

17 A. Around in that time.

18 Q. And did -- did she come to you for some counseling?

19 MR. LIGHTY: I'm sorry. I don't mean to stop

20 you. And I apologize. You've been so kind. I thought the

21 testimony was she moved down in '85 and then there was two

22 years later it's '96. I'm confused.

23 MR. HAMPTON: He said '95, is what I heard.

24 Maybe I heard you wrong.

25 A. She moved down --

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1 Q. Okay. This meeting that Dee Dee had with you and
 2 Brother LaRocha, was that followed by a call to Bethel about
 3 whether or not to investigate?
 4 A. No.
 5 Q. Why not? I thought y'all were supposed to do that.
 6 A. She had already called in to the police and reported
 7 it.
 8 Q. Okay.
 9 A. And we were already pursuing James Harvey when she
 10 came to us on April [redacted] and Heather Cooks.
 11 Q. Okay.
 12 A. So we -- the judicial process was in -- already in
 13 motion when she came over to us.
 14 Q. Okay. So after Heather Cooks talked to you, you
 15 started the process?
 16 A. Right.
 17 Q. And you called Bethel?
 18 A. Right.
 19 Q. Made the report?
 20 A. Right.
 21 Q. Appointed two elders to investigate?
 22 A. Right.
 23 Q. Who were the two elders?
 24 A. Well, the -- I don't remember. I was one of them.
 25 I contacted the [redacted] and Heather, and we got the information

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1 together. Then they appointed a judicial committee.
 2 Q. Okay. And you were on the judicial committee?
 3 A. Right.
 4 Q. And this was a judicial committee that was actually
 5 looking at James Harvey for the [redacted] and the Heather Cooks --
 6 A. Correct.
 7 Q. -- molestations?
 8 A. That's right.
 9 Q. Did it also get involved in Kaleena's case?
 10 A. Yes. It was added to the -- as another case.
 11 Q. Are you the one who prepared the judicial committee
 12 report?
 13 A. Yes. I was chairman of the judicial committee.
 14 Q. Okay. Now Heather Cooks gave a statement. True?
 15 A. True.
 16 Q. Handwritten or typed or some other way?
 17 A. Handwritten.
 18 Q. Okay. Any typed statement by Heather Cooks?
 19 A. No.
 20 Q. April [redacted] wrote a statement?
 21 A. Right.
 22 Q. Mr. and Mrs. [redacted] wrote a letter?
 23 A. Right.
 24 Q. Do you have statements from anybody else?
 25 A. No. Just the notes that we had when meeting with

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1 Dee Dee Harvey, was the only other -- and April [redacted], Heather
 2 Cooks and then a meeting with Dee Dee and Kaleena.
 3 Q. Did -- who initiated the meeting with Dee Dee and
 4 Kaleena?
 5 A. She called up and wanted to -- and wanted to meet
 6 with us.
 7 Q. When you started investigating James Harvey after
 8 Heather Cooks came to you, did you call Dee Dee and tell her?
 9 A. No.
 10 Q. And Heather Cooks had already told you she was
 11 worried about these two little girls?
 12 A. Right.
 13 Q. And you had your second witness. Right?
 14 A. Right.
 15 Q. Did you think to yourself, We better warn Dee Dee?
 16 A. At that particular time she was aware of it when we
 17 got the information from Heather Cooks. And Harvey -- she had
 18 already put him out.
 19 Q. Okay. Were there any videotapes or anything --
 20 A. None.
 21 Q. -- that were made?
 22 Was Mr. LaRocha on the judicial committee?
 23 A. Yes.
 24 Q. Was a fellow named Andy Seaberry on it?
 25 A. He was the third.

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1 Q. Did you ever counsel Dee Dee during this period of
 2 time?
 3 A. No.
 4 Q. What involvement did you have in the criminal case?
 5 A. None. I was subpoenaed, but I never did appear.
 6 Q. Why were you subpoenaed?
 7 A. Because the individual, assistant district attorney,
 8 Jason Castle said my name came up quite a bit in there, so he
 9 wanted me to appear.
 10 Q. Did you ever talk to Mr. Castle?
 11 A. Yes, on the phone three or four times.
 12 Q. Did James Harvey confess to you that he had
 13 molested --
 14 A. No.
 15 Q. -- these girls?
 16 A. No.
 17 Q. Did he appear at the judicial committee meeting?
 18 A. No.
 19 Q. So the judicial committee meeting comprised of --
 20 A. Andy Seaberry, LaRocha and myself.
 21 Q. Okay. What witnesses appeared?
 22 A. None.
 23 Q. But you had the written statements?
 24 A. Written -- three -- three written statements there.
 25 Q. The third being Kaleena?

DEPOSITION OF CURTIS DAVIS HAIL

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1 Q. When did Heather give you this letter?
 2 A. It was after the -- after she had talked to us. It
 3 was sometime after there.
 4 Q. Do you remember how long after?
 5 A. No, I don't.
 6 Q. Just for the record, Exhibit 13 is a copy of Heather
 7 Cooks's letter, is it not?
 8 A. As far as I can see it is.
 9 MR. LIGHTY: Dealing with James Harvey?
 10 MR. HAMPTON: Yes. And at the break, we've
 11 been given an unredacted version, and I'll substitute this 13
 12 for the other one.
 13 MR. LIGHTY: Thank you.
 14 Q. As I understand the sequence of events, Heather
 15 Cooks comes to you, and that triggers the investigation of
 16 Harvey.
 17 A. Correct.
 18 Q. Because you've now got the second witness?
 19 A. ~~Yes~~ would be the second.
 20 Q. Okay. You've now got two witnesses?
 21 A. Got two.
 22 Q. But just coincidentally, Dee Dee Harvey had already
 23 learned about this at the time that Heather comes to you.
 24 Right?
 25 MR. LIGHTY: Object to form. Just learned

Page 167

1 about --
 2 Q. About what James was doing to Kaleena.
 3 A. I don't know. She said '98. So that was -- that it
 4 had gone back that far. But when she learned about it, I don't
 5 know.
 6 Q. Oh, okay. What you meant was he had already been
 7 abusing Kaleena?
 8 A. Right.
 9 Q. You don't know when she learned about it?
 10 A. No.
 11 Q. Well, if you look at Exhibit 13 -- let me find this.
 12 I'm going to apologize for pointing, but it's right in there.
 13 It's pretty clear from Exhibit 13 that when Heather Cooks wrote
 14 that, she didn't know that James had done anything to Kaleena
 15 or Amanda. True?
 16 A. Right.
 17 Q. When she came to you, she didn't know anything about
 18 that.
 19 A. Right. That's true.
 20 Q. She expressed concern about what might be happening,
 21 and she hoped it wasn't?
 22 A. Right.
 23 Q. Do you know how this letter came about, Exhibit 13?
 24 A. She was just expressing her feelings towards her
 25 uncle, James Harvey.

Page 168

1 Q. Did you tell her to write it?
 2 A. No.
 3 Q. She mentions -- she says that three years ago she
 4 was talking with a family member about how James abused her.
 5 I'm paraphrasing. Do you know who that family member was?
 6 A. Probably some cousins up in Kansas. When she came
 7 to me and informed me about James molesting her, she said she
 8 was going to contact some cousins up there in Kansas.
 9 Q. Nikki and Shawna?
 10 A. I think so.
 11 Q. Does that sound familiar?
 12 A. Uh-huh.
 13 Q. Well, Mr. Hail, have you understood all my
 14 questions.
 15 A. Yeah.
 16 Q. Well, I think I've understood all your answers, and
 17 I sure appreciate your time.
 18 A. Well, I appreciate that.
 19 MR. HAMPTON: I pass you the witness.
 20 MR. LIGHTY: I'm just going to clarify one
 21 area.
 22 EXAMINATION
 23 BY MR. LIGHTY:
 24 Q. Mr. Hail, when Diedra or Dee Dee Harvey came to you
 25 with Kaleena to tell you about -- that James Harvey had been

Page 169

1 sexually molesting Kaleena -- you remember what time period
 2 we're talking about?
 3 A. Right.
 4 Q. Did Dee Dee tell you where James Harvey was then?
 5 A. No.
 6 Q. Okay. Had he already been kicked out of her home?
 7 A. Right.
 8 Q. Okay. And were you under the understanding that
 9 Kaleena had actually gone to the police already --
 10 A. Yeah.
 11 Q. -- before she came to you?
 12 A. Yeah, and been reported to the police.
 13 MR. LIGHTY: That's all the questions I have.
 14 MR. HAMPTON: Let me just ask one more
 15 question.
 16 FURTHER EXAMINATION
 17 BY MR. HAMPTON:
 18 Q. If the -- if the elders at Whitehouse or the elders
 19 at South had wanted to report this allegation that Heather -- I
 20 mean, that April ~~was~~ was making to the police, but they only
 21 had one witness, it was a he said/she said, could they have
 22 done so?
 23 A. Yes, they could have called the police.
 24 Q. They were free to call the police?
 25 A. They could have called the police if -- but it had

DEPOSITION OF CURTIS DAVIS HAIL

1 _____;

2 That the amount of time used by each party at the

3 deposition is as follows:

4 HARTLEY HAMPTON.....04 HOURS:34 MINUTE(S)

5 DONALD FRANCIS LIGHTY.....00 HOURS:01 MINUTE(S)

6 That pursuant to information given to the deposition

7 officer at the time said testimony was taken, the following

8 includes counsel for all parties of record:

9 FOR THE PLAINTIFFS:

Hartley Hampton

10 FIBICH, HAMPTON, LEEBRON & GARTH, L.L.P.

Five Houston Center

11 1401 McKinney, Suite 1800

Houston, Texas 77010-9998

12

713.751.0025

13 713.980.8116 (fax)

14 - AND -

15 Gregory S. Love

GREGORY S. LOVE, ATTORNEY AT LAW

16 314 Main Street

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17 Fort Worth, Texas 76102

817.335.2800

18 817.335.2912 (fax)

gslove@airmail.net

19

FOR THE DEFENDANTS:

20 Donald Francis Lighty

STEVENS, BALDO & FREEMAN

21 Petroleum Tower

550 Fannin, Suite 400

22 Beaumont, Texas 77701

409.835.5200

23 409.838.5638 (fax)

lighty@sbf-law.com

24

25 I further certify that I am neither counsel for, related

1 FURTHER CERTIFICATION UNDER RULE 203 TRCP

2 The original deposition was/was not returned to the

3 deposition officer on _____;

4 If returned, the attached Changes and Signature page

5 contains any changes and the reasons therefor;

6 If returned, the original deposition was delivered to

7 Hartley Hampton, Custodial Attorney;

8 That \$_____ is the deposition officer's charges to

9 the Plaintiffs for preparing the original deposition transcript

10 and any copies of exhibits;

11 That the deposition was delivered in accordance with Rule

12 203.3, and that a copy of this certificate was served on all

13 parties shown herein on and filed with the Clerk.

14 Certified to by me this _____ day of

15 _____, 2003.

16

17

18 _____

19 Julie C. Brandt, CSR, CRR

Texas CSR No. 4018

Expiration Date: 12/31/04

20 LegaLink Dallas - Reg. No. 191

4144 North Central Expressway

21 Suite 450

Dallas, Texas 75204

22 800.966.4567

23

24

25

1 to, nor employed by any of the parties or attorneys in the

2 action in which this proceeding was taken, and further that I

3 am not financially or otherwise interested in the outcome of

4 the action.

5 Further certification requirements pursuant to Rule 203 of

6 TRCP will be certified to after they have occurred.

7 Certified to by me _____, 2003.

8

9

10

11

12 _____

Julie C. Brandt, CSR, CRR

13 Texas CSR No. 4018

Expiration Date: 12/31/04

14 LegaLink Dallas - Reg. No. 191

4144 North Central Expressway, Suite 450

Dallas, Texas 75204

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CAUSE NO. 03-2368C/B

KALEENA S., Individually and as §
Next Friend of AMANDA M., a minor, §
Plaintiffs §

vs. §

WATCHTOWER BIBLE AND TRACT §
SOCIETY OF NEW YORK, INC., §
JEHOVAH'S WITNESSES SOUTH §
CONGREGATION, JEHOVAH'S §
WITNESSES - EAST CONGREGATION, §
JEHOVAH'S WITNESSES - WHITE HOUSE §
CONGREGATION, WATCHTOWER §
BIBLE AND TRACT SOCIETY OF §
PENNSYLVANIA, INC., WATCHTOWER §
ENTERPRISES, L.L.C., WATCHTOWER §
FOUNDATION, INC., WATCHTOWER §
ASSOCIATES, LTD., KINGDOM SUPPORT §
SERVICES, INC., CHRISTIAN §
CONGREGATION OF JEHOVAH'S §
WITNESSES, RELIGIOUS ORDER OF §
JEHOVAH'S WITNESSES, AND JAMES §
HARVEY, §
Defendants §

IN THE DISTRICT COURT OF

SMITH COUNTY, TEXAS

241ST JUDICIAL DISTRICT

FILED
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DISTRICT CLERK
03 DEC 18 AM 11:34
DEPUTY

**DEFENDANTS' JOINT MOTION FOR PARTIAL
SUMMARY JUDGMENT AS TO ALL INDIVIDUAL CLAIMS
AND CAUSES OF ACTION OF PLAINTIFF, KALEENA S.**

TO THE HONORABLE JUDGE OF THIS COURT:

COME NOW Watchtower Bible and Tract Society of New York, Inc.; Watch Tower Bible and Tract Society of Pennsylvania; South Congregation of Jehovah's Witnesses, Tyler, Texas; East Congregation of Jehovah's Witnesses, Tyler, Texas; Whitehouse Congregation of Jehovah's Witnesses, Whitehouse, Texas; Kingdom Support Services, Christian Congregation of Jehovah's Witnesses, and Religious Order of Jehovah's Witnesses [hereinafter referred to collectively as "Defendants"], and make and file this their Defendants' Joint Motion for Partial Summary Judgment

as to All Individual Claims and Causes of Action of Plaintiff Kaleena S. In support of the relief requested, the Defendants respectfully show the Court the following:

I.

INTRODUCTION AND STATEMENT OF FACTS

This is a case involving allegations of “sexual abuse of Plaintiff[] Kaleena S. . . . during a period of several years, while the Plaintiff[] was a] very young girl[.]” See Plaintiffs’ Second Amended Petition at ¶ IV, filed of record November 4, 2003. All of the allegations against the Defendants sound in tort. *Id.* at ¶ V. The gist of Plaintiffs’ claims against these Defendants is that they knew of co-defendant James Harvey’s history of sexual abuse of minors, that they were under a duty to warn the Plaintiffs, their families, and law enforcement authorities of James Harvey’s proclivities, and that they failed with regard to this duty. *Id.* Even assuming *arguendo* that these Defendants had knowledge of and a duty to warn others of a lay church member’s criminal activities committed in his own home and business, these Defendants are entitled to summary judgment in their favor as to all claims and causes of action of Plaintiff Kaleena S. based upon the two year statute of limitations governing tort causes of action.

II.

THE SUMMARY JUDGMENT STANDARD

Summary judgment is proper only if the movant shows there is no genuine issue of material fact and he is entitled to judgment as a matter of law. TEX. R. CIV. P. 166a; *Nixon v. Mr. Property Management, Co.*, 690 S.W.2d 546, 548-49 (Tex. 1985). In reviewing a summary judgment, this court is required to take all proof favorable to the non-movant as true, indulging every reasonable inference and resolving any conflicts in the evidence in the non-movant's favor. *Id.*

When a party moves for summary judgment on the basis of limitations, that party must conclusively establish that the plaintiff's cause of action is barred by the applicable statute of limitations. *Delgado v. Burns*, 656 S.W.2d 428, 429 (Tex. 1983). In the present case, despite the stringent summary judgment standard, the Defendants are entitled to judgment in their favor as to all claims and causes of action asserted individually by Plaintiff, Kaleena S. because such individual claims and causes of action are barred by the applicable statute of limitations.

III.

ARGUMENTS AND AUTHORTIES

A. The Applicable Limitations Statute

All of Plaintiff's claims against these Defendants are subject to the two year statute of limitations governing tort causes of action. TEX. CIV. PRAC. & REM. CODE § 16.003. Section 16.003 provides that most tort suits must be brought "not later than two years after the day the cause of action accrues." *Id.*

Under Texas law, when a cause of action accrues is a question of law for the trial court. *See, e.g., Moreno v. Sterling Drug, Inc.*, 787 S.W.2d 348, 351 (Tex. 1990). As a general rule, a cause of action accrues when a tort is "completed"—that is, "when the elements of duty, breach and resulting injury or damage are present." *See Waxler v. Household Credit Servs., Inc.*, 106 S.W.3d 277, 280 (Tex. App.—Dallas 2003, no pet hist.) (citing 54 C.J.S. *Limitations of Actions* § 164 (1987)).

However, because the alleged injuries to Plaintiff occurred during her minority, Section 16.001 of the civil practice and remedies code should be examined. Section 16.001 (Effect of Disability) provides, in pertinent part, that: "(a) For the purposes of this subchapter, a person is under a legal disability if the person is: (1) younger than 18 years of age . . . (b) If a person entitled to bring

a personal action is under a legal disability when the cause of action accrues, the time of the disability is not included in a limitations period.” *Id.* at § 16.001.

Thus, the determinative issues for purposes of this partial summary judgment based on limitations are:

- (1) The date Plaintiff obtained her majority and
- (2) The date Plaintiff filed this lawsuit.

As set forth below and proven by the summary judgment evidence, more than two years elapsed between the date that Plaintiff obtained her majority (i.e. when she ceased to be under a legal disability tolling limitations’ running) and the date she filed suit. Thus, the two year statute of limitations ran as to all of Plaintiff’s individual claims and causes of action against these Defendants, and these Defendants are entitled to summary judgment in their favor as to all individual claims and causes of action of Plaintiff, Kaleena S., as a matter of law.

B. Application of the Controlling Law to the Uncontroverted Facts

Plaintiff Kaleena S. was deposed in this cause on November 7, 2003. *See* Exhibit “A,” a true and correct copy of excerpted pages from the transcript of the Videotaped Deposition of Kaleena S. In her deposition, Kaleena S. testified as follows:

- Her date of birth was **October 3, 1982** (Exhibit “A” at 17: 16-18);
- The last incident of inappropriate touching involving Kaleena S. occurred in **December 1997 or January 1998** (Exhibit “A” at 125: 3 through 126: 3);
- Plaintiff attained her majority (age 18) on **October 3, 2000**; and
- Plaintiff filed her Original Petition in this case on **April 25, 2003** (Exhibit “B,” a true and correct copy of Plaintiffs’ Original Petition and Process, filed of record).

Thus, the evidence proves unequivocally and as a matter of law that Plaintiff Kaleena S. filed this suit over two years after her tort causes of action accrued upon her attaining her majority on October 3, 2000.

IV.

CONCLUSION

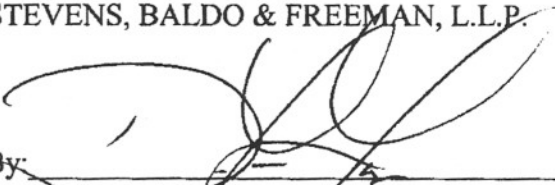
Based on the foregoing and the summary judgment evidence attached hereto, Defendants are entitled to summary judgment in their favor as a matter of law as to all causes of action alleged against them by Plaintiff Kaleena S. based upon the running of limitations.

WHEREFORE, PREMISES CONSIDERED, Defendants Watchtower Bible and Tract Society of New York, Inc.; Watch Tower Bible and Tract Society of Pennsylvania; South Congregation of Jehovah's Witnesses, Tyler, Texas; East Congregation of Jehovah's Witnesses, Tyler, Texas; White House Congregation of Jehovah's Witnesses, White House, Texas; Kingdom Support Services, Christian Congregation of Jehovah's Witnesses, and Religious Order of Jehovah's Witnesses request as follows:

- (1) That the Court set the foregoing partial summary judgment motion for hearing, with proper notice to all parties;
- (2) That following such hearing, the Court in all things grant partial summary judgment in favor of the Defendants as to all individual claims of Plaintiff, Kaleena S.; and
- (3) That the Court sign and enter an Order that Plaintiff, Kaleena S. recover nothing by this suit.

Respectfully submitted,

STEVENS, BALDO & FREEMAN, L.L.P.

By: 

Donald Francis Lighty
Texas Bar No. 12344600

R. Lyn Stevens
Texas Bar No. 19189020

550 Fannin, Suite 400

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Beaumont, Texas 77704-4950

Telephone: (409) 835-5200

Facsimile: (409) 838-5638

Attorneys for Defendants,
Watchtower Bible and Tract Society of New York,
Inc; Watch Tower Bible and Tract Society of
Pennsylvania; South Congregation of Jehovah's
Witnesses, Tyler, Texas; East Congregation of
Jehovah's Witnesses, Tyler, Texas; Whitehouse
Congregation of Jehovah's Witnesses, Whitehouse,
Texas; Kingdom Support Services,
Christian Congregation of Jehovah's Witnesses, and
Religious Order of Jehovah's Witnesses

Exhibit “A”

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CAUSE NO. 03-2368C

KALEENA S.,) IN THE DISTRICT COURT OF
Individually and as)
Next Friend of)
AMANDA M., a minor,)
Plaintiffs)

VS.)

WATCHTOWER BIBLE AND)
TRACT SOCIETY OF NEW)
YORK, INC.; JEHOVAH'S)
WITNESSES-SOUTH)
CONGREGATION, JEHOVAH'S)
WITNESSES-EAST)
CONGREGATION, JEHOVAH'S)
WITNESSES-WHITE HOUSE) SMITH COUNTY, TEXAS
CONGREGATION,)

WATCHTOWER BIBLE AND)
TRACT SOCIETY OF)
PENNSYLVANIA, INC.,)
WATCHTOWER ENTERPRISES,)
L.L.C., WATCHTOWER)
FOUNDATION, INC.,)
WATCHTOWER ASSOCIATES,)
LTD., KINGDOM SUPPORT)
SERVICES, INC., CHRISTIAN)
CONGREGATION OF JEHOVAH'S)
WITNESSES, RELIGIOUS)
ORDER OF JEHOVAH'S)
WITNESSES, AND JAMES)
HARVEY,)
Defendants) 241ST JUDICIAL DISTRICT

ORAL AND VIDEOTAPED DEPOSITION OF

KALEENA S.

NOVEMBER 7, 2003

**NMA
COPY**

1 referring to you formally.

2 A. No.

3 Q. Okay. That would make you feel better, to
4 call you --

5 A. Yes, sir.

6 Q. -- "Kaleena"?

7 Okay. I've already told you, please,
8 if you have a question, just simply say "Don." You
9 probably may not remember my last name is Lighty,
10 but you don't have to call me "Mr. Lighty." Okay?

11 A. Yes, sir.

12 Q. Okay. Would that make that -- you
13 comfortable as well?

14 A. Yes, sir.

15 Q. Okay. Excellent.

16 It's my understanding you were born
17 on October 3rd, 1982.

18 A. Yes, sir.

19 Q. And where were you born?

20 A. In Liberal, Kansas.

21 Q. Okay. How old a lady are you today?

22 A. Twenty-one.

23 Q. Where were you raised? Where did you grow
24 up?

25 A. In Kansas, Oklahoma, and Texas.

1 you?

2 A. No.

3 Q. Were there any other events after Dublin
4 Street?

5 A. No.

6 Q. Okay. When was the last of these events?
7 Can you give me a calendar year?

8 A. December of '97, January of '98.

9 Q. Sometime around that -- why is that in
10 your mind? What makes you think that it happened
11 there?

12 A. Because it hadn't happened for a while,
13 and my mind would -- it just wouldn't stop. I
14 couldn't quit thinking about it no matter what I was
15 doing. I couldn't quit wondering why it was
16 happening to me and what was going on. And I had
17 told my mom in February of '98.

18 Q. Okay. Let me see if I understand. You
19 said the last event that either happened in December
20 of '97 or January, '98, the time before that had
21 been a while? Is that what you were saying? Did I
22 misunderstand?

23 A. There was -- between some of them, there
24 was a couple days, between some of them, a couple
25 weeks, maybe a month.

1 Q. Okay. Now, when did you first tell your
2 mother?

3 A. In February of '98.

4 Q. And where were you when you told your
5 mother?

6 A. I was at home, cleaning.

7 Q. Okay. And how did the conversation come
8 up?

9 A. I had called up there. She was either off
10 the floor, in a meeting. It took a while for her to
11 get on the phone. And I just busted out bawling.

12 Q. And what did you tell her?

13 A. That James -- vaguely, what James had been
14 doing.

15 Q. What do mean by "vaguely"? What did you
16 tell your mom?

17 A. I don't remember exactly.

18 Q. Did you tell her he had been touching you?

19 A. Yeah. I didn't go into detail with her.

20 Q. Okay. What was her response?

21 A. She said, "Just hang on," that she'd be
22 right there.

23 Q. Okay. Did she come home?

24 A. Yes, sir.

25 Q. Leave work early?

FIBICH, HAMPTON, LEEBRON & GARTNER, L.L.P.

ATTORNEYS AT LAW

FIVE HOUSTON CENTER
1401 MCKINNEY, SUITE 1800
HOUSTON, TEXAS 77010-9998

FILED
CLERK
DISTRICT CLERK

03 DEC 19 AM 8:57

SMITH COUNTY, TEXAS

(713) 751-0025
DIRECT (713) 980-8116
FAX (713) 650-6458

December 16, 2003

BY *[Signature]*
DEPUTY

HARTLEY HAMPTON

BOARD CERTIFIED, PERSONAL INJURY TRIAL LAW
TEXAS BOARD OF LEGAL SPECIALIZATION
BOARD CERTIFIED, CIVIL TRIAL LAW
NATIONAL BOARD OF TRIAL ADVOCACY

Via Certified Mail-RRR
7001 1140 0001 4475 3413

Lois Rogers
Smith County District Clerk
P.O. Box 1077
Tyler, Texas 75710-1077

Re: Cause No. 03-2368C; *Kaleena S., Individually and as Next Friend of Amanda M., a minor vs. Watchtower Bible and Tract Society of New York, Inc. Jehovah's Witnesses South Congregation, Jehovah's Witnesses East Congregation, Jehovah's Witnesses-White House Congregation, Watchtower Bible and Tract Society of Pennsylvania, Inc., Watchtower Enterprises, L.L.C., Watchtower Foundation, Inc. Watchtower Associates, Ltd., Kingdom Support Services, Inc., Christian Congregation of Jehovah's Witnesses, Religious Order of Jehovah's Witnesses, James Harvey; In the 241st Judicial District Court of Smith County, Texas.*

Dear Ms. Rogers:

Enclosed for filing among the papers in the above referenced cause, please find an original and one copy of the following document(s):

- **Plaintiffs' Third Amended Petition**

Please signify your receipt of same by placing your file mark on the enclosed copy of this correspondence and return to us in the enclosed, self-addressed, postage prepaid envelope.

By copy of this correspondence, a true and correct copy of this filing is being forwarded to all counsel of record as indicated.

Sincerely,



Hartley Hampton

HH:dj
Enclosure

cc: Donald Francis Lighty - Via Fax 409/838-5638

03-2368-CJB
No. CIV20600

FILED
103 DEPTERS
CLERK
03 DEC 19 AM 8:57
SMITH COUNTY, TEXAS
BY *[Signature]* DEPUTY

KALEENA S. and DEE DEE HARVEY §
As Next Friend of AMANDA M., a minor §
Plaintiffs §
vs. §
WATCHTOWER BIBLE AND TRACT §
SOCIETY OF NEW YORK, INC., §
JEHOVAH'S WITNESSES SOUTH §
CONGREGATION, JEHOVAH'S §
WITNESSES - EAST CONGREGATION, §
JEHOVAH'S WITNESSES - §
WHITEHOUSE CONGREGATION §
WATCHTOWER BIBLE AND TRACT §
SOCIETY OF PENNSYLVANIA, INC., §
CHRISTIAN CONGREGATION OF §
JEHOVAH'S WITNESSES, and §
JAMES HARVEY §
Defendants. §

IN THE DISTRICT COURT OF
SMITH COUNTY, TEXAS
241ST JUDICIAL DISTRICT

PLAINTIFFS' THIRD AMENDED PETITION

COME NOW KALEENA S. and DEE DEE HARVEY, As Next Friend of AMANDA M., a minor, Plaintiffs in the above-numbered and entitled cause, and file this Third Amended Petition and would show:

I.

Plaintiff, KALEENA S. is a resident of Texas, and continues to appear individually, but has withdrawn as Next Friend of Amanda M.

Plaintiff, DEE DEE HARVEY, is a resident of Texas and the natural mother of Plaintiff, AMANDA M., a minor. DEE DEE HARVEY now appears as Next Friend of Plaintiff, AMANDA M., a minor in substitution for Plaintiff, KALEENA S.

Defendant, WATCHTOWER BIBLE AND TRACT SOCIETY OF NEW YORK,

INC., a corporation organized and existing under the laws of the State of New York has answered and appeared herein.

Defendant, JEHOVAH'S WITNESSES - SOUTH CONGREGATION has answered and appeared herein.

Defendant, JEHOVAH'S WITNESSES - EAST CONGREGATION has answered and appeared herein.

Defendant, JEHOVAH'S WITNESSES -WHITE HOUSE CONGREGATION has answered and appeared herein.

Defendant, WATCHTOWER BIBLE AND TRACT SOCIETY OF PENNSYLVANIA, INC., has answered and appeared herein.

Defendant, CHRISTIAN CONGREGATION OF JEHOVAH'S WITNESSES has answered and appeared herein.

Defendant, JAMES HARVEY is a resident of the Polansky Unit of the Texas Department of Criminal Justice in Livingston, Polk County, Texas. Defendant has been served with citation but has not yet filed an answer.

The Defendant entities are collectively referred to herein as the "WATCHTOWER DEFENDANTS".

II.

Venue is proper in Smith County, Texas because the Defendants, WHITE HOUSE CONGREGATION, SMITH COUNTY, and EAST CONGREGATION have their principal place of business in Smith County, Texas.

III.

The WATCHTOWER DEFENDANTS' organization has a hierarchical structure in which the GOVERNING BODY sits at the top of a strict chain of command that extends over each individual and Defendant entity in the organization. These individuals and entities act as agents, servants and alter egos of the governing body. Authority for any actions by the organization or its members must derive from the GOVERNING BODY, which has absolute authority over every person and all matters in the organization and its worldwide operations.

The WATCHTOWER DEFENDANTS are so organized and controlled and their affairs are so conducted that they are alter egos of each other and operate as a single business enterprise.

IV.

This lawsuit arises out of the sexual abuse of Plaintiffs Kaleena S. and Amanda M. during a period of several years, while the Plaintiffs were very young girls. The assailant, their step-father James Harvey, had a long history of abusing young women. This history, or at least part of it, was known to Defendants. Despite this knowledge, Defendants did nothing to notify secular authorities or warn other potential victims.

In 1991, the WATCHTOWER DEFENDANTS learned that Defendant, HARVEY had sexually abused an 8-year-old girl. Pursuant to their long-established policy, Defendants "investigated" the abuse. However, the WATCHTOWER DEFENDANTS did not report the abuse to authorities or warn other members of the organization. Nor did they warn other potential victims within the tight-knit Jehovah's Witness community.

In approximately 1996, the WATCHTOWER DEFENDANTS were again notified that HARVEY had abused a young girl. Nevertheless, the WATCHTOWER DEFENDANTS again did nothing to warn members and their families or to report the abuse to secular authorities. Instead, they concealed this information.

V.

Beginning in 1995 and continuing through at least 1998, HARVEY sexually abused Plaintiff, AMANDA M. who was approximately 8-years-old when the abuse began. HARVEY sexually abused Plaintiff, KALEENA S. beginning in 1996 when she was fourteen, and continuing through at least 1998.

On November 1, 2002, Defendant, JAMES HARVEY entered a plea of guilty to the sexual abuse of Plaintiff, KALEENA S. and was sentenced to life imprisonment. The evidence at trial revealed a number of victims over a twenty-year period.

For at least a decade, the WATCHTOWER DEFENDANTS knew or should have known that Defendant, JAMES HARVEY was sexually molesting and physically abusing young girls within the WATCHTOWER DEFENDANTS' organization.

Nevertheless, the WATCHTOWER DEFENDANTS failed to notify law enforcement authorities and further failed to take appropriate steps to protect these young victims from his abuse. Instead, they knowingly concealed this information from Plaintiffs and law enforcement authorities.

Upon trial of this case, the evidence will show that the tragic events in question, and Plaintiffs' resulting injuries and damages, were proximately caused by the conduct of Defendants, acting individually and through their agents and alter egos. Specifically, the Watchtower Defendants:

- a. Intentionally failed to report, and therefore concealed, sexual abuse by JAMES HARVEY to law enforcement authorities;
- b. Failed to warn Plaintiffs, their families, and others of the risk of Defendant JAMES HARVEY'S abuse;
- c. Negligently assumed the duty to investigate and deal with reports of child sexual abuse, while having neither the training, ability or the authority to do so, and negligently failed to properly fulfill that assumed duty;
- d. Effectively deprived secular law enforcement authorities of the ability to prosecute and incarcerate JAMES HARVEY; and
- e. concealed from Plaintiffs and their mother that JAMES HARVEY had sexually abused young children, despite the existence of a special relationship that required disclosure of such information.

Each of the foregoing acts or omissions was a proximate cause of Plaintiffs' damages.

VI.

The WATCHTOWER DEFENDANTS occupied a position of trust and confidence with Plaintiffs. The relationship between Plaintiffs and the WATCHTOWER DEFENDANTS' organization was confidential and fiduciary in nature and imposed on the WATCHTOWER DEFENANTS a duty to act in Plaintiffs' best interest and, specifically to warn them that HARVEY was a sexual predator. Defendants' failure to disclose this information constituted a breach of the fiduciary duty which was a proximate cause of Plaintiffs' injuries and damages.

VII.

Upon trial of this case, it will be shown that Plaintiffs were caused to sustain injuries and damages as a proximate result of Defendants' negligence, and Plaintiffs will respectfully request the Court and Jury to determine the amount of loss Plaintiffs have incurred in the past and in the future, not only from a financial standpoint, but also in terms of good health and freedom from pain and worry. There are certain elements of damages which are provided by law that Plaintiffs are entitled to have the Jury in this case consider separately to determine the sum of money for each element that will fairly and reasonably compensate Plaintiffs for the injuries and damages and losses incurred and to be incurred. From the date of the incident in question up to the time of trial of this case, such elements of damages to be considered separately and individually for the purpose of determining the sum of money to compensate Plaintiffs are as follows:

1. The physical pain that Plaintiffs have suffered as a result of the incident in question up to the time of trial;
2. The mental anguish that Plaintiffs have suffered from the date of the incident in question up to the time of trial;
3. The amount of reasonable medical and custodial expenses necessarily incurred in the treatment of Plaintiffs' injuries from the date of the incident in question up to the time of trial;
4. The loss of any earnings sustained by Plaintiffs from the time of the incident in question up to the time of trial;
5. The damages resulting from the physical and mental impairment suffered by Plaintiffs and the resulting inability to do those tasks and services that Plaintiffs ordinarily would have been able to perform;

From the time of trial, the elements of damages to be separately considered which Plaintiffs will sustain in the future beyond the time of trial, are such of the following that are shown by a preponderance of the evidence:

1. The physical pain that Plaintiffs will suffer beyond the time of trial;
2. The mental anguish that Plaintiffs will suffer in the future beyond the time of trial;
3. The reasonable value of medical and custodial expenses that will necessarily be incurred in the treatment of Plaintiffs' injuries in the future beyond the time of trial;
4. The loss or reduction in Plaintiffs' earnings or earning capacity in the future caused by the injuries sustained in the incident in question;
5. The damages resulting from the physical and mental impairment that Plaintiffs will continue to suffer in the future and the resulting inability to do those tasks and services that Plaintiffs ordinarily would have been able to perform in the future beyond the time of trial of this case;

Because of all of the above and foregoing, Plaintiffs have been damaged, and will continue to be damaged in a sum greatly in excess of the minimal jurisdictional limits of this Honorable Court, for which amount Plaintiffs now bring suit.

Further, Plaintiffs are entitled to recover exemplary damages from Defendants in a sum equal to the maximum amount permitted by Section 41.008 of the Texas Civil Practice and Remedies Code.

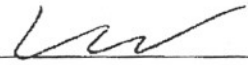
VIII.
JURY DEMAND

Plaintiff requests a trial by jury and has submitted herewith the appropriate jury fee.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that Defendants be cited to appear and answer herein, and that upon final trial, they recover the damages, as specified above, from the Defendants, both jointly and severally, plus costs of court, interest at the legal rate, both pre-judgment and post-judgment, and have such other and further relief, general and special, at law and in equity, to which they may show themselves justly entitled under the facts and circumstances.

Respectfully submitted,

**FIBICH, HAMPTON,
LEEBRON & GARTH, L.L.P.**

By:  _____

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Fort Worth, Texas 76102-7423
(817) 335-2800-Telephone
(817) 335-2912-Telecopy

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

This will certify that a true and correct copy of the above and foregoing has been furnished to all counsel of record via certified mail, return receipt requested, regular mail, hand delivery and/or facsimile, on this 16th day of December 2003.



Hartley Hampton

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REPORTER'S RECORD

VOLUME 1 OF 1 VOLUME

TRIAL COURT CAUSE NO. 03-2368-C/B

KALEENA S, et al

Plaintiff

VS.

WATCHTOWER BIBLE AND TRACT
SOCIETY OF NEW YORK, INC.,
et al,

Defendant

IN THE DISTRICT COURT

SMITH COUNTY, TEXAS

114TH JUDICIAL DISTRICT

* * * * *

MOTION FOR SUMMARY JUDGMENT

* * * * *

03 MAR 22 11 23 AM '04
DEPUTY
[Signature]

On the 17th day of March, 2004, the following proceedings came on to be heard in the above-entitled and numbered cause before the HON. CYNTHIA STEVENS KENT, Judge of the 114th Judicial District of Texas, held in Tyler, Smith County, Texas. Proceedings reported by machine shorthand and computer-aided transcription.

ORIGINAL

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A P P E A R A N C E S

FOR THE PLAINTIFFS:

Mr. Hartley Hampton
Fibich, Hampton, Leebron & Garth
Five Houston Center
1401 McKinney, Suite 1800
Houston, Texas 77010-9998

and

Mr. Gregory Love
Love & Norris
314 Main Street, Suite 300
Fort Worth, Texas 76102

FOR THE DEFENDANTS:

Mr. Donald Francis Lighty
Stevens, Baldo & Freeman, L.L.P.
550 Fannin, Suite 400
Beaumont, Texas 77701

-o0o-

1 PROCEEDINGS

2 THE COURT: Sorry for the delay. I
3 don't know why they scheduled you all at 8:30 knowing
4 this other case was set. We are, however, ready on this
5 matter, which is cause number 03-2368-C/B. This is a
6 hearing on a Motion for Summary Judgment. We do have a
7 substitute court reporter, so if you will make your
8 announcements, state your names so the court reporter
9 can correctly reflect who's here on behalf of the
10 motion.

11 MR. LIGHTY: Don Lighty from Beaumont on
12 behalf of all named defendants except James Harvey.

13 MR. HAMPTON: I'm Hartley Hampton on
14 behalf of the plaintiff, Kaleena Snider. This is Greg
15 Love also on behalf of the plaintiff.

16 THE COURT: Okay. You may proceed then.

17 MR. LIGHTY: Thank you, Your Honor. Your
18 Honor, just some very brief background about the case.
19 This is a case of negligence against various
20 congregations of Jehovah's Witnesses and the Watchtower
21 Organizations, structural defendants, as well as a case
22 against James Harvey.

23 This case arises out of Mr. Harvey's
24 actions, sexual assaults which he was convicted of
25 against his two stepdaughters, Kaleena Snider and Amanda

1 Martin. It's also my understanding that this exact
2 court presided over the criminal case involving James
3 Harvey.

4 The Motion for Summary Judgment is very
5 simple. It is whether or not a two or five year statute
6 of limitations applies. The motion is only for
7 Amanda's -- excuse me. The Motion for Summary Judgment
8 only goes towards Kaleena's cause of action. It's
9 undisputed that the activity that is the basis of this
10 negligence cause of action occurred while she was a
11 minor; however, it is also undisputed that before --
12 excuse me. She did not file this cause of action until
13 after she reached the age of 20, two years after her age
14 of majority.

15 The simple question before this Court is
16 whether or not a two or five year statute of limitations
17 applies to the religious organizations in this case. It
18 is our position that there's a two year statute of
19 limitations. The plaintiffs take the position that
20 Section 16.0045 of the Civil Practice and Remedies Code
21 grants a five year statute of limitations.
22 Unfortunately, neither party can bring case law to this
23 Court. I think this may be one of first impression. It
24 is our position --

25 THE COURT: We hate cases of first

1 impression. We love stare decisis, but go right ahead.

2 MR. LIGHTY: I understand. Your Honor, I
3 can't find a case for my position or against my
4 position. In the response, there was no cases cited.
5 Counsel and I have a very good working relationship.
6 I'll let them speak for themselves, but it's my
7 understanding that they're going to take the same
8 position as far as case law and precedents for the Court
9 to review.

10 Basically, the five year statute of
11 limitations under 16.0045 of the Civil Practice and
12 Remedies Code talks about a person must bring suit for
13 personal injuries not less than five years after the
14 date the cause of action accrues if the injury arises as
15 a result of conduct that violates Section 22.011 of the
16 Texas Penal Code. Now, the Texas Penal Code very
17 briefly says a person commits an offense if that person
18 intentionally or knowingly causes the penetration of the
19 anus or sexual organ of a child by any means. It's the
20 position of the defendants that that section of the
21 Penal Code does not apply; that it's an intentional or a
22 knowingly act, that the two year statute of limitations
23 is applicable in this case and therefore, one of the
24 adult -- excuse me, one of the plaintiff's in this case
25 action is barred by the two year statute of limitations.

1 THE COURT: Okay. On behalf of the
2 respondent to the motion then -- and I assume you all
3 are just asking me to apply the plain meaning rule then
4 to the statute?

5 MR. HAMPTON: Yes, Your Honor. I don't
6 know whether Your Honor has a copy of it.

7 THE COURT: I have your response.

8 MR. HAMPTON: Okay. This is just a copy
9 of 16.0045.

10 THE COURT: Right. Okay.

11 MR. HAMPTON: Your Honor, Mr. Lighty is
12 correct that there are no cases construing the statute;
13 but it's our view that the statute is not ambiguous and
14 that it clearly defines the injury in terms of injury
15 that's caused by sexual assault. I don't think there's
16 any dispute about whether or not my client was the
17 victim of a sexual assault. We've attached some
18 deposition testimony that describes some of the conduct,
19 and I think it clearly falls within the definition of
20 sexual assault.

21 The legislature in Chapter 16 of the
22 Civil Practice and Remedies Code has created a chapter
23 of different statutes of limitations that are keyed to
24 things like the injury, the type of conduct, the cause
25 of action, even the type of defendant sued to effect the

1 type of result that they want to effect. For example,
2 in a product liability or medical malpractice case, what
3 the legislature has said is regardless of what cause of
4 action is pled, if the claim is a health care claim or
5 if the claim involves a claim of a defective product,
6 regardless of what cause of action is pled, you've got a
7 two year statute of limitations. In other sections, the
8 legislature has said if it is a personal injury case,
9 regardless of the type of cause of action that's pled,
10 you have a two year statute of limitations.

11 In this case what the legislature has
12 done is the legislature has said if the lawsuit is for
13 an injury that's caused by sexual assault, there is a
14 five year statute of limitations that applies to the
15 cause of action; but it doesn't limit the cause of
16 action. There's nothing in this statute that limits the
17 cause of action to a cause of action against the
18 perpetrator.

19 This Court, I'm sure, would -- it's
20 pretty fundamental that you can have multiple causes of
21 action against multiple parties arising out of the same
22 injury. If someone runs a red light and hits another
23 person, the other person is injured by conduct that
24 constitutes a violation of that section of the Traffic
25 Code; but there may be a cause of action against not

1 only that person, but his employer, the bar that served
2 him too much alcohol, the car dealership that didn't fix
3 his brakes correctly, et cetera. So we believe that the
4 way this statute is phrased, it applies to any cause of
5 action for an injury caused by sexual assault. Any
6 cause of action against any party.

7 And in our response, we've actually
8 described what the legislature could have done, if they
9 had intended the result that Mr. Lighty suggests. They
10 could have phrased -- I could show you this rather than
11 read it. The legislature could have phrased the statute
12 like that, and they would have accomplished the result
13 that they argue, but they didn't.

14 THE COURT: Okay.

15 MR. LIGHTY: Briefly --

16 THE COURT: I'm going to get you to
17 respond, but let me just tell you what's sort of
18 rattling around in my head. That way I'll let both of
19 you all respond, because I am a simple country judge;
20 okay? So plain meaning. The statute says a person must
21 bring suit for personal injury - so it's a personal
22 injury lawsuit - not later than five years after the day
23 the cause of action arises, if the injury arises as a
24 result of conduct that violates these provisions. All
25 right. So specifically, your lawsuit asks for what

1 damages?

2 MR. HAMPTON: Well, we ask for damages
3 for the injury, for mental anguish and so forth.

4 THE COURT: Arising from the sexual
5 assault?

6 MR. HAMPTON: Yes, Your Honor.

7 THE COURT: Okay. And so what you're
8 asking for in the lawsuit is compensation for alleged
9 personal injuries arising from the alleged sexual
10 assault?

11 MR. HAMPTON: Yes, Your Honor.

12 THE COURT: And so why do you believe
13 that does not fall within the plain reading of this for
14 the five years?

15 MR. LIGHTY: Because the plain reading,
16 Your Honor, throws you to section 22.01 of the Penal
17 Code.

18 THE COURT: Right.

19 MR. LIGHTY: So you skip over to 22.01 of
20 the Penal Code, and the Penal Code talks about the
21 person who commits the act that gives you the five year
22 statute of limitations must intentionally do it,
23 knowingly do it, and what they must knowingly do is
24 cause the penetration of the anus or sexual organ of a
25 child by any means, and then it defines the child.

1 THE COURT: You're saying that it can
2 only be brought against the perpetrator?

3 MR. LIGHTY: Yes, ma'am.

4 THE COURT: Okay. I disagree with you.
5 I know exactly what you're saying now, and I disagree
6 with you. That's going to be something I guess that
7 they'll have to clear up; but I understand exactly what
8 you're saying now, and I think -- I thought there was
9 something else there, and I was trying to sort out; but
10 now I know exactly what you're talking about, and the
11 Court denies the motion for partial summary judgment.

12 MR. LIGHTY: Thank you, Your Honor.

13 THE COURT: Now, there was something
14 about compelling?

15 MR. HAMPTON: Your Honor, we filed a
16 Motion to Compel.

17 THE COURT: Okay.

18 MR. HAMPTON: Let me give you some
19 background.

20 THE COURT: Have you all talked about
21 this?

22 MR. HAMPTON: Yes, we have.

23 THE COURT: Is this something you all
24 can't resolve?

25 MR. HAMPTON: I don't believe we can,

1 Your Honor, and I think you'll see why we can't.

2 THE COURT: Is it something that you knew
3 you were going to talk about today?

4 MR. LIGHTY: No.

5 MR. HAMPTON: No, Your Honor.

6 MR. LIGHTY: But there is something we
7 can probably do. I have -- Mr. Hampton and I have a
8 very good working relationship on this case, as well as
9 Mr. Love. The day I filed my response -- I don't
10 remember, but I didn't read an e-mail he said he
11 couldn't get this set today, so I really wasn't prepared
12 to do it; however, I do have a response on file, and I
13 did provide the Court with the in camera -- for an in
14 camera the documents and had them delivered to your
15 office, not to the district clerk.

16 THE COURT: Good. They're back there
17 somewhere. They're not in my file.

18 MR. LIGHTY: I understand. I wouldn't
19 be --

20 THE COURT: I say that, and I'm not
21 right. They're right there.

22 MR. LIGHTY: I wouldn't be opposed for
23 the Court to look at the motions, and if you thought you
24 needed an oral hearing, looking at the response of the
25 parties, they're quite lengthy. To be fair, I would

1 rather go through them -- if you would want oral
2 arguments, I'd like to read through them again, because
3 I wasn't prepared for today. I think both sides -- you
4 could actually look at the documents and if you thought
5 there was going to be a need for an oral hearing --

6 THE COURT: So you've given me compliance
7 with what they've asked for, and the question is whether
8 or not I should compel you to give it to him?

9 MR. LIGHTY: Yes, ma'am.

10 MR. HAMPTON: I would just like an
11 opportunity to respond to their -- reply to their
12 response before you rule.

13 THE COURT: No problem, because I can't
14 rule until next week anyway, because I'm leaving town at
15 noon and I won't be back until this weekend.

16 MR. LIGHTY: That's fine. We didn't
17 expect this to be taken up, like I said. I have no --

18 THE COURT: Does that give you enough
19 time? I can do longer, because I've got my boat loaded
20 right now.

21 MR. HAMPTON: If you could give us -- how
22 about 21 days, how would that be?

23 THE COURT: Is that all right?

24 MR. LIGHTY: I'm the one that's keeping
25 the documents. That's fine.

1 THE COURT: This is what I'll do to make
2 sure that it doesn't fall through the crack: I'm going
3 to set -- and I will do it by telephone conference call.
4 You don't have to drag yourself down here; but let's
5 just go ahead and set a telephone conference call for
6 the Court, and that way you can submit your matters in
7 writing, I'll have a chance to look at them and then I
8 can hear whatever additional arguments you all want to
9 present to the Court and I can make a ruling. Why don't
10 we do that on Friday, April the 23rd at -- let's just do
11 it at 8 o'clock in the morning, the first thing before I
12 start in on all my other matters. Telephone conference
13 call; how about that?

14 MR. HAMPTON: That would be perfect.

15 THE COURT: I wouldn't see your lovely
16 faces, but your voices will be fine on that day. So I'm
17 going to set a hearing on April the 23rd - this is on a
18 civil case - at 8 o'clock in the morning, first thing
19 before we do criminal, on the Motion to Compel. They're
20 going to get me a response -- that gives you enough
21 time. They're going to give me a response within three
22 weeks, and then I'll have all of that to be able to rule
23 on before then.

24 MR. HAMPTON: How would we originate the
25 conference call? Do you want one of us to do it?

1 THE COURT: One of you all needs to
2 coordinate it and call it in. I have this speaker right
3 here. I just push this button, and I'm supposed to get
4 a dial tone.

5 MR. LOVE: You have 21 days to get that
6 fixed.

7 THE COURT: My speakerphone is not
8 working, but that's okay. I probably unplugged it. All
9 right. That's it. We're in recess. Something else?

10 MR. LIGHTY: He's asking me -- I don't
11 believe so, Your Honor.

12 THE COURT: Okay. All right. You all
13 have a nice trip back.

14 (Proceedings concluded.)

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1 THE STATE OF TEXAS |

2 COUNTY OF BEXAR |

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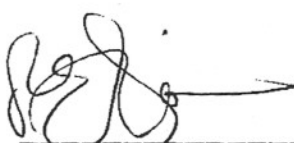
4 I, Randall E. Simpson, Certified Shorthand
5 Reporter, do hereby certify that the above and foregoing
6 typewritten pages contain a full, true, and correct
7 transcription of my shorthand notes taken upon the
8 occasion set forth in the caption hereof, by means of
9 computer aided transcription.

10 I further certify that this Statement of Facts
11 truly and correctly reflects the exhibits offered by the
12 respective parties, if any.

13 I further certify that the total cost for the
14 preparation of this Reporter's Record is \$_____ and was
15 paid/will be paid by _____.

16 Witness my hand, this 21st day of March,
17 2004.

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Randall E. Simpson, CSR
8323 Brixton
San Antonio, Texas 78254
(210) 523-6346
Certificate Number 568
Expiration date: 12-31-2005

FIBICH, HAMPTON & LEEBRON, L.L.P.

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HARTLEY HAMPTON

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TEXAS BOARD OF LEGAL SPECIALIZATION
BOARD CERTIFIED, CIVIL TRIAL LAW
NATIONAL BOARD OF TRIAL ADVOCACY

(713) 751-0029
FAX (713) 650-6458

June 17, 2004

Via Facsimile 903/535-0615

114th Judicial District Court
Attn: Tammie
100 N. Broadway Avenue
Tyler, Texas 75710-1077

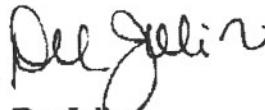
Re: Cause No. 03-2368C/B; *Kaleena S. and Dee Dee Harvey, as Next Friend of Amanda M., a minor vs. Watchtower Bible and Tract Society of New York, Inc. Jehovah's Witnesses South Congregation, Jehovah's Witnesses East Congregation, Jehovah's Witnesses-White House Congregation, Watchtower Bible and Tract Society of Pennsylvania, Inc., Christian Congregation of Jehovah's Witnesses and James Harvey*; In the 114th Judicial District Court of Smith County, Texas.

Dear Pat:

On April 23, 2004, a telephonic hearing was held on Plaintiff's Omnibus Motion to Compel. To date, our office has not heard from the Court regarding the Judge's ruling. Please advise of same and if a ruling was made, Plaintiff hereby requests a facsimile copy of the signed Order.

If there is a fee for this service, please advise my office immediately and I will remit payment.

Sincerely,



Dee Julian
Assistant to Hartley Hampton

:dj

CAUSE NUMBER 03-2368-C/B

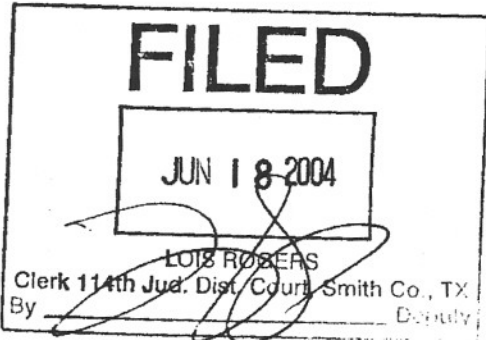
KALEENA S. ET AL	X	IN THE 114TH JUDICIAL
VS	X	DISTRICT COURT IN AND FOR
WATCHTOWER BIBLE AND TRACT SOCIETY ET AL	X	SMITH COUNTY, TEXAS

ORDER OF GRANTING MOTION TO COMPEL

BE IT REMEMBERED that on the 23RD DAY OF APRIL, 2004 a hearing was held on the Plaintiff's Motion to Compel.

The Court grants the Plaintiff's Motion to Compel.

Signed and granted this the 18th day of June, 2004.




HONORABLE CYNTHIA STEVENS KENT
Judge, 114th Judicial District Court
Smith County, Texas

Janet Lo
Dee Julian-Hart Hampton
712-650-6458
Donald Lighter
April-409-838-5438

SCANNED

U. 54
P. 930

CAUSE NO. 03-2368 *BC/B*

KALEENA S. and DEE DEE HARVEY §
As Next Friend of AMANDA M., a minor, §
Plaintiffs §

vs. §

WATCHTOWER BIBLE AND TRACT §
SOCIETY OF NEW YORK, INC., §
JEHOVAH'S WITNESSES SOUTH §
CONGREGATION, JEHOVAH'S §
WITNESSES B EAST CONGREGATION, §
JEHOVAH'S WITNESSES WHITE HOUSE §
CONGREGATION, WATCHTOWER §
BIBLE AND TRACT SOCIETY OF §
PENNSYLVANIA, INC., WATCHTOWER §
ENTERPRISES, L.L.C., WATCHTOWER §
FOUNDATION, INC., WATCHTOWER §
ASSOCIATES, LTD., KINGDOM SUPPORT §
SERVICES, INC., CHRISTIAN §
CONGREGATION OF JEHOVAH'S §
WITNESSES, RELIGIOUS ORDER OF §
JEHOVAH'S WITNESSES, AND JAMES §
HARVEY, §
Defendants §

IN THE DISTRICT COURT OF

SMITH COUNTY, TEXAS

114TH JUDICIAL DISTRICT

BY _____
SMITH COUNTY, TEXAS
DEPUTY
CLERK
JUN 29 AM 9:56
114TH JUDICIAL DISTRICT

ORIGINAL CROSS-ACTION FOR INDEMNITY AND/OR CONTRIBUTION

TO THE HONORABLE JUDGE OF THIS COURT:

COME NOW Defendants/Cross-Plaintiffs, Watchtower Bible and Tract Society of New York, Inc.; Watch Tower Bible and Tract Society of Pennsylvania; South Congregation of Jehovah's Witnesses, Tyler, Texas; East Congregation of Jehovah's Witnesses, Tyler, Texas; Whitehouse Congregation of Jehovah's Witnesses, Whitehouse, Texas; Kingdom Support Services, Christian Congregation of Jehovah's Witnesses, and Religious Order of Jehovah's Witnesses [hereinafter "Cross-Plaintiffs"], and file this their Original Cross-Action for Indemnity and/or Contribution against Co-Defendant/Cross-Defendant, JAMES HARVEY. For cause of action against James

Harvey [hereinafter “Cross-Defendant”], the Cross-Plaintiffs show this Court the following:

I.

FACTS

Plaintiffs, Kaleena S. and Dee Dee Harvey As Next Friend of Amanda M., a Minor, have sued the Defendants and the Cross-Defendant based upon Cross-Defendant’s alleged “sexual abuse of Plaintiffs Kaleena S. and Amanda M. during a period of several years, while the Plaintiffs were very young girls.” *See* Plaintiffs’ Third Amended Petition at ¶ IV, filed of record December 16, 2003. Plaintiffs further allege that: “[b]eginning in 1995 and continuing through at least 1998, HARVEY sexually abused Plaintiff AMANDA M. who was approximately 8-years-old when the abuse began. HARVEY sexually abused Plaintiff, KALEENA S. beginning in 1996 when she was fourteen, and continuing through at least 1998.” *Id.* at ¶ V. Plaintiffs brought suit against Cross-Plaintiffs and Cross-Defendant.

II.

PARTIES TO THIS CROSS-ACTION

A. The Cross-Plaintiffs (referred to as “WATCHTOWER DEFENDANTS” in Plaintiffs’ Second Amended Petition) have all appeared and answered and are properly before this Court.

B. Cross-Defendant JAMES HARVEY is a resident inmate of the Polansky Unit of the Texas Department of Criminal Justice in Livingston, Polk County, Texas. He was served with citation by Plaintiffs, but he has not yet appeared or filed an answer in this cause. Based upon information and belief, Cross-Defendant JAMES HARVEY does not have a home, residence, or usual place of abode aside from the Polansky Unit of the Texas Department of Criminal Justice in Livingston, Polk County, Texas. Thus, Cross-Plaintiffs request preparation and immediate service

of citation on Cross-Defendant of this Cross-Action, to wit:

JAMES HARVEY
Polansky Unit of the Texas Department of Criminal Justice
3872 F.M. 350 South
Livingston, Texas 77351

COUNT ONE--INDEMNITY

III.

Cross-Plaintiffs would show that if found liable, jointly or separately in any manner for proximately causing any injury or damages to Plaintiffs, the acts and omissions of Cross-Plaintiffs, if any, are passive and secondary and that the acts and omissions of the Cross-Defendants are active and primary.

IV.

Cross-Plaintiffs would show that to the extent that it is alleged and/or determined that Cross-Defendant was acting as an agent of Cross-Plaintiffs, any liability of Cross-Plaintiffs is strictly vicarious. Thus, Cross-Plaintiffs are entitled to common law indemnity of and from Cross-Defendant.

COUNT TWO--CONTRIBUTION

V.

Cross-Plaintiffs re-allege and incorporate herein by reference each and every allegation contained in Paragraphs I through III, inclusive, of this Cross-Action, *supra*, as though fully copied and set forth at length.

VI.

Cross-Plaintiffs herein have denied that they either caused or contributed to the damages described by Plaintiffs in their Petition. If, however, it were to be found that Cross-Plaintiffs were in some way responsible under the law for any of the allegations set forth in said Petition, then Cross-Plaintiffs allege that the negligence, intentional acts, and/or criminal acts of Cross-Defendant, in whole or in part, contributed to and were proximate causes of the injuries and damages, if any, of the Plaintiffs.

VII.

Cross-Plaintiffs contend that if the alleged acts of the Cross-Defendant, either in whole or in some percentage, contributed to the damages described by Plaintiffs in their Petition, if any, then Cross-Plaintiffs are entitled to have liability ultimately assessed among the parties in direct proportion to the percentage of fault attributable to the conduct of the Cross-Defendant under Chapter 33 of the Texas Civil Practice and Remedies Code.

VIII.

AMENDMENTS

Cross-Plaintiffs reserve the right to amend this cross-action under the Texas Rules of Civil Procedure and the laws of the State of Texas.

IX.

JURY DEMAND

Cross-Plaintiffs respectfully demand that this case be tried before a properly empaneled jury.

WHEREFORE, PREMISES CONSIDERED, Defendants/Cross-Plaintiffs Watchtower Bible and Tract Society of New York, Inc.; Watch Tower Bible and Tract Society of Pennsylvania; South Congregation of Jehovah's Witnesses, Tyler, Texas; East Congregation of Jehovah's Witnesses, Tyler, Texas; Whitehouse Congregation of Jehovah's Witnesses, White House, Texas; Kingdom Support Services, Christian Congregation of Jehovah's Witnesses, and Religious Order of Jehovah's Witnesses respectfully pray that Cross-Defendant, JAMES HARVEY be cited to appear and to answer herein, and that upon final trial they be awarded for judgment in their favor and against Cross-Defendant, JAMES HARVEY, to wit:

1. That Cross-Defendant is to indemnify and hold harmless Cross-Plaintiffs herein against any judgment which Plaintiffs may recover against Cross-Plaintiffs herein, or in the event complete indemnity is denied to Cross-Plaintiffs, then for this court to apportion the responsibility to each party for the injuries sustained by Plaintiffs;

2. If Cross-Plaintiffs are held liable for judgment in any amount in favor of any party herein, then judgment in favor of Cross-Plaintiffs and against Cross-Defendant, in a proportionate amount of Cross-Defendant's liability to Cross-Plaintiffs;

3. For judgment against Cross-Defendants for costs of defense and reasonable attorneys' fees incurred in the defense of Plaintiffs' suit and/or the prosecution of this Cross-Claim, in a sum to be determined according to proof;

4. For costs of suit incurred herein;

5. For such other and further relief as this Court may deem just and proper.

Respectfully submitted,

STEVENS, BALDO & FREEMAN, L.L.P.

BY: 

Donald Francis Lighty
Texas Bar No. 12344600
R. Lyn Stevens
Texas Bar No. 19189020
550 Fannin, Suite 400
P. O. Box 4950
Beaumont, Texas 77704-4950
Telephone: (409) 835-5200
Facsimile: (409) 838-5638

Attorneys for Defendants,
Watchtower Bible and Tract Society of New York,
Inc; Watch Tower Bible and Tract Society of
Pennsylvania; South Congregation of Jehovah's
Witnesses, Tyler, Texas; East Congregation of
Jehovah's Witnesses, Tyler, Texas; Whitehouse
Congregation of Jehovah's Witnesses, Whitehouse,
Texas; Kingdom Support Services,
Christian Congregation of Jehovah's Witnesses, and
Religious Order of Jehovah's Witnesses

STEVENS, BALDO & FREEMAN

A REGISTERED LIMITED LIABILITY PARTNERSHIP
ATTORNEYS AND COUNSELORS AT LAW

R. Lyn Stevens¹
Nicholas S. Baldo
Mark Freeman
Donald Francis Lighty^{1,2}
John R. Dolezal
Michael R. Walzel
Michael K. Rose

THE CENTURY TOWER
550 FANNIN, SUITE 400
BEAUMONT, TEXAS 77701
TELEPHONE (409) 835-5200
TELEFAX (409) 838-5638
E-MAIL: lighty@sbf-law.com

Mailing Address:
P. O. BOX 4950
BEAUMONT, TEXAS 77704-4950

04 JUN 29 9:56 AM
SMITH COUNTY TEXAS
David E. James³
Stacey Auvenshine
Monika Barahona
Juliana Reese
¹ BOARD CERTIFIED PERSONAL AND CIVIL TRIAL LAW
TEXAS BOARD OF LEGAL SPECIALIZATION
² BOARD CERTIFIED CIVIL TRIAL ADVOCACY
NATIONAL BOARD OF TRIAL ADVOCACY
³ LICENSED IN TEXAS AND LOUISIANA

June 16, 2004

In Re: Cause No. 03-2368C/B; *Kaleena S., Individually and as Next Friend of Amanda M., a minor, Plaintiffs vs Watchtower Bible and Tract Society of New York, Inc., Jehovah's Witnesses South Congregation, Jehovah's Witnesses – East Congregation, Jehovah's Witnesses – White House Congregation, Watchtower Bible and Tract Society of Pennsylvania, Inc., Watchtower Enterprises, L.L.C., Watchtower Foundation, Inc., Watchtower Associates, Ltd., Kingdom Support Services, Inc., Christian Congregation of Jehovah's Witnesses, Religious Order of Jehovah's Witnesses, and James Harvey, Defendants*; In the District Court of Smith County, Texas; 114th Judicial District of Texas; SBF File No. 106127

Ms. Lois Rogers
Smith County District Clerk
100 N. Broadway Avenue, 2nd Floor
P. O. Box 1077
Tyler, Texas 75710-1077

Dear Ms. Rogers:

Enclosed for filing is:

1. Original Cross-Action for Indemnity and/or Contribution

Please prepare citations and serve a copy of the Cross-Action upon Cross-Defendant, **James Harvey, Polunsky Unit of the Texas Department of Criminal Justice, 3872 FM 350 South, Livingston, Texas 77351**, via Polk County Sheriff's Department.

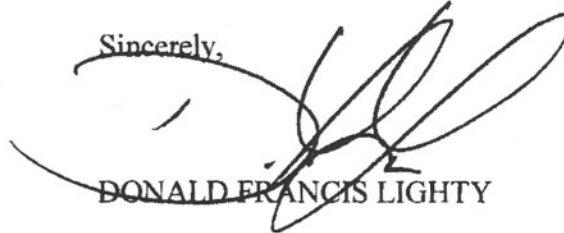
I have enclosed our firm check in the amount of \$123.00 for filing fees, preparation of citation, service of citation and jury fee.

Please file stamp the extra copy of the Cross-Action and return same to me in the metered, self-addressed envelope provided.

Lois Rogers
June 16, 2004
Page 2

Thank you for your assistance in this matter.

Sincerely,



DONALD FRANCIS LIGHTY

DFL/rkh
enclosure

cc: Hartley Hampton, Esq.
Fibich, Hampton, Leebron & Garth, L.L.P.
1401 McKinney, Suite 1800
Five Houston Center
Houston, Texas 77010
(w/enclosure)

CM RRR 7003 2260 0003 1133 7932

Gregory S. Love
Kimberlee D. Norris
Love & Norris
314 Main Street, Suite 300
Fort Worth, Texas 76102-7423
(w/enclosure)

CM RRR 7003 2260 0003 1133 7949

STEVENS, BALDO & FREEMAN

A REGISTERED LIMITED LIABILITY PARTNERSHIP
ATTORNEYS AND COUNSELORS AT LAW

R. Lyn Stevens¹
Nicholas S. Baldo
Mark Freeman
Donald Francis Lighty^{1,2}
John R. Dolezal
Michael R. Walzel
Michael K. Rose

THE CENTURY TOWER
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P. O. BOX 4950
BEAUMONT, TEXAS 77704-4950

David E. James³
Stacey Auvenshine
Monika Barahona
Jullana Reese

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TEXAS BOARD OF LEGAL SPECIALIZATION

² BOARD CERTIFIED CIVIL TRIAL ADVOCACY
NATIONAL BOARD OF TRIAL ADVOCACY

³ LICENSED IN TEXAS AND LOUISIANA

June 30, 2004

In Re: Cause No. 03-2368 C/B; *Kaleena S. and Dee Dee Harvey as Next Friend of Amanda M., a minor vs. Watchtower Bible and Tract Society of New York, Inc., Jehovah's Witnesses South Congregation, Jehovah's Witnesses - East Congregation, Jehovah's Witnesses - White House Congregation, Watchtower Bible and Tract Society of Pennsylvania, Inc., Watchtower Enterprises, L.L.C., Watchtower Foundation, Inc., Watchtower Associates, Ltd., Kingdom Support Services, Inc., Christian Congregation of Jehovah's Witnesses, Religious Order of Jehovah's Witnesses, and James Harvey*; In the 114th Judicial District Court of Smith County, Texas.

Mr. Hartley Hampton, Esq.
Mr. Tommy Fibich, Esq.
Fibich, Hampton & Leebron, L.L.P.
1401 McKinney, Suite 1800
Houston, Texas 77010

Via Facsimile: (713) 751-0030

Mr. Gregory S. Love
Ms. Kimberlee D. Norris
Love & Norris
314 Main Street, Suite 300
Fort Worth, Texas 76102-7423

Via Facsimile: (817) 335-2912

Dear Hartley:

This letter follows our conversations of June 25, 2004. Pursuant to that conversation, we propose the following stipulated agreement concerning the case specific privilege log documents that are subject to the Court's June 18, 2004 ruling on Plaintiff's Motion to Compel. The agreement is as follows:

1. Plaintiffs' counsel can inspect in my office, but not photocopy or reproduce by any means, the items outlined on pages 2 and 3 of Plaintiffs' Supplemental Motion to Compel. Specifically, the Defendants are allowing Plaintiffs' counsel to view the 26 documents outlined in their privilege log which was provided to

Mr. Hartley Hampton, Esq.
Mr. Tommy Fibich, Esq.
Mr. Gregory S. Love
Ms. Kimberlee D. Norris

June 30, 2004

Page 2

the court in an in-camera submission. Richard King has reviewed the entire East Congregation file of each Defendant and there are no documents that are responsive to items 7 and 8, which refer to Curtis Hail's deposition (in Plaintiffs' Supplemental Motion to Compel).

2. The use of information obtained through this inspection must be limited to communication with counsel's clients for the purposes of determining whether or not they will voluntarily dismiss this lawsuit. The information obtained through this inspection cannot be used for any other purpose and specifically cannot be used against any of the named Defendants in this case in any future proceedings, in this matter or any other litigated matter against these Defendants, whether the matter is filed in Smith County, Texas, anywhere in the state of Texas, the United States or any other jurisdiction in the world. Notwithstanding anything in this Agreement to the contrary, Plaintiffs and/or their counsel will not be precluded from using this information in this or any other proceeding to the extent it is obtained from some source other than the agreed inspection, including but not limited to Defendants, a third party or pursuant to a court order in this or any other proceeding. We are willing to allow Plaintiffs' counsel an opportunity to review these documents based upon representations that unless the documents do change the factual issues in this case, they will voluntarily dismiss the cause of action without prejudice within ten (10) days of the inspection. Defendants will at the same time dismiss without prejudice all claims, if any, they have asserted against Plaintiffs, James Harvey or any other person.
3. The information obtained during this inspection may not be disclosed to anyone and the fact of the visual disclosure will be kept confidential by the Plaintiffs and/or their attorney(s).
4. This Agreement and the terms thereof will not be considered a waiver of any asserted privilege from discovery or asserted right to discovery of any party in this case or any other case that Mr. Hampton's or Mr. Love's law firms are currently working on or may file in the future against any congregations or Jehovah' Witnesses' entities, whether named in this lawsuit or not.
5. Plaintiffs' counsel agrees to conduct the inspection within ten (10) days of execution of this Agreement as long as the documents are made reasonably available for inspection during that ten (10) day period. The Plaintiffs agree to dismiss this case within ten (10) days of the inspection or so notify us within the

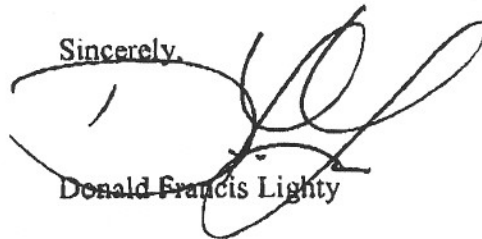
Mr. Hartley Hampton, Esq.
Mr. Tommy Fibich, Esq.
Mr. Gregory S. Love
Ms. Kimberlee D. Norris
June 30, 2004
Page 3

time restraints that they will not do so, so that we can file our mandamus under the discovery rules.

6. It is further agreed that Richard King will maintain the privileged documents in his possession in New York up until at least the 23rd birthday of Amanda Martin.
7. Nothing in this Agreement will constitute a waiver of Plaintiffs' right to seek enforcement of this Court's order dated April 23, 2004 granting Plaintiff's Motion to Compel.

Please advise if the following terms and conditions are acceptable. If so, please sign a hard copy of this document so that I can file with the court as an enforceable Rule 11 Agreement under the Texas Rules of Civil Procedure. If you have any questions, please do not hesitate to call.

Sincerely,



Donald Francis Lighty

DFL/rkh

AGREED TO:



HARTLEY HAMPTON, ESQ.
ATTORNEY FOR PLAINTIFFS

STEVENS, BALDO & FREEMAN

A REGISTERED LIMITED LIABILITY PARTNERSHIP
ATTORNEYS AND COUNSELORS AT LAW

R. Lyn Stevens¹
Nicholas S. Baldo
Mark Freeman
Donald Francis Lighty^{1,2}
John R. Dolezal
Michael R. Walzel
Michael K. Rose

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Mailing Address:
P. O. BOX 4950
BEAUMONT, TEXAS 77704-4950

David E. James³
Stacey Auvenshine
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Juliana Reese

¹ BOARD CERTIFIED PERSONAL INJURY TRIAL LAW
TEXAS BOARD OF LEGAL SPECIALIZATION

² BOARD CERTIFIED CIVIL TRIAL ADVOCACY
NATIONAL BOARD OF TRIAL ADVOCACY

³ LICENSED IN TEXAS AND LOUISIANA

July 6, 2004

In Re: Cause No. 03-2368C/B; *Kaleena S. and Dee Dee Harvey as Next Friend of Amanda M., a minor, vs. Watchtower Bible and Tract Society of New York, Inc., Jehovah's Witnesses South Congregation, Jehovah's Witnesses - East Congregation, Jehovah's Witnesses - White House Congregation, Watchtower Bible and Tract Society of Pennsylvania, Inc., Watchtower Enterprises, L.L.C., Watchtower Foundation, Inc., Watchtower Associates, Ltd., Kingdom Support Services, Inc., Christian Congregation of Jehovah's Witnesses, Religious Order of Jehovah's Witnesses, and James Harvey; In the District Court of Smith County, Texas; 114th Judicial District of Texas; SBF File No. 106127*

Ms. Lois Rogers
Smith County District Clerk
100 N. Broadway Avenue, 2nd Floor
P. O. Box 1077
Tyler, Texas 75710-1077

Dear Ms. Rogers:

Enclosed for filing in the above-entitled and numbered cause is:

- **Rule 11 Agreement**

I would also appreciate your marking the file date on the enclosed copy of the above-referenced document and returning same to me in the envelope provided.

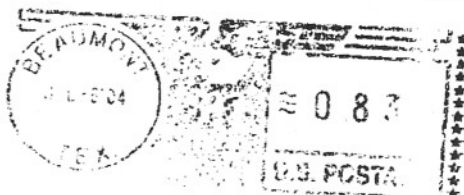
Thank you for your usual cooperation and assistance.

Sincerely,


DONALD FRANCIS LIGHTY

DFL/jm
enclosures

04 JUL - 8 PM 1:20
SMITH COUNTY, TEXAS
BY DeCapp
DEPUTY



Lois Rogers
July 6, 2004
Page 2

cc: Hartley Hampton, Esq.
Fibich, Hampton, Leebron & Garth, L.L.P.
1401 McKinney, Suite 1800
Five Houston Center
Houston, Texas 77010
(w/enclosure)

Gregory S. Love
Kimberlee D. Norris
Love & Norris
314 Main Street, Suite 300
Fort Worth, Texas 76102-7423
(w/enclosure)

CAUSE NO. 03-2368C/B

KALEENA S., Individually and as
Next Friend of AMANDA M., a minor,
Plaintiffs

vs.

WATCHTOWER BIBLE AND TRACT
SOCIETY OF NEW YORK, INC.,
JEHOVAH'S WITNESSES SOUTH
CONGREGATION, JEHOVAH'S
WITNESSES - EAST CONGREGATION,
JEHOVAH'S WITNESSES - WHITE HOUSE
CONGREGATION, WATCHTOWER
BIBLE AND TRACT SOCIETY OF
PENNSYLVANIA, INC., WATCHTOWER
ENTERPRISES, L.L.C., WATCHTOWER
FOUNDATION, INC., WATCHTOWER
ASSOCIATES, LTD., KINGDOM SUPPORT
SERVICES, INC., CHRISTIAN
CONGREGATION OF JEHOVAH'S
WITNESSES, RELIGIOUS ORDER OF
JEHOVAH'S WITNESSES, AND JAMES
HARVEY,
Defendants

IN THE DISTRICT COURT OF

SMITH COUNTY, TEXAS

114TH JUDICIAL DISTRICT

04-01-03 PM 1:20
DEPUTY
SMITH COUNTY, TEXAS

RULE 11 AGREEMENT

TO THE HONORABLE JUDGE OF SAID COURT:

Pursuant to Texas Rule of Civil Procedure 11, the attached agreement is submitted for filing.

Respectfully submitted,

STEVENS, BALDO & FREEMAN, L.L.P.

Donald Francis Lighty
Texas Bar No. 12344600
R. Lyn Stevens
Texas Bar No. 19189020

550 Fannin, Suite 400
P. O. Box 4950
Beaumont, Texas 77704-4950
Telephone: (409) 835-5200
Facsimile: (409) 838-5638

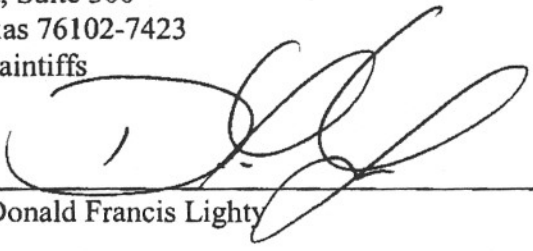
Attorneys for Defendants,
Watchtower Bible and Tract Society of New York,
Inc; Watch Tower Bible and Tract Society of
Pennsylvania; South Congregation of Jehovah's
Witnesses, Tyler, Texas; East Congregation of
Jehovah's Witnesses, Tyler, Texas; Whitehouse
Congregation of Jehovah's Witnesses, Whitehouse,
Texas; Kingdom Support Services, Christian
Congregation of Jehovah's Witnesses, and
Religious Order of Jehovah's Witnesses

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Rule 11 Agreement has been sent to all known counsel of record by regular United States Mail, or certified mail, return receipt requested, on this the 7th day of July, 2004, as follows:

Hartley Hampton
Fibich, Hampton, Leebron & Garth, L.L.P.
1401 McKinney, Suite 1800
Five Houston Center
Houston, Texas 77010
Attorneys for Plaintiffs

Gregory S. Love
Kimberlee D. Norris
Love & Norris
314 Main Street, Suite 300
Fort Worth, Texas 76102-7423
Attorneys for Plaintiffs



Donald Francis Lighty

FIBICH, HAMPTON & LEEBRON, L.L.P.

ATTORNEYS AT LAW

FIVE HOUSTON CENTER
1401 MCKINNEY, SUITE 1800
HOUSTON, TEXAS 77010-9998

(713) 751-0025
FAX (713) 751-0030

July 15, 2004

Via Certified Mail-R/R/R

7001 1140 0001 4472 9838

Lois Rogers
Smith County District Clerk
100 N. Broadway Ave., 2nd Floor
Tyler, Texas 75710-1077

BY *[Signature]*
DEPUTY
JUL 20 11 09 AM
SMITH COUNTY TEXAS

Re: Cause No. 03-2368 C/B; *Kaleena S., Individually and as Next Friend of Amanda M., a minor vs. Watchtower Bible and Tract Society of New York, Inc. Jehovah's Witnesses-South Congregation, Jehovah's Witnesses-East Congregation, Jehovah's Witnesses-White House Congregation, Watchtower Bible and Tract Society of Pennsylvania, Inc., Christian Congregation of Jehovah's Witnesses and James Harvey; In the 114th Judicial District Court of Smith County, Texas.*

Dear Ms. Rogers:

Enclosed for filing among the papers in the above referenced cause, please find an original and one copy of the following document(s):

- **Joint Motion to Dismiss.**

Please signify your receipt of same by placing your file mark on the enclosed copy of this correspondence and return to us in the enclosed self-addressed, postage prepaid envelope.

By copy of this correspondence, a true and correct copy of this filing is being forwarded to all counsel of record as indicated.

Sincerely,

[Signature: Dee Julian]

Dee Julian
Assistant to Hartley Hampton

/dj
Enclosure

Lois Rogers
Smith County District Clerk
July 15, 2004
Page 2

cc: Via Facsimile 409/838-5638
Donald Francis Lighty
Stevens, Baldo & Freeman
550 Fannin, Suite 400
Beaumont, Texas 77701

Via Facsimile 817/335-2912
Greg Love
Love & Norris
314 Main, Suite 300
Fort Worth, Texas 76102

KALEENA S. and DEE DEE HARVEY §
 As Next Friend of AMANDA M., a minor §
 Plaintiffs §
 vs. §
 WATCHTOWER BIBLE AND TRACT §
 SOCIETY OF NEW YORK, INC., §
 JEHOVAH'S WITNESSES - SOUTH §
 CONGREGATION, JEHOVAH'S §
 WITNESSES - EAST CONGREGATION, §
 JEHOVAH'S WITNESSES - §
 WHITEHOUSE CONGREGATION §
 WATCHTOWER BIBLE AND TRACT §
 SOCIETY OF PENNSYLVANIA, INC., §
 CHRISTIAN CONGREGATION OF §
 JEHOVAH'S WITNESSES, and §
 JAMES HARVEY §
 Defendants. §

IN THE DISTRICT COURT OF
 SMITH COUNTY, TEXAS
 114TH JUDICIAL DISTRICT

BY: [Signature]
 DEPUTY CLERK
 JUL 20 11 3 14
 SMITH COUNTY, TEXAS

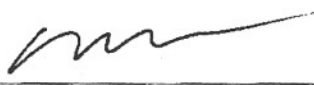
JOINT MOTION TO DISMISS

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW Kaleena S. and Dee Dee Harvey, As Next Friend of Amanda M., a minor, Plaintiffs and Watchtower Bible and Tract Society of New York, Inc., Jehovah's Witnesses - South Congregation, Jehovah's Witnesses - East Congregation, Jehovah's Witnesses - Whitehouse Congregation, Watchtower Bible and Tract Society of Pennsylvania, Inc. and Christian Congregation of Jehovah's Witnesses, Defendants in the above entitled and numbered cause and hereby move this Court to enter an Order of Dismissal without prejudice as to all causes of action asserted by any party herein, with costs of Court taxed against the party incurring same.

Respectfully submitted,

FIBICH, HAMPTON & LEEBRON, L.L.P.

By:  _____

Hartley Hampton
State Bar No. 08874400
Five Houston Center
1401 McKinney, Suite 1800
Houston, Texas 77010
(713) 751-0025-Telephone
(713) 751-0030-Telecopy

LOVE & NORRIS

Gregory S. Love
314 Main Street, Suite 300
Fort Worth, Texas 76102-7423
(817) 335-2800-Telephone
(817) 335-2912-Telecopy

ATTORNEYS FOR PLAINTIFFS

FILED
10:11 AM
DISTRICT CLERK

No. 03-2368 C/B

KALEENA S. and DEE DEE HARVEY §
As Next Friend of AMANDA M., a minor §
Plaintiffs §

vs. §

WATCHTOWER BIBLE AND TRACT §
SOCIETY OF NEW YORK, INC., §
JEHOVAH'S WITNESSES SOUTH §
CONGREGATION, JEHOVAH'S §
WITNESSES - EAST CONGREGATION, §
JEHOVAH'S WITNESSES - §
WHITEHOUSE CONGREGATION §
WATCHTOWER BIBLE AND TRACT §
SOCIETY OF PENNSYLVANIA, INC., §
CHRISTIAN CONGREGATION OF §
JEHOVAH'S WITNESSES, and §
JAMES HARVEY §
Defendants. §

IN THE DISTRICT COURT OF

APR 22 AM 3:02
SMITH COUNTY, TEXAS
BY J. Ouellet
DEPUTY

SMITH COUNTY, TEXAS

114TH JUDICIAL DISTRICT

ORDER

BE IT REMEMBERED that on the _____ day of _____, 2004, came on for consideration Plaintiffs' and the Defendants', Watchtower Bible and Tract Society of New York, Inc., Jehovah's Witnesses - South Congregation, Jehovah's Witnesses - East Congregation, Jehovah's Witnesses - Whitehouse Congregation, Watchtower Bible and Tract Society of Pennsylvania, Inc. and Christian Congregation of Jehovah's Witnesses Joint Motion to Dismiss without prejudice and the Court, after considering same, is of the opinion that said Motion is meritorious. It is therefore,

SCANNED

V. Sg.
P. 82-88

ORDERED, ADJUDGED and DECREED that all causes of action by any party in this matter be dismissed without prejudice as to their ability to again bring same and that costs of court be taxed against the party incurring same.

SIGNED this 21 day of July, 2004.



JUDGE PRESIDING